



CA / CMA FINAL

IDT CONCEPT BOOK

GST + CUSTOM + FTP

As per ICAI in just 220 pages

Applicable for
MAY 25 & NOV 25



Edition 3.1

By: Jay Agarwal
(CA, CMA, CFA, LLB: AIR 3 & 46)



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Important concepts videos



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Chapter 1 – Supply under GST

GST Charging Section [Sec 9 of CGST Act and Sec 5 of IGST Act]

GST leviable on **Supply** of goods or services on value determined at prescribed rate shall be paid by the taxable person.

- ❖ Forward Charge Mechanism (FCM) – Supplier collect tax from buyer & pay to Govt.
Applicable on all goods and services except notified for RCM.
- ❖ Reverse charge mechanism (RCM) - Recipient/buyer pay the tax to the Govt.

Scope of Supply – Section 7

All forms of supply such as sale, transfer, barter, exchange, licence, rental, lease or disposal

- 1) Of goods or services + for **consideration** (cash/kind) + in the course of **business**
 - 2) Transactions in Schedule 1, without consideration.
 - 3) Import of service + consideration + business/**personal use**
- Exclusion: Transaction specified in Schedule 3

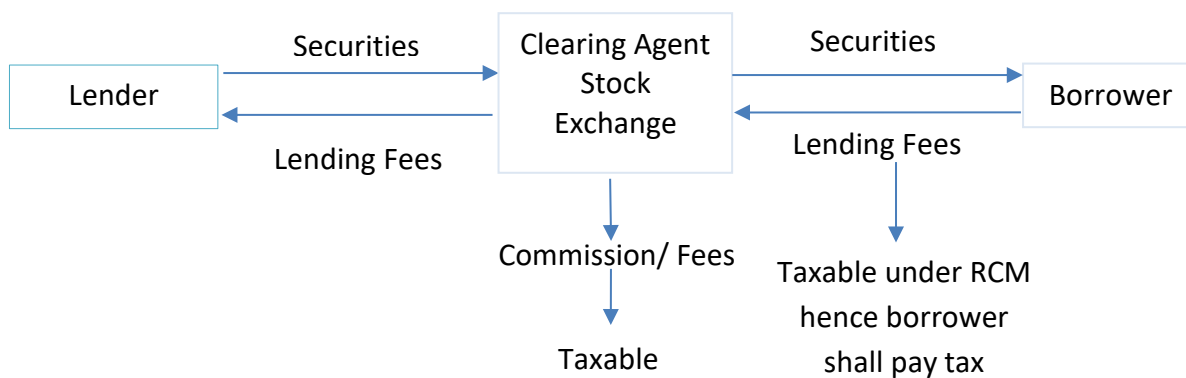
Goods and Services

| Goods: <u>Any Movable property other than</u> | Services: <u>Anything other than</u> |
|---|---|
| <ul style="list-style-type: none">i) Moneyii) Securities e.g. shares, debentures, derivatives etc. | <ul style="list-style-type: none">i) Goods,ii) Moneyiii) Securities. |
| Goods Includes | Service includes |
| <ul style="list-style-type: none">iii) Actionable Claim (Like betting, gambling, online money gaming)iv) Growing crops, grass which agreed to be severed (cut) | <ul style="list-style-type: none">iv) Activities relating to use of moneyv) Conversion of currency (Rs. to Dollar etc.)vi) Facilitating and arranging transaction in securities |



| Activity | Nature | Treatment |
|---|---------------------------------|-------------------|
| Purchase of share of subsidiary by holding company | Security | No Supply |
| Transaction in money (loan and advance) A Ltd. given loan to B Ltd. – Rs.10 Lacs | Money | No supply |
| Interest/Discount charged on loan, deposit, advance. A Ltd. charged Interest – Rs. 1 lacs | Services | Supply but Exempt |
| Issuance of letter of credit/bank guarantee | Money | No supply |
| Issuance of Certificate of deposit/commercial paper | Money | No supply |
| Sale of secured debt, swap instrument | Security | No Supply |
| Future/Forward (without delivery of goods i.e. cash settled) | Security | No supply |
| Future/Forward (with delivery of securities/shares) | Security | No supply |
| Future/Forward (with delivery of goods) | Goods | Supply |
| Activities related to above products for which processing/service fee, brokerage, commission, transfer fee etc. charged | Services | Supply |
| Foreign holding co. issued ESOP/ESPP (shares) to employees of Indian subsidiary (Amendment) | Security + Sch. III transaction | No supply |
| Foreign holding co. charged markup, fee/commission from Indian subsidiary for ESOP. | Service of arranging securities | Supply (RCM) |

Security Lending Scheme (SLS)



Logic

SLS doesn't treat lending of securities as sale/disposal of securities hence not excluded from definition of services.



Business - includes

- i) Trade/Commerce/Manufacturing/ Profession/ **Vocation** - for profit or not for profit.
 - ii) Facility by Club, Society etc. to its members e.g. Lions Club.
 - iii) Admission to premises (zoo, movie theater)
 - iv) Activities of Race Club, Bookmaker etc.
- Sale of old jewel, car etc. of personal use by individual – Business ☒ → Supply ☒ → Tax ☒
 - Sale of old car by company/proprietor using for business - Business ✓ → Supply ✓ → Tax ✓

Consideration:

- i) Payment in money or other than money (kind) against supply
- ii) Given by recipient or 3rd party

Excluding:

- i) **Deposit** until same is apply as consideration (e.g. deposit given for taking property on rent)
- ii) Subsidy by CG/SG

Note: Subsidy by foreign Govt, Trust, holding company etc. – Covered in consideration

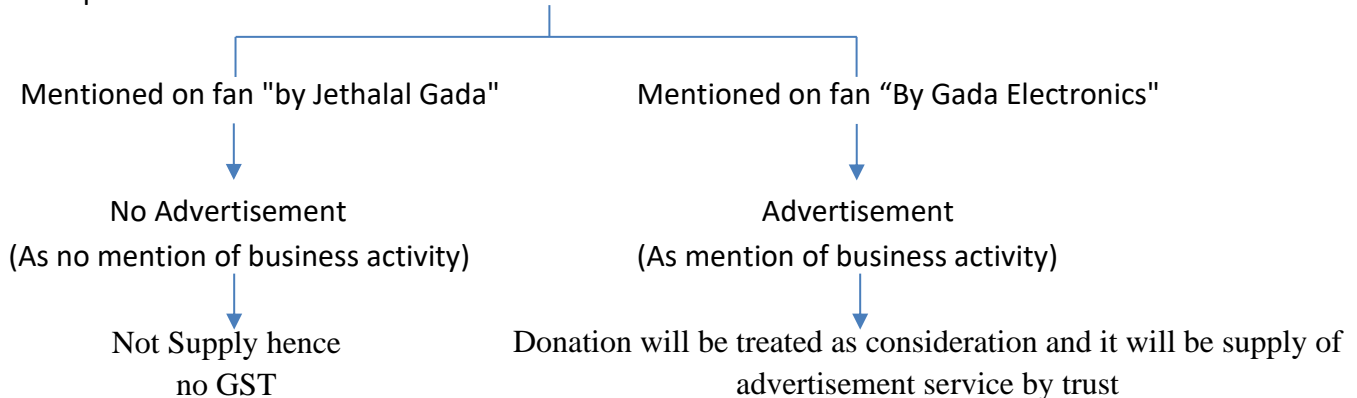
Circulars relating to consideration

(i) Gifts/donation to Charitable/Religious institute

If below 3 conditions satisfy - No supply, otherwise supply

- Gift/Donation to Charitable institute
- Payment has character of Gift/Donation
- Purpose is philanthropic not advertisement (No quid pro quo)

Example: Jethalal Gada donated fans to charitable trust or school

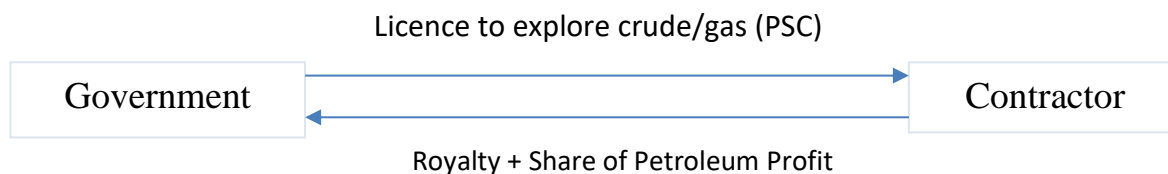


(ii) Art-work sent to galleries for Exhibition

- Till it's not sold - No consideration hence no supply
- Sold from exhibition - supply and GST payable



(iii) Cost - Profit Petroleum Taxability



When a contractor discovers Oil/Gas, he is at first entitled to recover the contract cost [expenses incurred in exploration, production and payment of royalty]

The value of petroleum which the contractor is entitled to take/retain for recovery of the contract costs is called the cost petroleum.

Contractors carry exploration and production of petroleum for themselves and not as a service to government. Hence, cost petroleum is not a consideration, thus not taxable.

Remaining amount is called as profit petroleum.

| | | |
|--|----------|-----------------------------------|
| Total sale by contractor | 1,00,000 | |
| Cost petroleum retained by Contractor | 70,000 | Not a consideration – Not taxable |
| Profit petroleum | 30,000 | |
| Share of profit petroleum given to Govt. | 10,000 | Exemption provided (Chapter 4) |
| Share of profit petroleum retained by contractor | 20,000 | Not a consideration – Not taxable |

Note : Royalty payment made is liable to GST under RCM (To be paid by contractor)

(iv) Taxability of Joint Venture (JV)

JV is an association consist of few members, one of which act as operating member.

- Amount against capital contribution (cash calls) is transaction in money → No Supply
- Amount against services provided by operating member → Supply

(v) Taxability of salvage (damaged car/parts etc.) in vehicle insurance (Amendment)

- Insurance co. paid claim after reducing salvage value as per contract → Such deduction is neither supply nor consideration hence no GST liability on insurance co.
On sale of salvage → Car owner will be liable to pay GST
- Insurance co. paid full amount (IDV) to insured without deduction of salvage value → Now salvage become property of insurance co. → On sale of such salvage, insurance co. will be liable to pay GST



Schedule 1 - Supply without consideration (Deemed Supply)

Following activities to be treated as supply even if made without consideration:

1. Transfer/Disposal of Business Asset

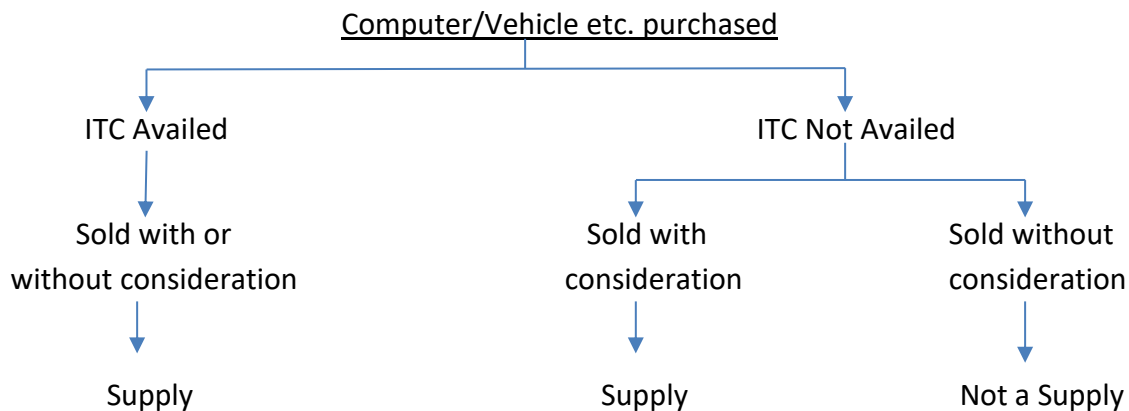
Permanent Transfer/Disposal of Business Asset where ITC taken on purchase.

Note: Transfer from holding Co. to subsidiary Co. also included

Example : Mr. Ram purchased a TV for its office, now Mr. Ram has gifted such TV to his friend or disposes TV in scrap.

If ITC was taken on purchase – Supply liable to GST

If ITC was not taken on purchase – No supply - no GST



2. Supply between Related person/Distinct person

AA

Supply of goods/service + between Related/Distinct Person + in the course of business **(of supplier)**

Related Persons:

- i) Officers/Directors
- ii) Legally recognised partners
- iii) Employer & employee
- iv) A Ltd. **control** B (A & B are related)
- v) A Ltd. (i) **controls**, or (ii) own $\geq 25\%$ voting shares, of B and C (B & C are related)
- vi) B & C together **control** A Ltd. (B & C are related)
- vii) Sole agent/sole distributor
- viii) Members of same Family*



*Family means:

- i) Spouse and Children – (Dependent/ Independent, Major/minor)
- ii) Parents, grandparents, brother & Sisters – (If wholly dependent)
Any other relatives – Not a related person (Ex. - Grand-son, Daughter in law)

Control means – Holding > 50% voting shares or control over BoD

Distinct Person

- GST registration is PAN based
- State wise registration
- Multiple registration in same state (Optional)

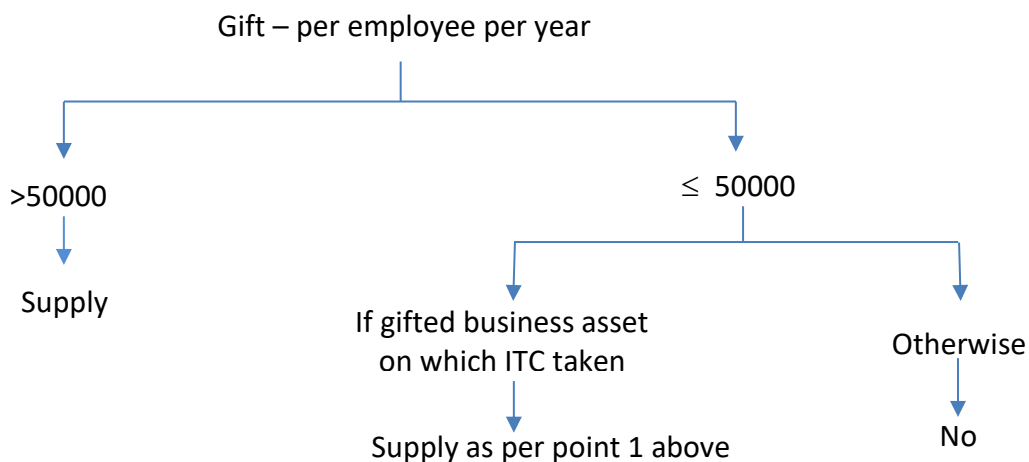
Distinct person means multiple units/branch/factories/shops etc. in same entity (PAN)

- i) In different States (Registered or not)
- ii) In same state having separate registration (GST Number)

Not a Distinct Person: Units in the same state with same GST registration.

| | | |
|--|------------------------------|-----------------------------------|
| <i>Example – Stock transfer by Factory in <u>Lucknow</u> (UP) to:-</i> | | |
| Factory in Delhi | Registered | Distinct person → Supply (IGST) |
| Liquor Shop in Punjab | Unregistered | Distinct person → Supply (IGST) |
| Another factory in Lucknow | Having separate registration | Distinct person → Supply (C + S) |
| Showroom in Kanpur (UP) | Under same registration | Not a distinct person → No Supply |

2.1 Gift by Employer to employee



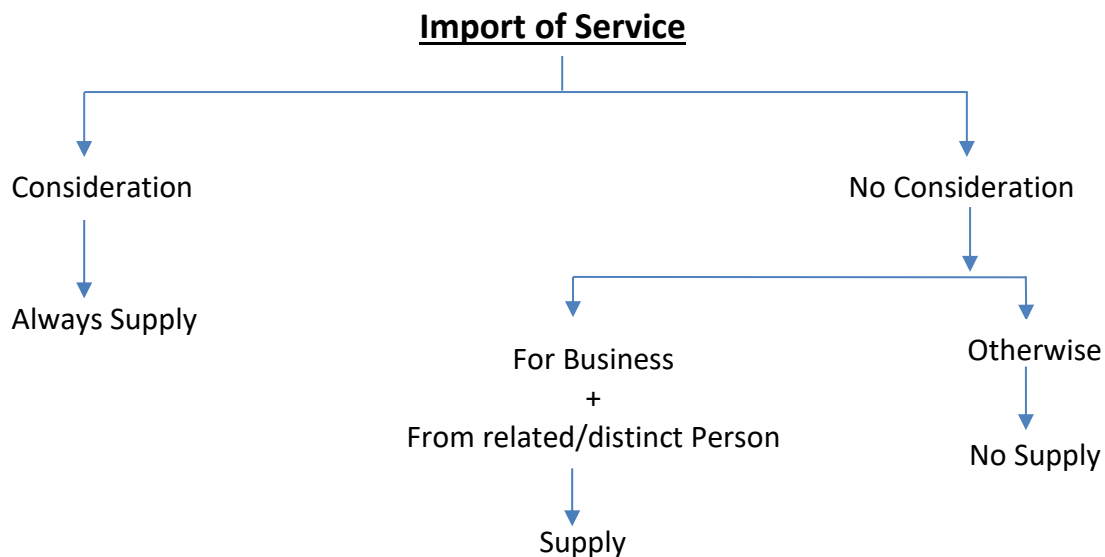
- If gift given for 60,000/- then tax on full 60,000/-
- Perquisites/ Incentive as per employment contract is not a gift hence no GST on it. E.g. bonus, free housing etc.
- Membership of club, health, fitness center to all employees : Not a gift, no supply.

3. Import of Services: (Recipient pay under RCM)

From related person or his establishment outside India (Branch/HO etc.) without consideration

+

In course of business (of recipient)



Exam tips for supply to or import from related/distinct person

1. Business or personal transaction to be checked from the point of view of **tax-payer i.e. supplier in case of domestic transaction and importer in case of import.**
2. Father always liable to pay tax in both cases (whether son is dependent or not)
3. Son liable to pay only when father is dependent.

Loan by foreign entity or Indian entity to related person

Interest charged → Supply but exempt

Processing fee charged → Taxable

Processing fee not charged → No supply and no GST (Reason as follows)

- 1) If we see, Banks charge processing fee for due diligence etc., in related party due diligence not required
- 2) Many times, banks also do not charge, or waive processing fee
- 3) Hence, it can't be said that service by way of processing of loan been provided by related person giving loan.



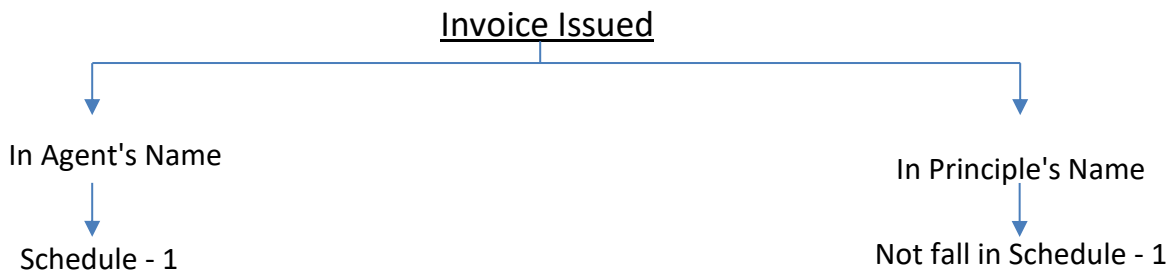
4) Hence, transaction will not fall under schedule I and no need to apply value of rule 28.

4. Supply between Principal and Agent without consideration (only on goods)

Agent means – Factor, Broker, Arthia, Del-Credere, Auctioneer etc.

Supply of **Goods** :

- By principle to agent, where agent is further supplying such goods on his own invoice.
- By Agent to principle, where vendor issued invoice in the name of agent.



Ex: P provided goods to A (Agent/DCA), A supplied to C @5000. A charged commission from P

| Particulars | Invoice in A's name | Invoice in P's name |
|--|---|-------------------------------------|
| Whether Schedule 1 apply | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Sale to C | 5000 | 5000 |
| Commission by A from P | 100 | 100 |
| Value for sale from P to A | As per Rule 29 (Option with P: OMV or 90% of 5000) 4500 | N.A. |
| Turnover for purpose of registration/ compo scheme | | |
| Total turnover of A? | 5100 | 100 |
| Total turnover of P? | 4500 | 5000 |
| Compulsory registration for A? | Yes (If P is registered + supply is taxable) | No |
| A charged interest from C. Treatment for A? | Taxable (include in value of supply of goods) | Exempt As it is interest on loan |

Sales promotion scheme

- Free sample and gifts – No consideration, hence no supply
- Buy one get one free - Not to consider free. It is actually 2 or more products for single price
Entire consideration is taxable either as composite or mixed supply.



Schedule - III - Negative List

Following are not considered as supply hence no GST.

(i) Service **BY Employee** To Employer – Under Employment Contract

| Includes – Hence No Tax | Excludes – Taxable |
|--|--|
| 1. Salary/incentive/perquisites | 1. Payment of non-compete fee (for not joining competitor) |
| 2. Payment on premature termination | 2. Services as consultant (on principle basis) |
| 3. Wages to casual labour | 3. Salary to director (TDS not u/s 192) |
| 4. Salary to director (TDS deducted u/s 192) | Ex. Fees to independent director (RCM) |

(ii) Services By

- **MP/MLA**/Member of Local Authority
- Duties on Constitutional Post [President/CAG/AG]
- Chairperson/member of body established by government/local authority i.e. IRDA, MIDC etc.
- Services by CG/SG/LA relating to function of Panchayat/Municipality
- Grant of **alcohol liquor licence** by State Govt. (Note : No exemption on other licence)

(iii) Services By Court/Tribunal (DC/HC/SC)

Includes Quasi-Judicial Authority i.e. Tribunal, Consumer Forum, ITAT

Arbitral Tribunal not covered here – Service is taxable under RCM

(iv) Service of **funeral**, burial, crematorium, mortuary and transport of deceased.

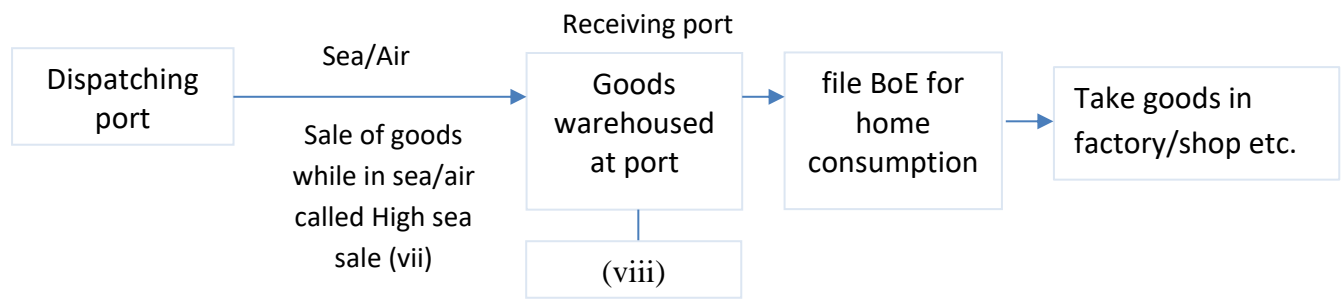
(v) Sale of land and Building (Except Building covered in schedule - II)

Land includes developed land/plot with leveling, electricity/water line etc.

(vi) Merchant trading: Sale of goods from one country say USA to another country say Japan without entering India



Custom Process (In case of import)



Sale by importer/buyer to another

(vii) Before clearance for home consumption (**High sea sale**)

(viii) Supply of warehouse goods before filing of BoE for home consumption (**In-bond sale**)

Inter-state movement of mode of conveyance viz. car, bus, truck etc. and tools/goods on such conveyance **between distinct person (carrying goods/passenger or sent for repair)**

Exceptions :

- 1) Such conveyance/goods sent **for further supply (sale)** from say UP to MP
- 2) **Repair/maintenance service** done on such conveyance/goods by MP branch
Both these are supply by UP and MP respectively.

(ix) Six specified actionable claim i.e. Betting/Gambling/Lottery, Casino/Horse Racing/Online Money Gaming → Supply

Other actionable claim eg. insurance claim, claims for unsecured loan/rent → No supply

Online Money Gaming

Means online gaming in which players pay or **deposit money**, including virtual digital assets (Crypto etc.), in the expectation of winning, in game, scheme, competition, **based on skill or chance** like Dream11 etc.



Schedule - II - Determining whether supply is goods or services

| Category | Transaction | Nature |
|--|---|-------------------------|
| Transfer – Goods | (i) Title in goods (ii) Title in goods under an agreement that property shall pass at a future date e.g. hire purchase | Goods |
| | Right, undivided share, right to use, renting of goods without transfer of title. Finance lease also comes under service | Services |
| Transfer of Business Assets | Permanent transfer/disposal | Goods |
| | On closure of business Exceptions: (i) Business transferred as a going concern (ii) Business continued by a personal representative. | Goods |
| | Taken for private use | Services |
| Intellectual Property e.g. Trademark, Patent | <u>Temporary transfer</u> or permitting use | Service |
| | <u>Permanent transfer</u> | <u>Goods</u> |
| Software | Development, Design, Customisation, Implementation | Services |
| | Sale of readymade/package software | Goods |
| Agreeing | Agreeing to refrain, tolerate, do an act. | Services |
| Composite Supplies | i) Works contract (construction/repair of immovable+ goods) ii) Supply food/ drink along with service. <i>Example</i> – Food in restaurant, catering iii) Job work - Treatment/Process on another person's goods | Services |
| Land and Building | Lease, renting, licence of land/ building | Services |
| Sale of flat/building (Including preferential location charges) | <u>Full/Part</u> consideration received BEFORE completion cert. (CC) or first occupation cert. (FC), whichever is earlier. Note : Entire amount will taxable as and when received. | Services |
| | FULL consideration received AFTER issuance of CC or FC, whichever is earlier. | No supply as per Sch 3. |



Construction of Building and Civil Structure

CC : 07th Nov OC : 1st Dec → whichever earlier = 7th Nov

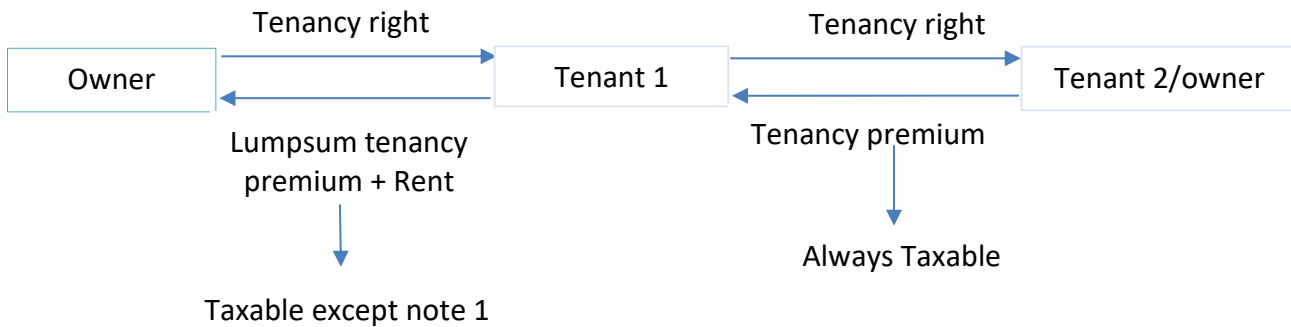
Flat price 50 lacs : Amount received on diff dates for 2 flats and consequently GST treatment as follows

| Payment received | Flat 1 | Flat 2 |
|----------------------|--|-----------------|
| 2 nd Oct | 25L - Taxable on 2 nd Oct | NIL |
| 10 th Nov | 25L – Taxable on 10 th Nov* | 25L – No supply |
| 20 th Dec | - | 25L – No supply |

*Once part amount received before OC/CC, full value of such flat/building is liable to GST as and when payment due/received.

Tenancy Right (Pagadi System)

Meaning of Tenancy Right:



Note 1 : Exempted if it is for residential property + given for residence + to unregistered person.

Logic of taxability

- It is a form of lease or renting of property and not a sale of land/building
- Even if stamp duty and registration charges applicable for transfer – still fall under scope of supply.

Taxability of Penalty, Late Fee, Liquidated damages etc.

Amount received for facilitation or agreeing to refrain, do or tolerate an act is liable to GST.

Examples of supply liable to tax:

- Late Payment surcharge/fee etc. linked with main supply's payment
- Forfeiture of non-refundable ticket, security deposit, pre-payment penalty, cancellation fee
(Important : Tax rate will be of original supply)
- Contract termination fee charged by supplier of services (Ex. : By Ajay Devgan from Vimal panmasal)



- Non-compete fee
- builder refraining from constructing more than a certain number of floors against consideration
- Allowing to use pavement of shop
- RWA tolerating use of loudspeaker on consideration
- Industrial unit agrees to install equipment for zero emission on consideration

Amount received purely for tolerating non-performance/violation as penalty is not liable to GST

Examples of No Supply and not liable to tax:

- Liquidated Damages viz. penalty/charges for damage to property, delayed construction, piracy, misuse of copyright etc.
- Contract termination fee charged by recipient of services (By : Vimal Panmasala)
- Forfeiture of earnest money:
 - a) by seller in case of breach of agreement to sale immovable property
 - b) by CG/SG/LA in when successful bidder of natural resources fail to deposit remaining amount
- Penalty for cheque dishonor, violation of law
- Forfeiture of Salary or Bond amount if employee not continue minimum agreed period

Composite supply and Mixed supply

Concept: Let's understand through example.

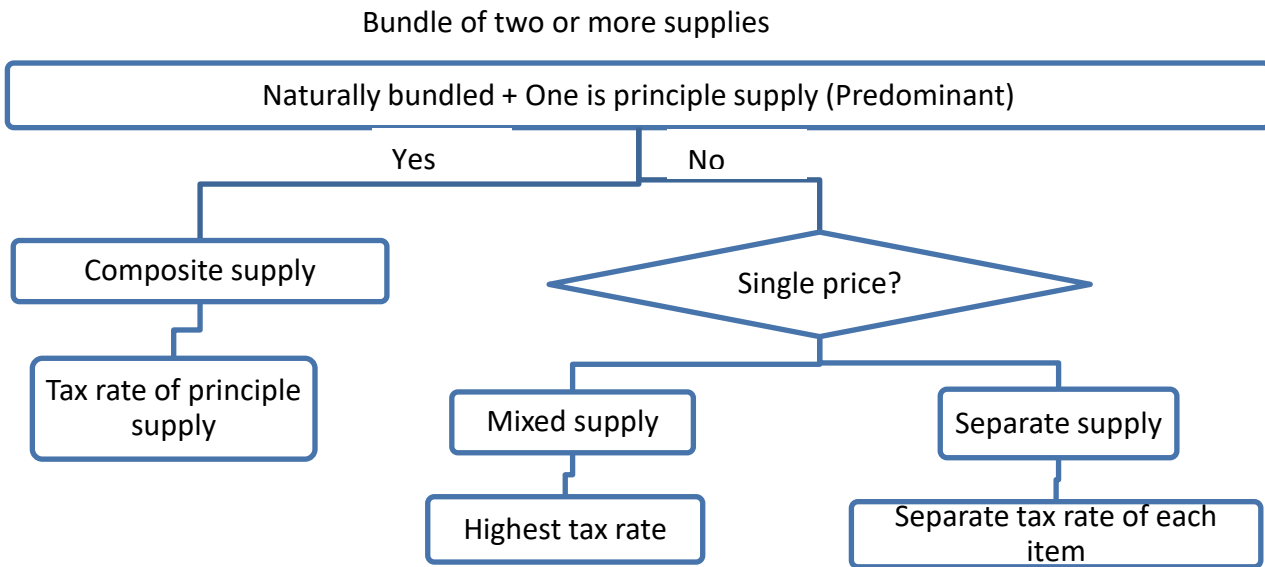
IPL Match + Food: Ticket Price Rs.2000/-. What will be the GST rate on Rs.2000?

- a) Rate applicable on Match (18%)
- b) Rate applicable on Food (5%)
- c) Rs.2000/- should be bifurcated into Match and Food and separate tax rate should apply.

Answer: We need to see whether this is Composite supply, mixed supply or separate supplies.



Composite supply



Principle supply means: Predominant element in the combination

“Naturally bundled” is subjective criteria, following factors are relevant:

- a) Normal business practice
- b) Consumer perception
- c) Industry practice
- d) Nature of goods/services

Example of composite supply:

1. Supply of goods with packing material, transport and insurance. Goods is principle supply.
2. Hotel accommodation with food
3. Travel ticket with food, lounge, insurance
4. TV with warranty
5. Laptop with bag

Example: Gada Electronics supplies laptop worth Rs. 50000/- along with laptop bag worth Rs. 5000/- to a consumer for Rs. 55000/-. Assume: Tax rate on laptop – 18%, bag – 28%.

Answer: This is a composite supply hence tax rate applicable on principle supply i.e. laptop will apply on full value. Tax = 55000 x 18% = 9900/-

Certain clarifications:



| Product | Principle supply | Rate of tax |
|---|----------------------------|--|
| <u>Printing services + paper supplied – For</u> | | |
| Books, Broucher, Annual Report, Pamphlet | Printing (Service) | Applicable on printing service |
| Envelop, Letter Head, Printed Boxes, Napkin, Tissues Etc. (printing on small portion) | Paper (Goods) | Applicable on paper |
| <u>Retreading</u> | | |
| Retreading of tyre (Old tyre belongs to buyer) | Retreading (Service) | Rate applicable on Retreading |
| Supply of retreaded type (Old tyre belongs to supplier) | Type (Goods) | Rate applicable on tyre. |
| <u>Supply of food in cinema halls</u> | | |
| Ticket and food bundled and clubbed together | Cinema service | Rate applicable on cinema |
| Food supplied independent of ticket | It will be separate supply | Separate rate will apply on Cinema and food. |

Mixed supply

Two or more supplies for a single price and which is not a composite supply.

Tax Rate: Highest tax rate applicable on any product in the bundle will apply on full price.

Examples:

- (i) A gift pack containing chocolates, candies, cake and balloons for single price.
- (ii) Refrigerator with storage water bottle.
- (iii) Supply of Toothpaste with free toothbrush

Example:

A Ltd. supplies kit @ Rs. 50 each.

Each Kit contains:

1 Face Cream taxable @ 18%

1 Face Tissue packet taxable @ 5%, and

1 Nail Paint taxable @ 12%

Ans: It is mixed supply - Highest tax rate among given products i.e. @ 18% will be charged on Rs. 50/-



Separate supply (Neither composite nor mix)

- If price for each item in combination given separately, and
- Such combination does not fall under definition of composite supply

In such case: Respective rate will be applicable for each item

Example: Car service bill

Parts – Rs. 10000/- taxable @12%

Service charges – Rs. 5000/- taxable @18%.

Ans: Tax will be calculated separately on each goods and services

(Rs. 2100 = 10000*12% + 5000*18%)

Extended warranty service (Amendment)

Example → Mobile have warranty of 1 year, customer can buy warranty for another 1 year which is called as extended warranty

Goods + extended warranty + **by same supplier + together** → Composite supply

If there are 2 different supplier OR extended warranty supplies after sale of goods → Extended warranty service is separate supply.

Goods, parts, repair services during warranty (Amendment)

| Scenario | Treatment |
|---|--|
| Manufacturer replaced goods/parts without consideration | Value of original supply already includes likely cost of parts, repair during warranty period hence GST already paid on full value hence No GST |
| Distributor replaced goods/parts without consideration | As no consideration → No GST |
| In both cases: If any additional consideration charged | GST applicable |

| Transaction between distributor and manufacturer | Treatment |
|---|--|
| Distributor replaces from own stock and charges from manuf | Supply → GST payable by dist. |
| Manufacturer provide goods/parts without any charge in advance to distributor OR Distributor replaces from own stock and later manufacturer provide said goods on delivery challan | No GST |
| Distributor replaces from goods/parts purchased from manufacturer and later manufacturer issue credit note | Manufacturer can issue credit note and reduce it GST liability |



Chapter 2 - Charge under GST

GST Charging Section [Sec 9 of CGST Act and Sec 5 of IGST Act]

(1) GST Leviable on:

- ❖ Intra-state Supply → CGST+ SGST/UTGST – Max rate 20% + 20%
- ❖ Inter-state supply → IGST – Max. rate 40%
- ❖ On Value as per Section - 15
- ❖ Collected & paid by Taxable Person (Supplier)
- ❖ Except – On alcoholic liquor for human consumption

(2) Supplies on which GST leviable from notified future date (currently Excise + VAT levied)

- Petroleum crude
- Natural Gas
- Motor Spirit (Petrol)
- High Speed Diesel
- Aviation Turbine Fuel (ATF)

Reverse Charge Mechanism (RCM)

- ❖ Forward Charge Mechanism (FCM) – Supplier collect tax from buyer & pay to Govt. Applicable on all goods and services except notified for RCM, ECO.
- ❖ In RCM recipient/buyer is liable to pay the tax to the Govt.

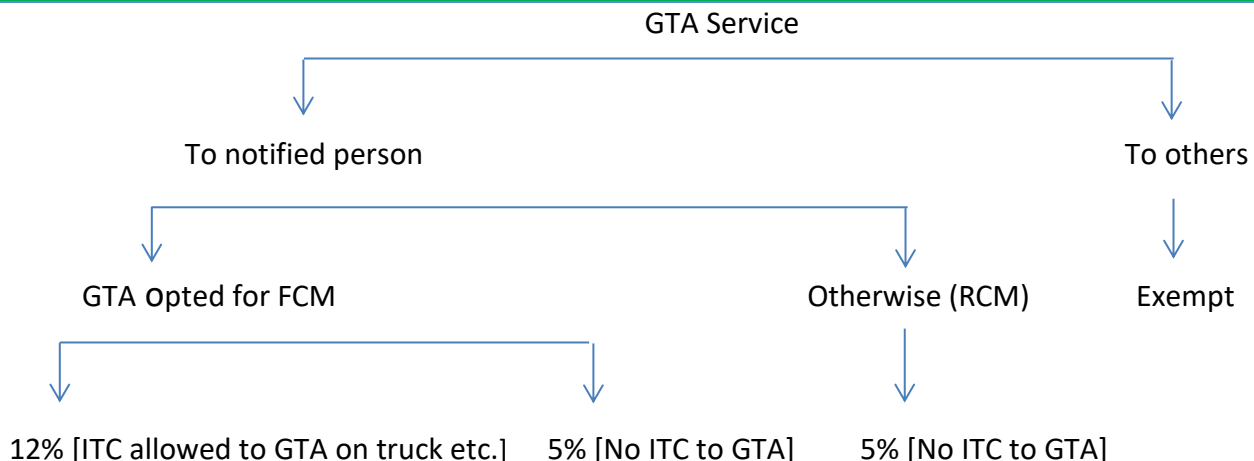
RP = GST Registered Person

URP = Unregistered person

Services Notified Under RCM

Note : If any service is exempt then no FCM or RCM liability on it. (Services covered in Chapter-4)
When service is not exempt and doesn't fall under RCM then, FCM applies to it.

1. Service by Goods Transport Agency (GTA) for transport of goods



Note : ITC of GTA service is allowed to receiver of GTA service in all above 3 scenarios.

Notified persons (Person who is paying the freight)

- ❖ Any GST Registered person
- ❖ Registered factory
- ❖ Registered society
- ❖ Co-operative Society
- ❖ Any Body Corporate
- ❖ Partnership / AOP/ LLP
- ❖ Casual taxable person

GTA service is exempt if

- i) Provided to Govt Dept. etc. registered only for TDS u/s 51.
- ii) Provided to individual URP.
- iii) Tempo/truck operator who do not issue consignment note is not GTA and exempt

GTA is the Goods Transporter, who issues Consignment Note

2. Renting of Motor Vehicle

| RCM (If all 6 conditions satisfy) | No RCM (If any one) |
|--|---|
| i) For Passenger | i) For Goods |
| ii) Supplier - Other than Body Corporate | ii) By Body Corporate |
| iii) Recipient - Body Corporate | iii) To other than body corporate |
| iv) Fuel cost included in consideration | iv) Fuel cost not included |
| v) Supplier opted for GST @5% | v) Opted for 12%/ 18% |
| iv) Hired for period of "time" Vehicle at disposal of recipient, defines how, when, schedule/route. | vi) Taken as Passenger Transport - Hired for specific journey |

3. Security Service (By way of supply of Security persons/guards)

By any person other than Body Corporate

To RP

Except:

- Registered only for TDS u/s 51.
- Composition Registered person

4. Sponsorship Service

By any person - To Body Corporate/ Partnership Firm/ LLP



5. Legal Services - by Advocate/ Senior Advocate /firm/ Arbitral Tribunal

Legal services – Drafting, representation, advice, consultancy etc.

1. Legal Services provided **by** Advocate/firm of Advocate/Senior Advocate/ "Arbitral Tribunal"

| | |
|--|--------|
| ➤ To Non-BE, small BE, new BE | Exempt |
| ➤ To CG/SG/UT/LA/ Govt. authority/ Govt. entity. | |
| ➤ To advocate/ firm of advocate (Except by Sr. Adv.) | |
| ➤ Senior advocate to advocate/firm | FCM |
| ➤ To Big BE | RCM |

Note : Tribunal and Arbitral Tribunal are 2 different entities. Service by "Tribunal" no supply in Sch. 3.

| | |
|----------|---|
| Non-BE | Any person other than <u>Business Entity (BE)</u> |
| Small BE | BE having previous FY turnover up-to 10/20/40 lacs (Exemption limit for Regi) |
| New BE | BE which started business in current FY. |
| Big BE | BE other than small and new BE |

6. Services by director - To company/body corporate

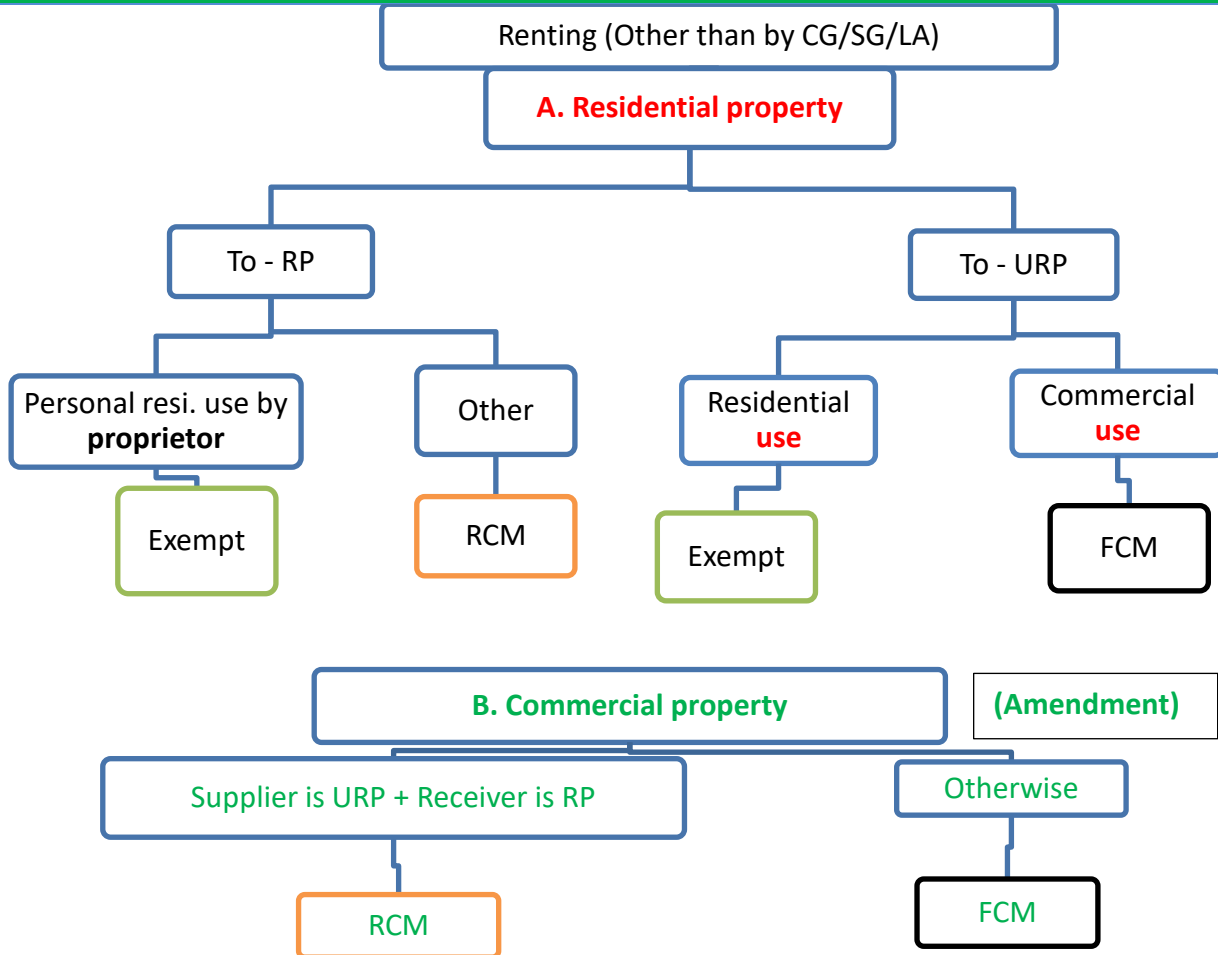
| | |
|------------------------|---|
| No GST (Schedule 3) | Salary paid to director & TDS done u/s 192 of income tax (Employer - employee relation) |
| RCM | 1) By employee director (WTD/MD) & TDS in other than Sec 192. Example : Sitting fees 2) By independent/non-executive director |
| FCM | Services in personal capacity i.e., not as Director – renting, consultancy etc. |

7. Services Provided by - CG/SG/LA

| | |
|------------|--|
| Always FCM | <ul style="list-style-type: none"> Services by <u>Postal Dept.</u> and Indian Railways Transport of goods & passenger Service in relation to aircraft / vessel Renting of immovable – To unregistered BE |
| RCM | Renting to immovable property - To registered BE |
| RCM | All other services - To <u>big BE</u> |



8. Renting (Other than by CG/SG/LA)



9 Permitting use of copyright

By composer/photographer/artist/author etc. - To music co./producer/publisher.

However, **Author** has option to pay tax under FCM – Subject to:

- (i) Author registered under GST & filed declaration to opt FCM
- (ii) Shall not withdraw option till 1 year from opting for FCM
- (iii) Make declaration on invoice.

Other services.

| S. No | By/Nature | To |
|-------|--|--------------------|
| 10 | Transfer of TDR / FSI / Long term lease (>30 Years) for construction | Promoter (builder) |
| 11 | Security Lending Service | Security Borrower |



| | | |
|----|--|-----------------------------|
| 12 | Insurance Agent | Insurance Business |
| 13 | Recovery Agent | Banking Co. / FI / NBFC |
| 14 | <u>Individual</u> Direct Selling Agent (DSA) | Banking Co. / NBFC |
| 15 | RBI Overseeing Committee | RBI |
| 16 | Business Facilitator (BF) | Banking Co. |
| 17 | Agent of Business Correspondent | Business Correspondent (BC) |

Agent -----RCM-----> BC <-----FCM----- Bank (In both transactions BC will pay)

Agent <-----FCM----- BF -----RCM-----> Bank (In both transactions BF will not pay)

Note : (Service for urban branch – Taxable, for rural branch – Exempt)

18. Import of Services is under RCM except following

| Nature | Recipient | Treatment |
|--|----------------|---------------|
| OIDAR service by supplier outside India (e.g. Netflix) | URP | FCM (Netflix) |
| All other | Individual URP | Exempt |

Recap: RCM depends upon composition of Supplier/Recipient

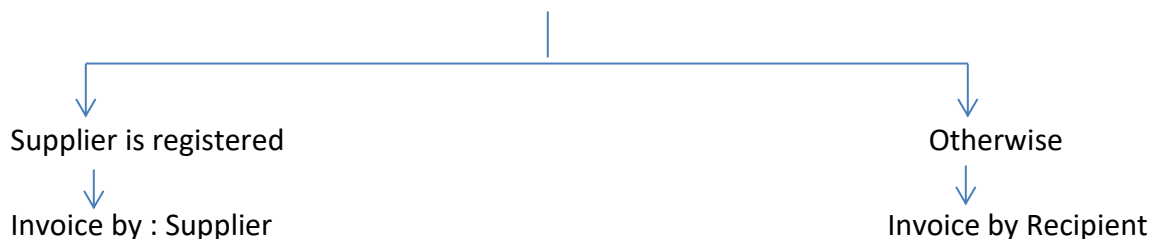
| Nature | Supplier | Recipient |
|-----------------------------|--|----------------------------------|
| Renting - Passenger vehicle | Other than body corporate (OBC) | Body corporate (BC) |
| Security service | OBC | RP other than TDS/Composition |
| Sponsorship | Any person | BC/Partnership/LLP |
| Renting | By RP/URP – Residential unit By URP - Commercial unit By Govt – Resi./commercial | RP |
| Direct Selling Agent (DSA) | Individual | Bank/NBFC |

Points to note:-

- RCM is applicable only when recipient/buyer is located in taxable territory (India)
- Registered person includes Composition taxable person
- Body Corporate means company (Name will contain “Pvt. Ltd.” or “Ltd.”)



- If all supplies under RCM, no need to take Registration, except in case of supply of metal scrap
- Responsibility to issue invoice in case of RCM



Goods notified under RCM

Following supplies **to RP**

| By | Products |
|--|--|
| Agriculturist | Cashew nuts not shelled/peeled Bidi wrapper leaves(tendu), tobacco leaves Raw Cotton |
| URP | Essential oils i.e., peppermint oil, spearmint oil, water-mint oil, horsemint oil, bergament oil, mentha arvesis. (other than citrus fruits) Metal scrap (Amendment) |
| Manufacturer of silk yarn from raw silk or cocoon (RP/URP) | Silk yarn |
| CG/SG/LA excluding Railway | Old/Used/Seized Vehicles/Goods Waste/Scrap |
| Any | Priority Sector Lending certificate |

- Supply of Lottery – by SG/UT/LA to Lottery distributor/selling agent.
- Following to builder/developer

| Supplier | Goods | Tax rate |
|----------|---|----------|
| URP | Capital Goods | 18% |
| | Cement | 28% |
| | Remaining goods/services on value calculated (80% of total purchase – Actual purchase from registered supplier) | 18% |



Composition Levy (Sec- 10)

Voluntary & optional scheme for small dealer – Pay tax at lower rate without taking ITC.

Example : A **trader** deals in goods having GST rate of 10%

| Regular scheme | Compo scheme |
|--|---|
| Purchase @100 + GST @10 = pay to vendor 110 | Purchase @100 + GST @10 = pay to vendor 110 |
| Sale @120 + GST @12 = take from customer 132 | Sale @132 |
| Liability @12 – ITC @10 = Rs. 2 pay to Govt. | Can't take ITC. Pay @1% of Rs. 132 i.e. Rs.1.32 to govt. |

Composition Scheme u/s 10(1) & 10(2A)

1) Eligibility : Aggregate turnover (T/O) in previous FY (PFY) should not be exceeding

| Sec | Activity in Current FY | T/O of PFY | States |
|--------|---|------------|---|
| 10(1) | Supply of goods + Restaurant service + Marginal amount of other services. | 75 Lacs | Manipur, Mizoram, Tripura, Nagaland, (<u>Make My</u> Trip to Nagaland) Arunachal, Uttarakhand, Sikkim, Meghalaya (AUSM) |
| | | 150 Lacs | Rest states. |
| 10(2A) | Service provider > MS | 50 Lacs | All States |

2) Marginal Services (MS) : Composition person can made supply of services in current FY (other than restaurant service) up-to

10% of State T/O in PFY

or

5 lakh

whichever is higher

(Interest or discount on loan/advance is excluded)

3) Applicable Rate of tax:

| Sec | Type of supplier | Rate (CGST+SGST) | Value |
|-------|----------------------------------|------------------|--|
| 10(1) | Manufacturer + MS | 0.5% + 0.5% | Total turnover <u>(taxable + exempted)</u> |
| 10(1) | Restaurant Service provider + MS | 2.5% + 2.5% | Total turnover <u>(taxable + exempted)</u> |



| | | | |
|--------|------------------------|-------------|--|
| 10(1) | Trader/wholesaler + MS | 0.5% + 0.5% | Total <u>taxable</u> turnover |
| 10(2A) | Service provider | 3%+3% | Total turnover (<u>taxable + exempted</u>) |

Restaurant doing manufacturing/trading also : Rate on entire T/O will be 2.5%+2.5%

Manufacturer doing trading of exempted goods : Tax on such trading will be 0.5%+0.5%

Service provider doing manufacturing/trading : Tax on such manu/trading will be 3%+3%

Not eligible to opt if:

1. Supplying goods/services not leviable to tax under GST Act i.e. petroleum products and alcoholic liquor for human consumption.
2. Interstate outward supply of Goods or Services (Taxable or exempted)
3. Supplying services through E-commerce operator collecting TCS u/s 52 : (Good allowed)
4. Engaged in manufacturing of notified goods (No restriction on trading)
 - a. Ice cream & other edible ice
 - b. Aerated waters i.e. cold drinks
 - c. Pan masala
 - d. Tobacco & substitutes e.g. Cigarette
 - e. Fly ash bricks, aggregate, blocks.
 - f. Bricks of fossil meals, building bricks
 - g. Earthen or roofing tiles
5. Casual taxable person/non-resident taxable person
6. Shall not be eligible to continue as composition taxable person from the day on which aggregate T/O exceeds 1.5 Crs. /75 lakh/50 lakh as applicable during CFY
7. Eligibility at PAN level – can be opted by all reg. or none.
If one state/registration - Ineligible/opt out - All of them ineligible

| <u>Aggregate Turnover (For computing eligibility)</u> <u>Calculated for PFY or CFY (For point 6 above)</u> | <u>State Turnover (for computing tax payment)</u> <u>Calculated for CFY</u> |
|---|--|
| Take <u>All India</u> value under same PAN | Turnover for the State |
| Includes: Value of all <u>outward</u> supplies | Includes: Value of all <u>outward</u> supplies |
| 1) Taxable Supplies (FCM+RCM) | 1) Taxable Supplies (FCM+RCM) |
| 2) Exempt Supplies | 2) Exempt Supplies |
| 3) Exports | 3) Exports |



| | |
|---|--|
| 4) Inter-state supplies | 4) Inter-state supplies |
| 5) Taxes other than GST | 5) Taxes other than GST |
| 6) <u>Turnover – before liable for registration</u> | |
| Excludes: | Excludes: |
| ➤ Inward supplies under RCM | ➤ Inward supplies under RCM |
| ➤ GST and compensation cess | ➤ GST and compensation cess |
| ➤ Interest/discount on loan/deposit | ➤ Interest/discount on loan/deposit |
| | ➤ <u>Turnover – before liable for registration (10/20/40 lacs)</u> |

Example : Person supplying **services** started business in CFY say 1st April

| Turnover 1 st Apr to 30 th Jun | Turnover 1 st July to 30 th Sep | Turnover from 1 st Oct |
|--|---|--|
| 20 Lakhs | 30 lakhs | Any amount |
| No need to take reg. | Take compo reg., pay @6% | Need to opt out of Compo & Pay @ normal rate |

Additional Conditions:

- ❖ Issuance of bill of supply and not tax invoice
- ❖ Mention words on bill “composition taxable person not eligible to collect tax ”
- ❖ Mention “composition taxable person” at every place of business.
- ❖ Cannot collect tax on sale and can-not claim ITC on purchase
- ❖ No restriction on inter-state purchases.
- ❖ Composition receiving RCM services : RCM payment will be @normal tax rate say 18%.

Opting Composition Scheme:

- ❖ Person applying for registration - Opt for scheme at the time applying for registration
- ❖ Already registered person - Opt before commencement of FY

Withdraw From Scheme:

- ❖ Failed to comply conditions for e.g. turnover of service provider **crossed 50 lacs on 15th Aug** → Start paying normal tax **from 15th Aug.** & file intimation within 7 days
- ❖ May intimate for withdraw voluntary anytime → Start paying normal tax **from date mentioned in intimation**



Chapter 3 – Place of Supply

Importance of Place of Supply

GST is Destination based tax i.e. revenue is given to state where goods/services got consumed. Such consumption location/state is called as “Place of Supply”.

Abbreviations:

| | |
|--|--|
| Location of Supplier – LOS | Supply to Registered recipient – B2B |
| Location of Recipient – LOR (See definition) | Supply to Unregistered recipient – B2C |
| Place of Supply – POS | |

Intra-State and Inter State Supply

| LOS | POS | Type | Tax |
|--------------|--------------|-------------|------------------|
| State/UT – A | State/UT – A | Intra-state | CGST+ SGST/UTGST |
| State/UT – A | State/UT – B | Inter-state | IGST |

- If LOS or POS >> In territorial water in ocean (i.e. Within 12 NM distance from baseline) >> Deemed in **NEAREST** coastal state/UT.

Following Supplies shall **always** be inter-state irrespective above

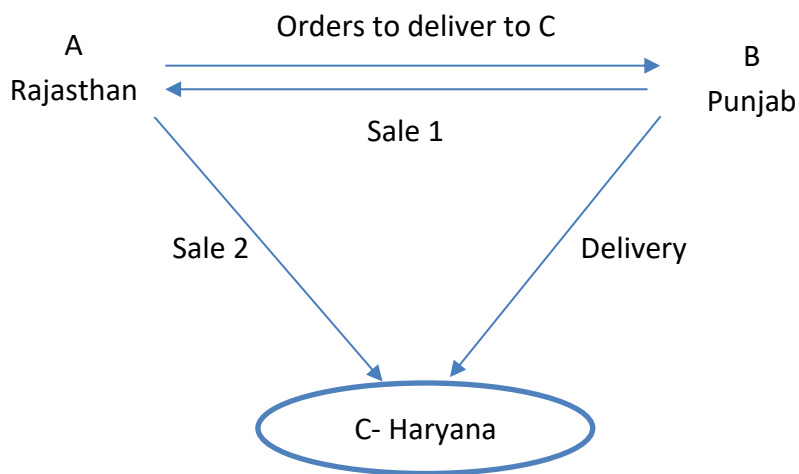
1. Supply to/by SEZ Unit/Developer (POS to ignore)
2. Import of Goods and Services
3. Supplier in India and place of supply outside India (export)
4. Supplies to tourists (person not normally resident in India, came to India for up-to 6 Months)
5. Supply in taxable territory but not intra -state (Residual)

Place of Supply of Goods – Other than Import/Export (Sec-10)

| Sec | Scenario | POS |
|----------|--|--|
| 10(1)(a) | Supply involve movement – B2B (Goods transported by any means) | Where movement of goods terminates/end |
| 10(1)(c) | Supply not involve movement – B2B (e.g. : Sale of pre-installed furniture)s | Location of such goods at the time of sale |



| | | |
|-----------|---|---|
| 10(1)(ca) | Supply with or without movement – B2C | <p>POS = Location as per address on invoice</p> <ul style="list-style-type: none"> Mention of State name only is also deemed as address. If no address or state on invoice → POS = LOS (If <u>billing address</u> AND <u>delivery address</u> is different, POS will be delivery address.) (Amend) |
| 10(1)(d) | Goods are Assembled/Installed at site | Place of Assembly/Installation |
| 10(1)(e) | Goods Supplied inside (on board) a Conveyance viz. train/flight etc. | Place where goods <u>taken on board</u> |
| 10(1)(b) | Bill to Ship to model: (B Shipped to C on <u>direction</u> /order of <u>third person</u> A) | Location of A (Rajasthan) |



Sale 1 : B Supplied A → POS = A Rajasthan (10)(1)(b)

Sale 2 : A Supplied C → POS = C Haryana (10)(1)(a)

If goods installed at place of C in that case place of C (Haryana) would be POS for both sales (10)(1)(d)

POS of goods in Case of Import/Export (Sec-11)

- Import of Goods – Location of importer (Note: Location of Port/Airport is irrelevant)
Example: Mr. A of Rajasthan imported goods through Delhi Airport – POS will be Rajasthan.
- Export of Goods – Location outside India



POS of Services where LOS AND LOR is in India (Section 12)

| Nature of Service | POS |
|--|---|
| General Rule (Default Rule) – If transaction doesn't fall in any specific rules discussed further. | B2B → LOR B2C → (i) LOR (ii) if LOR not available then LOS |
| <u>3 Performance/location based services (POS same for B2B and B2C)</u> | |
| Restaurant and catering, personal grooming, fitness, beauty treatment, health services, cosmetic/plastic surgery | Place where services performed |
| Immovable Property related: Construction, Agent, Engineering, Survey, Architect, Interior Decorator, Rent etc. Accommodation in hotel/boat/vessel | |
| Located in India | Location of immovable property , boat/vessel |
| Located outside India | LOR |
| Diff properties located in 2 States | Number of nights stayed |
| Single property in 2 States | Area in each state |
| Boat/Vessel in multi-state | Time spent in each State |
| Admission to an event or amusement park | Place of event/ park |

| <u>4 Services (Separate POS for B2B/B2C) - OTTI</u> | B2C | | B2B | |
|---|--|-----------------------------------|------------|--|
| Organization of an event/ sponsorship to such events (marriage, sporting, educational, entertainment, conference, exhibition, celebrations etc.) Tata sponsored/ is sponsor – Tata is recipient IPL provided sponsorship service – IPL is supplier | Event location | POS | LOR | |
| | In India | Place of event | | |
| | Outside India | LOR | | |
| | In multi-state | Divide basis accounting principle | | |
| T raining and Performance appraisal | Location where services performed | | LOR | |
| T ransportation of goods, including mails or courier | Location where goods handed over for transportation | | LOR | |



| | | |
|--|--|-----|
| <u>T</u> ransportation of Passenger (Return journey is separate journey even if ticket issued at the same time) | <ul style="list-style-type: none"> Place where the <u>passenger embarks (board)</u> on the conveyance. If ticket/card given and point of embark not known → Apply general rule <u>Ex. Metro card</u> | LOR |
| Service provided on conveyance (train, flight etc.) e.g. Movie on demand/ DVD rent | Location of the <u>first point of departure</u> of conveyance. (B2B/B2C) | |
| Banking and financial services (Both: Account holder/Non- holder) | (i) LOR (ii) If LOR not available then LOS | |
| Insurance Services (General, life) | LOR | |
| Telecommunication, Broadcasting, Cable, D2H Television Services | | |
| Services involving fixed line, leased and internet leased circuits, dish antenna etc. | Location of such fixed equipment If leased circuit in multi-state: (i) State wise calculation - basis contract (ii) Else, basis number of points in each state | |
| Pre-paid: Through selling agent/ re-seller/ distributor: | Address of such agent | |
| Pre-paid: To final subscriber: | (i) Payment through electronic mode → LOR (ii) Payment otherwise → LOS | |
| Post-paid / Other cases : | (i) LOR (ii) if LOR not available then LOS | |
| Advt. services to CG/SG/LA, Statutory body Ex. Swatch Bharat ad on TV | States where advt. is broadcasted/ run | |

| Advertisement | Divide combined amount on principle given below |
|---|---|
| On trains | Length of the railway track in each of such State/UT, for that train |
| On train tickets | Basis number of Railway Stations |
| (i) On internet (Deemed to provide all India) (ii) On TV channels (iii) Through SMS | Basis viewer/subscriber figures of respective states published by agencies. If <u>Subscriber figures</u> given for region (multi-state) → Divide it state wise basis population. |



If combined value for service supplied in two or more States - Divide it

Value/Basis given in the question/agreement – Take that

Not given – Divide basis principle discussed for respective service

Example : Event was organized for URP recipient, charged combined amt of Rs. 1 lac for UP and MP.
Through agreement/principles discussed above amount divided, say 40K for UP and 60K for MP
then POS for UP = 40K, POS for MP = 60K

Export and Import of Service/Goods

| LOS | LOR | POS | Nature | Treatment |
|---------------|---------------|---------------|---------------------------|---|
| India | Outside India | Outside India | Export* (Chapter : 14) | 2 options i) With IGST payment ii) Without pay (Bond/LUT) |
| India | India/Outside | India | Domestic supply | Pay GST |
| Outside India | India | India | Import | Pay IGST under RCM |
| India/Outside | India | Outside India | Sch III | No Tax |

*Export of service – additional conditions (not for goods)

- (i) Payment received in convertible forex or INR wherever permitted by RBI
- (ii) Recipient is not merely branch, office, establishment of same entity
(If separate entity been registered in foreign country then it will not fall under same entity)

POS of services where LOS OR LOR outside India [Sec 13]

Note : POS is same for B2B and B2C supplies in all cases under this section



| Nature of Service | POS |
|---|---|
| General Rule (Default Rule) – If transaction doesn't fall in any specific rules discussed further. | LOR If LOR not available then LOS |
| Service relating to Immovable Property viz. Construction, Architect, Interior, Estate Agent. Accommodation in hotel, boat and vessel. | Location of Immovable Property |
| Admission or <u>organisation</u> of an event, conference, fair, exhibition etc. | Place of event |
| Services which require physical presence of recipient e.g. health treatment, restaurant | Location where services performed |
| Services on goods which are required to be made available | Location where services performed |
| Services on goods from remote location by electronic means | Location where goods are situated |
| Repairs/Treatment/Process on goods <u>temporarily</u> imported – <u>Goods without put to use.</u> Maintenance, Repair, Overhaul (MRO) service of Aircraft, Ship, Engine, parts; <u>for Business purpose.</u> R&D Services Related to pharma sector by person in India to person outside India (<u>All conditions of Export should fulfil</u>) | POS = LOR If conditions given in Red not fulfilled then POS = location where services performed. |
| If combined amount charged and above services are supplied | |
| At more than one location, including location in the taxable territory | POS : Location of India for entire amount |
| In more than one States/UT | Apportion as per the agreement. If no agreement then On same goods – Divide equally On different Goods – Based on value of goods. Location based – divide as per Sec. 12. |



| Nature of Service | POS |
|--|---|
| Transportation of passenger | Place of embarking/boarding |
| Services provided on-board a conveyance | First point of departure of that conveyance |
| i) Services by a bank/ FI / NBFC to <u>account holders</u> (Other than custodial service) <u>ii) Intermediary Services (Refer: Definition)</u> iii) Services of hiring of transport vehicle for period <u>up-to 1 month.</u> (including yachts but excluding aircrafts and vessels) | POS = LOS If conditions given in red not fulfilled: POS as per General rule |
| Online information and database access or retrieval services (OIDAR) Ex. Netflix, E-books, cloud storage, movies, Youtube, software etc. | LOR |

OIDAR Services - If any of 2 conditions out of below conditions met, LOR shall be deemed to be in India:

- Address given by recipient is Indian address
- Indian billing address
- Payment settled through Indian cards
- Payment from Indian Bank A/c
- Indian IP address (Internet Protocol)
- Country code of mobile sim in India
- Service received through Indian fixed landline

Intermediary Service

Means a broker, agent, or any other person who arranges or facilitates the supply of G/S or securities between two persons.

Pre-requisite to classify service as intermediary

- Minimum 3 parties
- Two different supplies
 - Main – Between Supplier and customer
 - Ancillary – Arranging/facilitating
- Such person does not supply goods/services on his own.
- Sub-contracting is not intermediary service.

Example: Selling Agents/ Buying Agents - Who arranges/finds customer/vendor for supplier/buyer



Clarifications

| Nature of transaction | POS |
|--|---|
| Sale of space/right to use the space on hoarding/structure (Immovable Property) | Location of hoarding |
| Vendor providing advertisement services on hoarding/structure | 12(2)- General rule |
| Cargo handling services - Is not considered as relating to immovable property services | 12(2)- General rule |
| Software development/design (with testing on prototype hardware). | It is composite supply. Development is principle. 13(2) – General rule |
| Legal Services, Market research | 12(2)/13(2)- General rule |
| (Amendment) Custodial service (maintaining account of shares etc.) by bank/FI | (Service not considered as provided to account holder) POS = LOR u/r 13(2) – General rule |
| POS of service of <u>one stop advertisements service from designing to display</u> by Ad co. for foreign client? (In turn such Ad co. taking service of media co. which raising invoice on ad co.) | Principal to principal supplies hence not intermediary. POS = LOR u/s 13(2) – General rule |
| POS where ad co. <u>merely acting as agent</u> and charging fee from foreign client (Media co. directly raising invoice on foreign client) | Advertisement co. will fall under intermediary hence POS = LOS ie. India |
| Data hosting services | Not an intermediary service Not relating to immovable 13(2) – General rule will apply |

Defi: Location of supplier/recipient (LOS/LOR)

- (a) Supply is provided/received at a place of business for which the registration has been obtained, the location of such place of business;
- (b) Supply provided/received at non-registered fixed place, the location of such fixed place;
- (c) in absence of such places, the location of the usual place of residence.

Note : Recipient means person liable to pay tax.

Employee stayed in hotel, payment made by company → See location of company

Supply of Online Money Gaming by person outside India [Sec 14A]

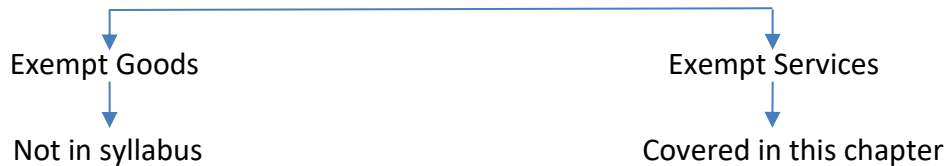
1. Supplier will be liable to pay IGST.
2. Take a single registration under Simplified Registration Scheme.
3. Person in India representing such supplier for any purpose shall get registered and pay tax.
4. If no physical presence or no representative India - Appoint a person for paying tax.



Chapter 4 – Exemptions from GST

Concept

No GST leviable on exempted goods/services.



CG/ SG grant exemptions [on recommendation of GST council] by:

- a) Issue of notification
or
- b) Special order : In exceptional circumstances

If government add any explanation within 1 year - Explanation shall have retrospective effect.

Services Exempted

Charitable & religious activities

1. Following services by entity Registered u/s 12AA/AB of Income Tax Act,

| | |
|----|---|
| 1. | Public Health: A. Care or counselling of person who is: i) Terminally ill ii) Drugs/alcohol addicted iii) HIV affected B. Public awareness of preventive health, family planning and HIV infection |
| 2. | Education/ Skill development of: i) Abandoned, orphaned children ii) Physically/mentally abused, prisoners iii) Person > 65 years + residing in <u>Rural area</u> |
| 3. | Advancement of: i) Religion ii) Spirituality iii) Yoga |
| 4. | Preservation of: i) Environment ii) watershed iii) forests iv) wildlife |
| 5. | Training/coaching in <u>Sports</u> |



- ❖ All other services by Charitable trust are taxable Ex. - Advertisement
 - ❖ Such services by other organization/persons is taxable. Ex. Yoga by private person.
 - ❖ **Residential programmes or camps** with food and accomodation for single fees
Exempt → If **primary and predominant activity** of programme is advancement of **religion, spirituality or yoga**. (Composite Supply)
2. **Renting: By trust/body u/s 12AA, 10(23C)/(23BBA)**,
of properties located precincts (within outer wall) of religious place, if
 - ii) Room rent is up-to Rs. 999/- day
 - iii) Premise / hall / Pandal / Open area rent is up-to Rs 9,999/- day
 - iv) Shop /space for business rent is up-to Rs 9,999/-month
 3. Service by way of, conduct of religious ceremony
Ex. - Pooja, birth, marriage Ceremony by Pandit Ji
 4. Service on Religious pilgrimage like transport, accommodation, catering etc. by:
 - i) Kumaon Mandal Vikas Nigam (KMVN) + for Kailash Mansarovar yatra
 - ii) Haj committe of India /State + for Haj Yatra
 5. Donation received:
 - i) Without any services, advertisement, publicity.
 - ii) Name of the donor (Not his business) has mentioned as Gratitude.
is **No supply**, hence not taxable.
 - ❖ If any publicity provided through name of his business - Taxable

Agriculture sector

Agriculture: - Cultivation of plant & rearing of animals (except horse), for food, raw material or similar products. (Both : Veg/Non-veg)

Agricultural Produce: - Any produce of agriculture on which:

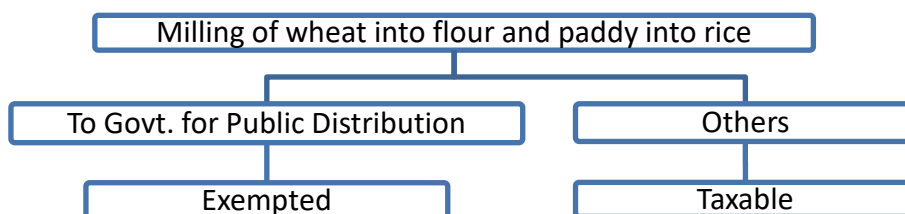
- i) Either no processing is done or
- ii) Processing is done which is
Usually done by producer/cultivator and which does not alter essential characterstis, but makes it marketable for primary market.



| Agricultural Produce | Not an Agricultural Produce |
|--------------------------------|--------------------------------------|
| Cotton | Ginned Cotton/ Cotton Baled |
| Tea Leaf/ Coffee Beans | Tea/ Coffee |
| Sugarcane | Jaggery, Sugar |
| Paddy | Rice |
| Wheat | Flour |
| Tomato | Tomato Catchup |
| Whole Pulses/Grams (Ex. Chana) | Split/De-husk Pulses (Ex. Chana Dal) |
| Rajma | - |

Following services relating to Agriculture and Agricultural Produce:

- i) Process carried at agriculture farm which doesn't change essential character of produce but make it marketable in primary market (not retail market)
Ex. tending, pruning, cutting, harvesting, drying, cleaning, trimming, sun drying, fumigating, grading, cooling or **bulk** packing etc.
- ii) Agriculture operations like cultivation, harvesting, threshing, plant protection, testing etc.
- iii) Intermediate production process as job work in relation to agriculture and produce
- iv) Farm labour supply
- v) Renting of vacant land / agro machinery
- vi) Loading / unloading / packing / storage / warehouse for agriculture produce & rice
- vii) Storage / warehousing of cereals, pulses, fruits and vegetables
- viii) Warehouse of minor forest produce
- ix) Pre-conditioning, pre-cooling, ripening, waxing, retail packing /labeling of fruits & vegetables which does not change essential character of such fruit / vegetable
- x) Services by national center for cold chain development through cold chain knowledge dissemination
- xi) Agriculture extension services (farmer education & training)
- xii) Service by APMC & commission agent for sale of agriculture produce (Rice not exempt)
- xiii) Artificial insemination to live stock (except horses)



Education sector

Education Institution (EI): means institution providing:

1. Pre-school to higher secondary school (includes Anganbadi)
2. Education as curriculum to obtain qualification recognized by law (College, University etc.)
3. Approved vocational course
4. Central/ State education board, body by CG/SG, for conducting exam – E.g. CBSE, RBSE, ICSE, NBE, National testing agency etc.
5. Maritime training institute.

Approved vocational courses means:

- i) Courses by ITI/ ITC affiliated to NCVET /SCVT in designated trade (Private/Govt)
- ii) Modular Employable skill courses approved by NCVET

Exemption

1. Input services for EI

| Purchased By | Nature |
|---|--|
| Pre-school to higher secondary school | (i) Transport of student/ faculty / staff (ii) Catering/ mid-day meal (Inside/outside premise) (iii) Security, cleaning, house-keeping; <u>within</u> school. |
| Institute providing education to obtain qualification recognised by law | Supply of <u>online educational</u> journals/periodicals (Domestic purchase or Import) |
| All 5 categories of EI | Services relating to admission to, or conduct of exam such as online testing service, result publication, printing of admit card and questions papers, paper setting/checking etc. |

Taxable:

1. Security, housekeeping, cleaning services OUTSIDE school. Ex. - At annual day function held at outside auditorium.
2. Paper bought for exam (Exemption only for services not for goods)

2. Service provided BY (Amendment)

| <u>By</u> | To/Nature |
|-----------------|---|
| <u>All 5 EI</u> | i) Student, Faculty and Staff ii) Prospective student by way of: a) Conducting of entrance exam |



| | |
|---|--|
| Note : Boarding school is composite supply of education, hostel and food, where education is principal supply - hence exempt. | b) Fee for admission, eligibility certificate |
| National skill development corporation, NCVET, awarding, assessment agency, training body of NCVET | In relation to skill development course under national skill certification and monetary reward scheme. |
| Service by Flying Training Organisation | Approved flying training course with completion certificate is exempt |

Following not Exempt:

1. Education by private coaching i.e. SSC, Banking, CA/CS coaching
2. Fee from companies for placement drive.
3. Education recognized under foreign law.
4. Fee by university from college for affiliation (as same is not relating to admission/exam) (Amendment)

- Courses in college for two (dual) qualification one recognised & other not recognised

| Separate Consideration | Taxability |
|------------------------|--|
| Available | Separately taxable |
| Not available | Artificial bundling – Mixed supply – Fully taxable |
| | 2 nd course is incidental – Composite supply - Exempted |

IIM providing:

| | |
|---|---------|
| Long duration program ≥ 1 year Degree/diploma | Exempt |
| Short duration program < 1 year participation cert. | Taxable |

Food Catering Service:

| | |
|--|---------|
| By EI (to student/faculty/staff) | Exempt |
| By 3 rd party: to | |
| • Pre-School/HSC | Exempt |
| • Other 4 EI | Taxable |
| • Directly to Student, Faculty, Staff etc. | Taxable |

Health care sector

1. Services by Veterinary clinic for healthcare of animal/birds
2. Service of transport of patient in Ambulance, including Air ambulance.
3. Service of ambulance by Private Service Provider to Govt.



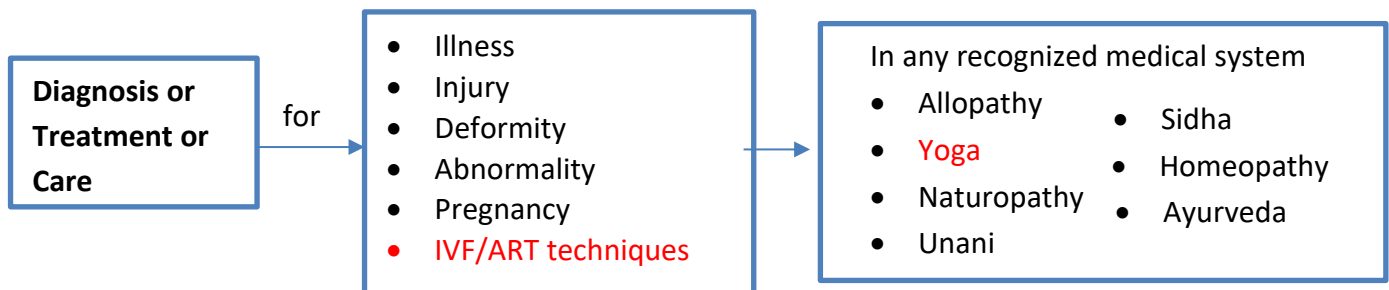
4. Services **by** Rehabilitation professional by way of therapy/counseling at:

- a) Medical Establishment
- b) Educational Institute
- c) Rehabilitation Centre established by CG/SG/UT/trust

5. Health Services **by**:

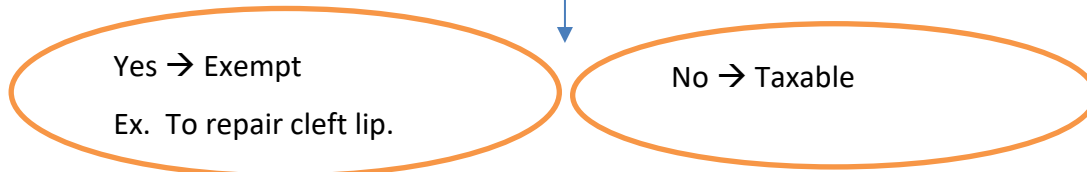
- a) Clinical establishment
- b) Authorized medical practitioner
- c) Paramedics

Healthcare Services Mean:



6. Hair Transplant/ Cosmetic/Plastic Surgery

Required to restore/ reconstruct anatomy or function due to defect/abnormality/Injury



Notes:

- ❖ Reiki is not covered in recognized medical system – Hence taxable.
- ❖ Service by authorized medical practitioners (senior consultant) to hospital is exempt.
- ❖ From patient bill, some amount kept by hospital and some by Doctor → Both are exempt.
- ❖ Taxability of room rent charged in hospital :

| Room/ward | Amount | Taxability |
|---|----------------|---------------------|
| For ICU/CCU/ICCU/NICU (i.e. Critical care) | Any amount | Exempt |
| Other Rooms | Up-to 5000/day | Exempt |
| | > 5000/day | Full amount taxable |

- ❖ Food Supply



| Provider | Recipient | Taxability |
|--------------------------|---------------------------------|------------|
| By Hospital | To in/admitted patients | Exempt |
| | To Others | Taxable |
| By Third Person Operator | To Hospital, In-Patient, Others | Taxable |

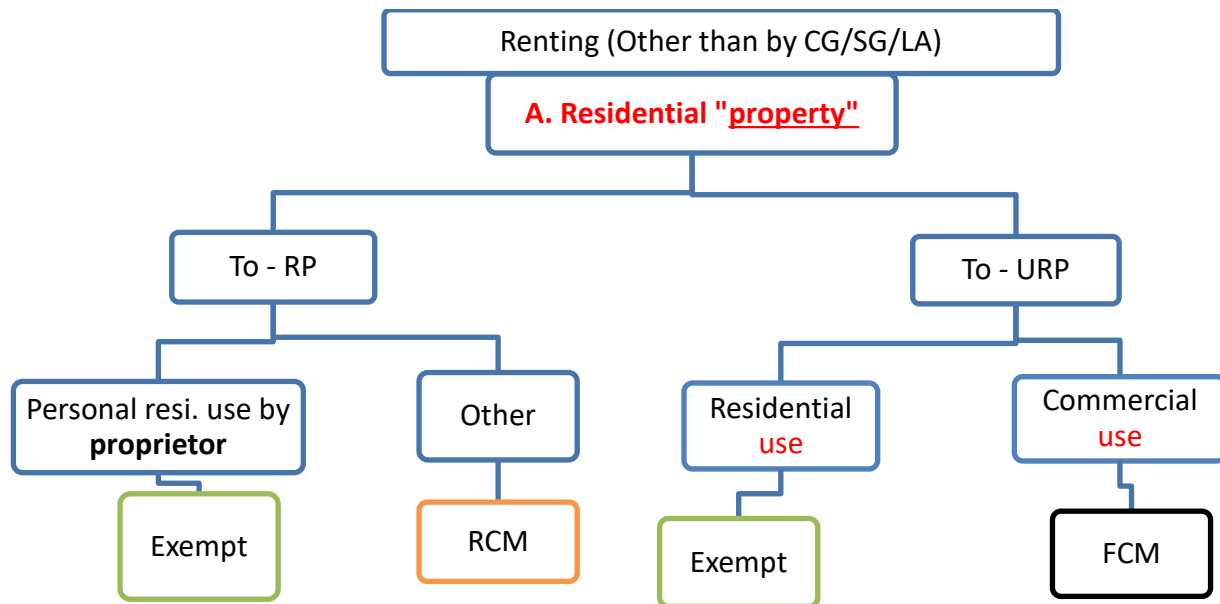
❖ Other than healthcare services viz. renting of shops, advertisement etc. → Taxable

Leasing and renting

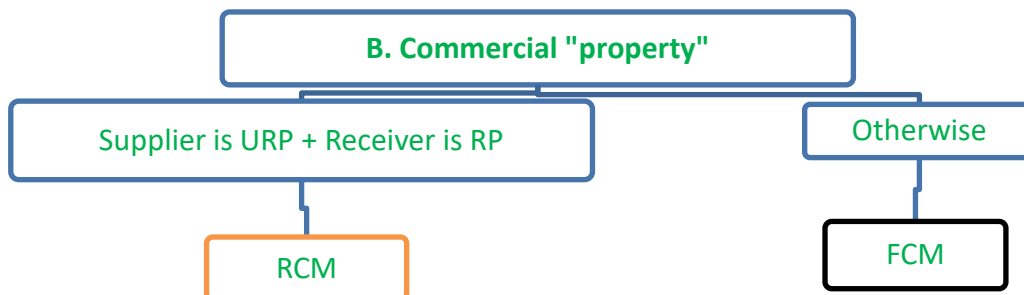
1. Upfront Amount payable in respect of lease for > 30 years for (Payment in lumpsum or instalment)
 - a) Industrial plot
 - b) Plot for developing infrastructure for financial business

| By | To |
|--|---|
| (i) State Govt. Industrial Development Corporation (ii) Other entity having ≥ 20% ownership by CG/SG/UT | <ul style="list-style-type: none"> Industrial unit Developer in industrial /financial business area |

2.



(Amendment)



3. Accommodation service by Hostels, Camps, Paying guest, students residences is exempt only when

Value of supply \leq 20,000/- per month per student + service for min. continuous period of 90 days

Services by Govt.

1) Government Authority/Entity : Means

(i) Set up by an act of Parliament or State Legislature

(ii) Established by Govt.

with \geq 90% equity/control with Govt.

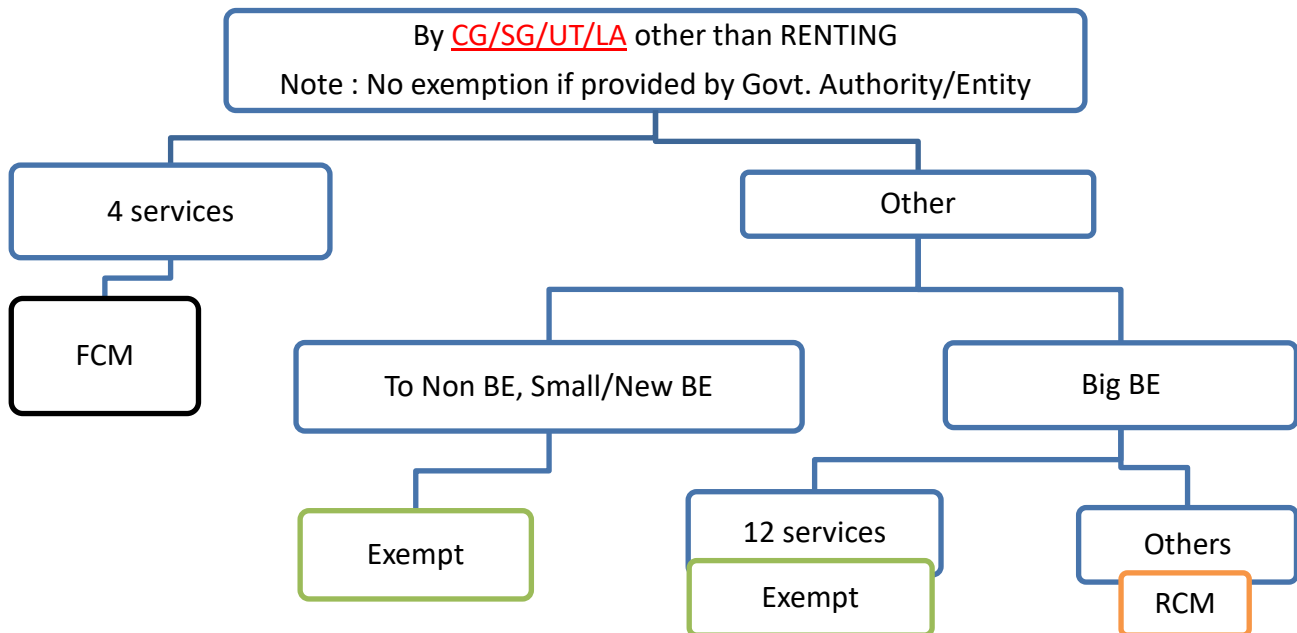
❖ **District Mineral Foundations Trusts (DMFTs)** are Govt. Authority as they provide services related to drinking water, environment, health care etc. to persons affected by mining.

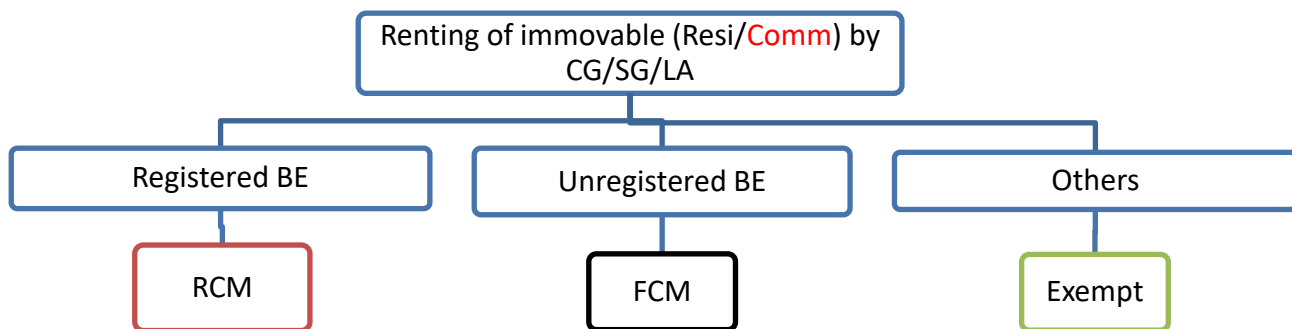
2) Local Authority (LA) : Means Panchayat/Municipality /Zila Parishad, District/Containment/Development Board, Regional/District Council.

Note: **Development Authority is not LA** like Delhi Development Auth. etc.

3) Government: Central Govt (CG), State Govt (SG), Union Territory (UT).

Note: Government Agency/Authority i.e. Autonomous bodies CCI, DGCA, SEBI, RBI, ICAI, FSSAI, IRDA etc. are not Govt.





4 Services – Always taxable under FCM

1. Services in relation to aircraft/vessel
2. Transport of Goods/Passenger
3. Services by Railway (All services including renting of immovable property)
 Except below services which are exempt for all (Amendment)
 - a) Platform ticket
 - b) Retiring/waiting/cloak room
 - c) Battery operated car service
 - d) By one zone of Railway to another zone
 - e) Service of use of infra by Special purpose vehicle (SPV) to Railways
 - f) Service of repair by Railway to SPV
4. Services by department of post (All services including renting of immovable property)
 Except : post card, book/ordinary post < 10 gms. which is exempt

| | |
|----------|---|
| | Exempt - All services except above 4 – Provided to |
| Non-BE | Any person other than <u>Business Entity</u> |
| Small BE | BE having previous FY turnover up-to 10/20/40 lacs (Exemption limit for Registration) |
| New BE | BE which started business in current FY. |

Exempt – 12 services provided to all including to Big BE

| | |
|----|--|
| 1. | Any Service Where consideration is ≤ Rs. 5000 per transaction In case of continuous supply ≤ Rs. 5000 for a year |
| 2. | Services by Department of Posts by way of post card, inland letter, book post and ordinary post (only when envelopes < 10 grams) |



| | |
|-----|---|
| | (Note : No exemption to express, speed post or like) |
| 3. | Issuance of Passport, visa, driving licence, birth/death certificates. |
| 4. | Testing, calibration, safety check, certification relating to safety of worker/public |
| 5. | Fees for Registration under any Law |
| 6. | Tolerating non-performance of contract against fine/liquidated damage |
| 7. | Assigning right to natural resource to <u>individual</u> farmer for agriculture activity [except rearing horse] |
| 8. | Deputing officer after office hours or on holiday for import/export clearance on payment of merchant overtime charge. |
| 9. | Service by SG to excess royalty collector contractor (ERCC) by assigning royalty collection rights from mining lease holder. However, if GST Deposit by mining lease holder < Exempted GST amount → ERCC shall pay differential amount |
| 10. | Guaranteeing loan to its PSU/undertaking |
| 11. | Service of old age home to its Residents ≥ 60 years charging ≤ 25000 per month by CG/SG/ <u>Trust</u> (Registered u/s 12AA/AB) (Urban/rural) |
| 12. | Services by <u>Government Authority</u> (e.g. RERA) in relation to Function entrusted to Panchayat or Municipality |

Note: Services by Police, Security Agency of Govt. to business entity, PSU, sports event etc. is not exempt and taxable under RCM.

Services provided to Govt.

| Provider | Service | Receiver |
|--------------|--|---------------------------------|
| Any | Pure service (100% labour) or composite supply (Goods ≤ 25%) in relation to functions of Panchayat/Municipality Exemption applies to CPWD who maintains public parks as this falls under Article 243G/243W. | CG/SG/UT/LA |
| Any | Services in relation to i) water supply; ii) public health; iii) sanitation conservancy; iv) solid waste management; and v) slum improvement | Govt. Authority |
| Govt. Entity | Any service where consideration received in form of grants . | CG/SG/UT/LA or specified person |



| | | |
|---|--|---|
| Govt. Entity, research association, university etc. notified under Income tax | <u>R&D services</u> against consideration in form of grants. | Any |
| Education board/body | Service of <u>affiliation</u> to school owned by | CG/SG/UT/LA/ Govt. authority Govt. entity |
| Fair price shop | Service of public distribution system (PDS) | CG/SG/UT |
| Any | Insurance service if 100% premium paid by CG/SG/UT (I100) | CG/SG/UT |
| Any | Training service if ≥ 75% amt. paid by CG/SG/UT (T75) | CG/SG/UT |

Remember : LA not covered in last 3 exemptions.

Legal services

Legal Services provided by Advocate/firm of Advocate/Senior Advocate/ Arbitral Tribunal

| | |
|---|--------|
| <ul style="list-style-type: none"> ➤ To Non-BE, small BE, new BE ➤ To CG/SG/UT/LA/ Govt. Authority/ Govt. entity. ➤ To advocate/ firm of advocate (Except by Sr. Adv.) | Exempt |
| <ul style="list-style-type: none"> ➤ Senior advocate to advocate/firm | FCM |
| <ul style="list-style-type: none"> ➤ To Big BE | RCM |

Construction sector

1. 100% labour contract (goods not part of contract) of construction, erection etc. of individual house
 - a) House for all (Urban) mission or Pradhan Mantri Awas Yojna (Repair/renovation covered)
 - b) **Single residential** unit not part of Residential Complex (Repair/renovation not covered)
2. Service by electricity distribution utility by construction of electricity network up-to farmer's tube well.
3. Supply of TDR/FSI/Long term lease of land, by land owner to developer/builder

| | | |
|------------------------------|-----------------------------------|--------------------------------|
| Flat sold before CC/OC w.i.e | GST apply on sale of flat | GST exempt on TDR/FSI/lease |
| Flat sold after CC/OC | Schedule 3 supply. No GST on flat | GST under RCM on TDR/FSI/lease |

Passenger transport

By Road:

1. **Non-AC – Stage carriage** (Separate ticket for each passenger) – Private or Govt operator
Ex. – Neeta Travel/Roadways bus from Delhi to Jaipur

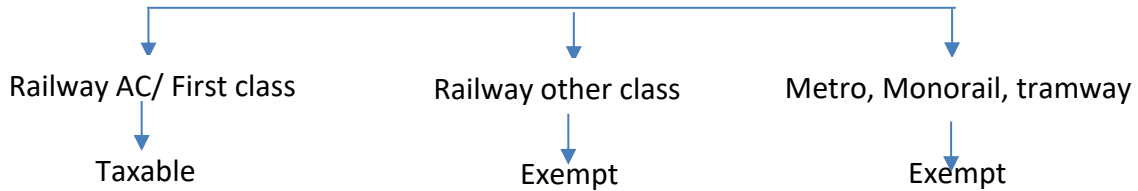


- 2. **Non-AC** – Contract carriage **other than tour and hire**
- 3. E/Rickshaw, Metered cab (meter installed in cab)

For all 3 - No exemption if booked through ECO (Ola/Uber etc.) – Tax payable by ECO.

Passenger transport and **hiring of vehicle** is different. Hire means taken on rent for a period of time and how to use etc. at the disposal of person who taken on rent. Hence hiring of bus etc. by companies for transport of employees to and from office **is not exempted**.

By Rail:

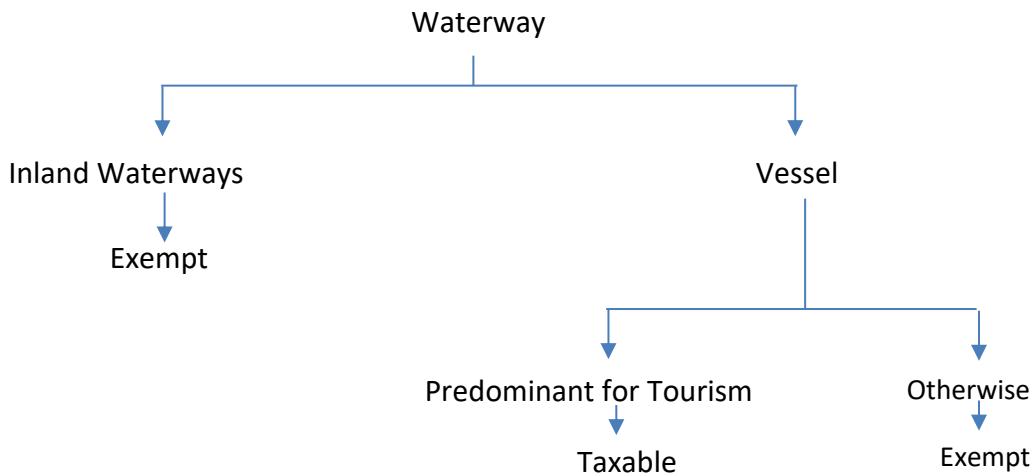


By Air

| | |
|-----------------|--|
| Exempted | Economy class passenger embarking or terminating in State of Manipur, Mizoram, Tripura, Nagaland, (Make My Trip to Nagaland) Arunachal Pradesh, Assam, Sikkim, Meghalaya (AASM) or Bagdogra (In WB) |
| Taxable | Economy class other locations & Business class all locations |

2. Service provided to CG by transport of passenger embarking/termination at Regional Connectivity Scheme (RCS) airport against viability Gap Funding for 3 years

By Water:



Service of hiring/renting of motor vehicle:

| Provider | Nature | <u>Receiver</u> |
|----------|------------------------------|--|
| | Motor vehicle > 12 passenger | State transport undertaking (Roadways) |



| | | |
|------------|---------------------------------|--|
| Any person | Electric vehicle > 12 passenger | Local Authority |
| | Any vehicle for Goods transport | Goods Transport Agency (GTA) |
| | Any vehicle | Person providing transport service to pre-school/ HSC |

Goods Transport

1. Transport of goods by
 - a) Inland waterway
 - b) Road - Except Courier agency, express cargo and GTA services(GTA means person who issues Consignment Note)

❖ Means – Transport through individual truck/ tempo who do not issue Consignment note is Exempt.

Circular : Transport of Minerals from mines to railway siding/plant - Attributes

- i) Vehicle given on hire along with driver
- ii) For particular period
- iii) Vehicle at the disposal/control of mining operator

Service is “renting of vehicle” and not “transport of goods” hence taxable.

2. Service Provided by GTA
 - a) To unregistered individual and unregistered CTP
 - b) Entities which taken registration ONLY for TDS u/s 51.
3. Service of transport by rail/vessel/GTA of following goods [through Air not covered]
 - a) Relief material for victims of natural/manmade-disaster/calamity
 - b) Agriculture Produce
 - c) Newspaper/magzines
 - d) Defence/military equipment
 - e) Organic Manure
 - f) Milk, Salt, Food grain including Flours, Pulses and Rice

Key – RANDOM
4. Transport of goods through aircraft from outside India to custom station in India
5. Service associated with transit cargo to and from Nepal/Bhutan (includes bringing back empty containers)
6. Granting national permit to goods carriage
7. Toll charges (includes overloading or non Fastag charges)



Banking and Financial

1. Services of extending loan/advance/deposit against consideration in form of int./discount

Exempt :

- a) Interest on FD/Saving account, Mortgage loan, OD
- b) Corporate loan, advances, deposits
- c) Interest/discount charged on invoice discounting/ bill discounting
- d) Interest/discount in CBLO transactions, Repo, Reverse Repo, CP, CD.
- e) Securitisation transactions
- f) Int./Penal Int. by provider of loan/DCA who not supplied/invoiced such G/S.

Taxable :

- a) Int./penal int. by supplier/DCA who sold/invoiced such G/S.
- b) Interest on delay payment of credit card
- c) Service charges/ fees, document/admin fees, broking charges, minimum balance charges etc.
- d) Interest on finance lease (purchase of asset by bank and lending it) is not purely extending loan hence taxable.

2. Inter-se (Aapas me) Sale/Purchase of foreign currency by Bank/Authorised Dealer to another Bank/Dealer

3. Services under Pradhan Mantri Jan Dhan Yojna

4. Service of transaction processing through Debit/Credit/other payment card of amount ≤ Rs. 2000/- per transaction.

5. Services by Intermediary located in SEZ with IFSC status to foreign customer for International Finance Services in foreign currency.

6. Business Facilitator/Business Correspondent [BF/BC]

- i) BF/BC to banking Co. for rural branch
- ii) Intermediary to BF/BC for rural branch
- iii) BF/BC to insurance co. in rural area. (Ins agent to ins co. (rural/urban) → RCM

Insurance/pension

1. Life insurance service under below schemes :-

- a) Janashree, Aam Adami, Varishta pension
- b) Pradhanmantri Jeevan Jyoti/Jan Dhan/Vaya Vandan
- c) Life micro Insurance product having maximum cover of 2 lac



2. General Insurance Services under various scheme such as-
 - a) Hut, Cattle, Fasal insurance
 - b) PM Suraksha, Rastriya Swastya Bima
3. Services of Life Insurance:
 - i) By way of annuity under NPS
 - ii) By Army/Naval/Air Force Group Insurance Fund
 - iii) By Central Armed Police Forces Group Insurance Fund
4. Services by:
 - i) Employee State Insurance Corporation (ESIC)
 - ii) Employee Provident Fund Organization (EPFO)
 - iii) Coal Mines Provident Fund organization
 - iv) NPS trust against admin fees

} To the person governed by respective acts
5. Service of collection of Contribution under:
 - i) Atal Pension Yojna
 - ii) Any pension Scheme of State Government
6. Re-insurance/retrocession of all insurance schemes which are exempt.

Sports and entertainment

1. Sponsorship Services for Sports event organized by various organization i.e.
 - i) National Sports Federation
 - ii) University, School Games Federation
 - iii) Paralympics/ Olympic Committee
 - iv) Panchayat Yuva Kreedha/Khel Abhiyan Yojna etc.
2. Service TO recognized Sports body (RSB)
 - i) By Individual as:
 - a) Player
 - b) Referee/Umpire
 - c) Coach/Team manager
 - ii) By another recognized sports body

Note:

- ❖ Service by Selector/commentators/curators/technician experts etc. are taxable.



❖ BCCI, IPL, Mumbai Indian etc. are not RSB hence taxable.

3. Service by Artist by way of performance – 4 conditions should satisfied
 - a) in folk or classical art forms of
 - b) music, dance or theatre
 - c) consideration \leq 1,50,000/-
 - d) Service provided not as a brand ambassador.

| Service of entry in | Exemption limit |
|---|---|
| National Park, Wildlife Sanctuary, Tiger Reserve, Zoo Museum, Protected Monuments | Unlimited amount |
| Circus, Dance, Theatre Performance Award Function/Concert/Musical Performance Sporting event, Planetarium | Price \leq Rs 500 Per Person If price 501 (Tax on 501) |
| Movie, Amusement park | No exemption |

Training

1. Training and coaching

- i) In dance, music, painting, sculpture, literacy etc. relating to Arts or culture,
- ii) by Individual

2. Any Services by:

| | |
|---|---|
| i) National Skill Development Corp [NSDC] ii) Sector Skill Council (SSC) approved by NSDC iii) Assessment Agency by NSDC/ SSC iv) Training partner by NSDC/SSC | In Relation to: <ul style="list-style-type: none"> National Skill Development Program Vocational course Other scheme by NSDC |
|---|---|

3. Assessment services by body empaneled by Director General of Training
4. Services by training providers under - Deen Dayal Upadhyay Gramin Kaushalya Yojana

Other exempt services

1. Service by way of transfer of Business as going concern
2. Satellite launch Services Supplied by any organisation
3. Transmission/Distribution of electricity

Following services are also exempt (Amendment)

- i) Application fee for electricity connection



- ii) Rental charge for meter equipment
- iii) Testing charges
- iv) Labour charges to shift meter/cables
- v) Charges for duplicate bills

4. Service of Collecting or providing news **by**:

- i) Independent journalist
- ii) Press trust of India
- iii) United news of India

5. Service **by** Public libraries

6. Services **by** an **organizer** in respect of **Business exhibition held outside India**

7. Services **by foreign diplomatic mission** located in India

8. Service of Providing Information under RTI

9. Service **by** public convenience i.e. Bathroom/Washroom/Urinal etc.

10. Services **by Incubatee** up-to **turnover of 50 lac** in current FY subjected to

- i) Turnover not exceeding 50 Lac during preceding FY
- ii) 3 years not elapsed from entering agreement as Incubatee

Incubatee means: Entrepreneur located within:

- a) Technology Business Incubator [TBI]
- b) Software technology Entrepreneurship park [STEP]

11. Services **by** TBI/STEP or Bio Incubator

12. Services **by** Unincorporated body or registered Non-profit entity, to its own member by way of reimbursement of charge or share of contribution

| Nature | Exemption limit |
|--|---|
| Trade union | Unlimited amount |
| For activity exempt from GST | Unlimited amount |
| Housing society/RWA (e.g Gokuldharm Society) | Up-to 7500/- month per flat (Amount collected as Reimbursement for statutory dues e.g. property tax, water tax, electricity charge etc. are fully exempt and to be excluded from while computing limit of 7500/-) |
| Activities related to welfare of Industrial/Agricultural labour or Farmers | Up-to 1000/- per year per member |



Promotion of trade, science, environment etc.

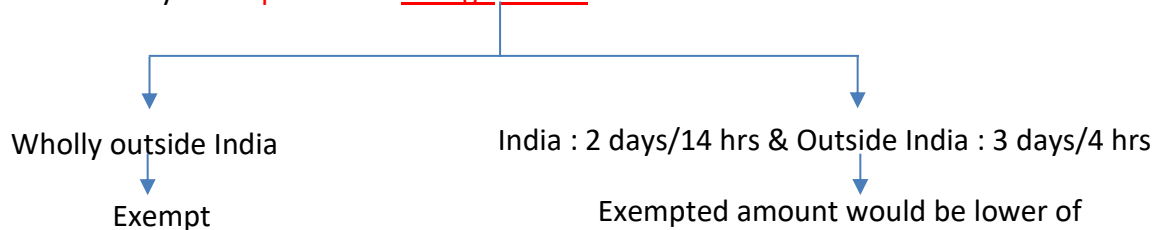
| Annual T/O of Society/RWA | Monthly maintenance charges excluding statutory dues | Exempt |
|--|--|---------------------------|
| > 20 Lac (10 lacs in 4 states) | ≥ 7501 ≤ 7500 | Tax on full 7501/- Yes |
| ≤ 20 Lac (No need to take GST reg.) | > 7500 ≤ 7500 | Yes Yes |

Services exempt under IGST

1. Import of services by:-

- CG/SG/LA/UT/Govt. Authority, Entity under 12AA/AB except OIDAR services
- An **Individual** for non-business purpose except OIDAR services.
- UN and specified International organization of UN
- Foreign diplomatic mission or counselor post or diplomatic agent or career counselor office
- SEZ unit/developer
- Royalty, licence fee paid to foreign supplier to the extent included in custom valuation
- Foreign airline company from related/distinct person without consideration. (Amendment)

2. Service by **tour operator** to **foreign tourist** in relation to tour conducted



No. of foreign days(3.5)/Total tour days (6)* amt. charged

OR

50% of amt. charged

Duration ≥ 12 hours = 1 day

Duration < 12 hours = half day

3. Intermediary services where both supplier and recipient of goods are located outside India :

Documentary proof to be kept for 5 years



4. Service provided to foreign branch/establishment of distinct person if POS outside India
5. Central Governments share of profit petroleum
6. Services provided by:
 - ❖ Asian Development Bank (ADB)
 - ❖ International Finance Corporation (IFC)



Chapter 5 – Time of Supply

This provision tells us as to in which month, payment of tax to be made to Govt if below event occurs on different dates/month.

DOI – Date of Invoice DOP – Date of Payment DOS – Date of Supply

| Situation | EARLIER OF | | | | |
|--|------------|-------------------|-----|-----|--|
| | Due DOI | Actual DOI | DOP | DOS | Others |
| Goods — Specified actionable claims & Composition supplier | ✓ | ✓ | ✓ | - | - |
| Goods — FCM | ✓ | ✓ | - | - | - |
| Goods — RCM | - | 31st day from DOI | ✓ | - | Date of Receipt of Goods |
| Services - FCM (Invoice raised within due date) | - | ✓ | ✓ | - | - |
| Services — FCM (Invoice not within due date) | - | - | ✓ | ✓ | - |
| Services — RCM | - | 61st day from DOI | ✓ | - | - |
| Import of service from <u>Associated</u> enterprises | | | ✓ | | Date of entry in books of <u>recipient</u> |
| Services – FCM/RCM (If not possible to determine above) | | | | | Date of entry in books of <u>recipient</u> |
| Interest, late fee/penalty for delay payment of consideration. | - | - | ✓ | - | |
| Vouchers – Supply Identifiable Ex. – Shirt voucher | - | - | - | - | Date of Issue of Vouchers |
| Vouchers- Supply Not – identifiable Ex. - Any food item | - | - | - | - | Date of redemption |
| Residual cases – Periodical return required to be filed | - | - | - | - | Due date of return |
| Residual cases — Other Cases | - | - | - | - | Date of GST paid |



Date of payment

| FCM (See in supplier book/bank) | RCM (See in recipient book/bank) |
|---|---|
| Date of Entry in books Date of entry in Bank A/c. Whichever is EARLIER | Date of Entry in books Date of entry in Bank A/c. Whichever is EARLIER |

In the bank/books of person who will pay tax to Govt.

Up-to Rs.1,000 received in excess of the invoice

Ex. : Invoice of 4600/-, customer paid 5000/-, TOS for 400/- will be ?

At the option of supplier

1. DOP of 400/-
2. Date of issue of next invoice against such 400/-

Due date of issue of invoice - Goods

| Type | Due date of issuance of invoice |
|---|--|
| Movement of goods involved | Before or at the time of removal |
| Movement of goods not involved | Before or at the time goods making available to recipient |
| Continuous supply of goods | Before or at the time of: a) Issuance of periodical statement b) DOP Actual dates relevant, due dates not relevant |
| Goods sent on approval for sale or return | Earlier of: a) Before or at the time of actual sale b) 6 months from the date of removal |

Due date of issue of invoice - Services

| Type | Due date of issuance of invoice |
|---|--|
| Normal case | Before or within 30 days of provision of service |
| Supplier : Insurance/Banking/FI/NBFC | Within 45 days from provision of service |
| Insurance/ Banking/ FI/ NBFC/ Telecom Supply Between distinct person under same PAN | Time when supplier record supply Or Before end of quarter in which supply made |



| | |
|---|---|
| Continuous supply of services (For >3 months continuously) | <ol style="list-style-type: none"> 1. Due DOP 2. If no due date → Actual DOP 3. Payment linked to event/milestone → On completion of the milestone (Completion of 20%, 50% etc.) |
| Cessation of service before completion | Date of Cessation |

Amendment (Circular) :

Hybrid Annuity Model (HAM) for construction + maintenance, and payment in instalment. It falls under continuous supply, hence Due DOI = specified date of instalment or date of completion of event as per contract.

Payment of spectrum use/ royalty in instalment to Govt. → It is continuous supply → GST under RCM → TOS = DOP or Due DOP which-ever earlier.

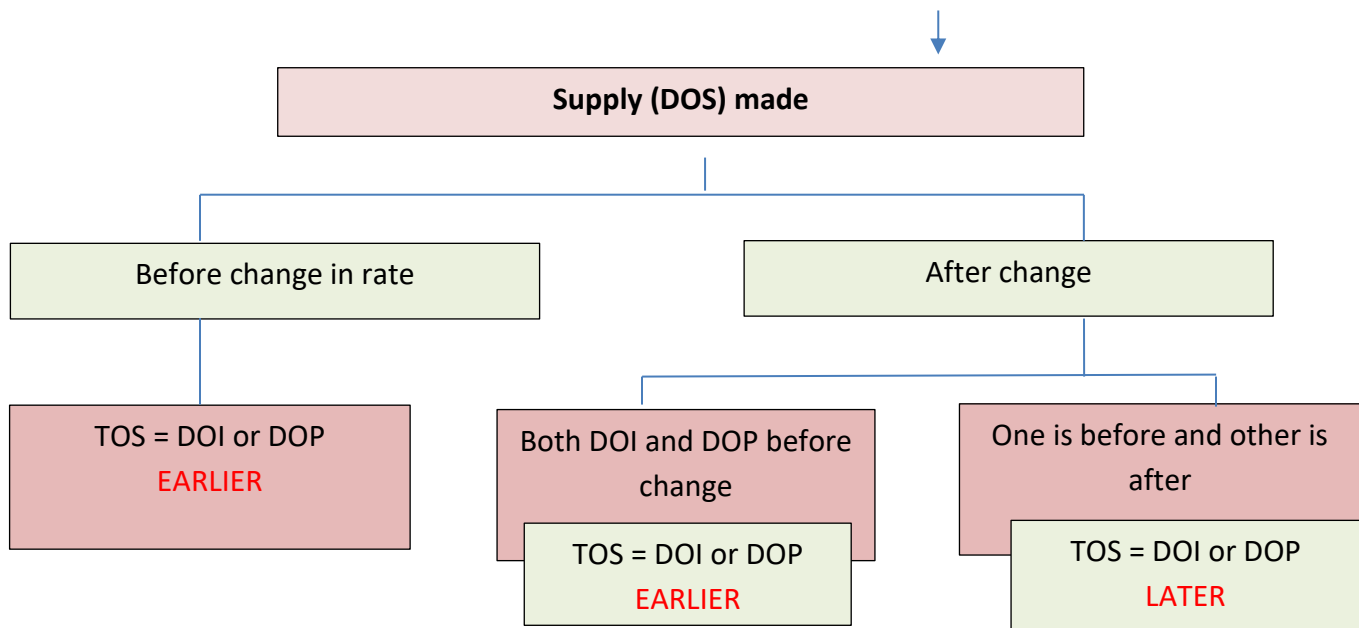
TOS in case of change in rate

CHANGE IN RATE OF TAX:

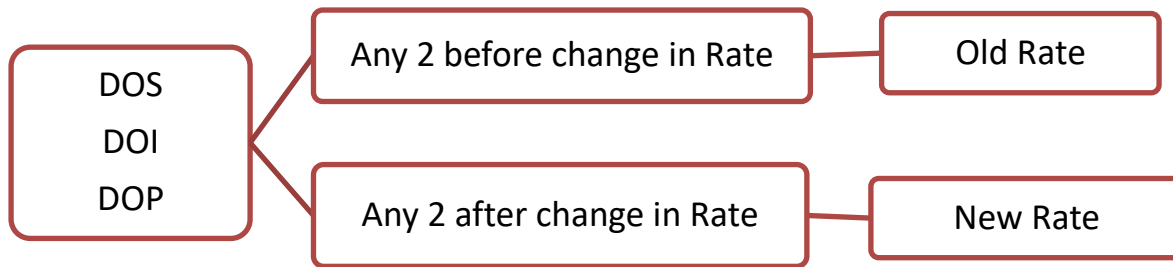
| | |
|------------|-------------|
| 01/01/2022 | 05/01/2022 |
| Rate - 18% | Rate of 28% |
| Payment | Delivery |

Which rate to be applied?

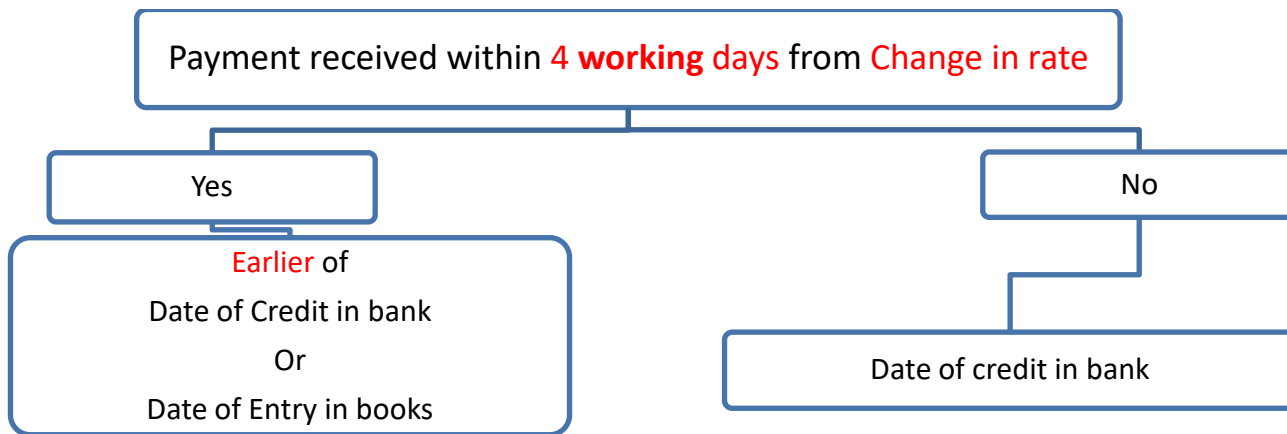
Solution : Find out TOS and rate will be rate prevailing on the date of TOS



Short-cut 2/3 Rule for finding applicable rate of tax



Date of Payment (DOP) in case of change in rate



Chapter 6 – Value of Supply

Tax amount = Value of supply (VOS) * Applicable tax rate.

VOS is Transaction value i.e. price paid or payable for the supply if

- a) Supplier and recipient are not related
- b) Price is sole consideration

Following gets included in Transaction value

Nature

Taxes other than GST for e.g. Municipal Tax, Excise Duty etc.

- TCS under income tax not to be included – It is not a separate tax, just a mechanism to collect tax.

Payments to 3rd party by recipient in relation to supply, which supplier was liable to pay.

- a) Include only if supplier was liable to provide that part of supply.
- b) Moulds/dies provided free of cost by Original Equipment Manufacturer (OEM) (Recipient) to component manufacturer (Supplier)

| Liability of Moulds/Dyes | Provided by | Treatment in supply by Component Manufacturer |
|-----------------------------------|-------------|---|
| OEM (Recipient) | OEM | Not to include |
| Component Manufacturer (Supplier) | OEM | Include |

c) Treatment of transport cost

| Transportation was <u>responsibility</u> of | Paid by supplier | Paid by buyer |
|---|--|----------------|
| Supplier (Supply “FOR basis” means home delivery) | Include (composite supply) | Include |
| Recipient (Supply “Ex-factory” basis) | Not to include (Supplier take reimbursement without tax) | Not to include |

Incidental expenses – Both before and after delivery

Examples:

- a) All kinds of packing – Primary, Secondary, on request of customer etc.
- b) Commission
- c) Loading, weightment, insurance
- d) Royalty, warranty charges



e) Installation charges

Anything done by the supplier in respect of the supply till delivery

Examples:

- a) Customisation charges
- b) Modification charges
- c) Inspection charges

I. Interest or late fee or penalty, for delay in payment of consideration

II. Penal Interest, fee, penalty for payment after due date/instalment date.

- a) Included only if charged and retained by Supplier of goods/services.
- b) Considered as composite supply – Tax rate of main supply will apply.
- c) Interest received is usually considered as inclusive of GST (Unless given in question)
Hence : $VOS = \text{Interest received} / (100 + \text{Applicable tax rate}) * 100$

Not to include:

- a) Charged by Bank, Finance company which provided loan against such supply.

Interest charged by Del-credere Agent/ Agent

Invoice on customer raised by Principle → No Tax on int.

Invoice on customer raised by Agent → Int. will be taxable

SUBSIDY : Treatment of subsidy received by supplier

| Provider | Nature | To include? | If price is AFTER reducing Subsidy | If price is BEFORE reducing subsidy |
|----------|---------------------|-------------|------------------------------------|-------------------------------------|
| CG/SG | All kinds | No | No Action | Reduce |
| Others | Not linked to price | No | No Action | Reduce |
| | Linked to price* | Yes | Add | No action |

Linked to price means subsidy being given based on quantity/weight of goods been sold.

Read the question carefully to know whether given price is before or after reducing subsidy

| Given in Question | It means |
|------------------------------------|----------------------------------|
| Price is after considering subsidy | Price is after reducing subsidy |
| Supplied to customer at X price | Price is before reducing subsidy |

Incentive given by MeitY/CG to Banks for promotion of Rupay card/ UPI is subsidy from CG hence no GST.



Sharing of subsidy by one bank to another entity in manner decided by NPCI is also subsidy hence no GST.

Treatment of Discount in VOS : Sec-15(2)

Discount will be reduced from VOS if given

a) Before or at the time of supply and shown in the invoice.

Example: Trade discount Staggered discount (10% on shopping of 5K, 20% on shopping of 10K)

b) After the supply, if-

i) Discount is determined basis agreement entered into at or before supply (Decide based on facts)

+

ii) Can be linked to invoice

+

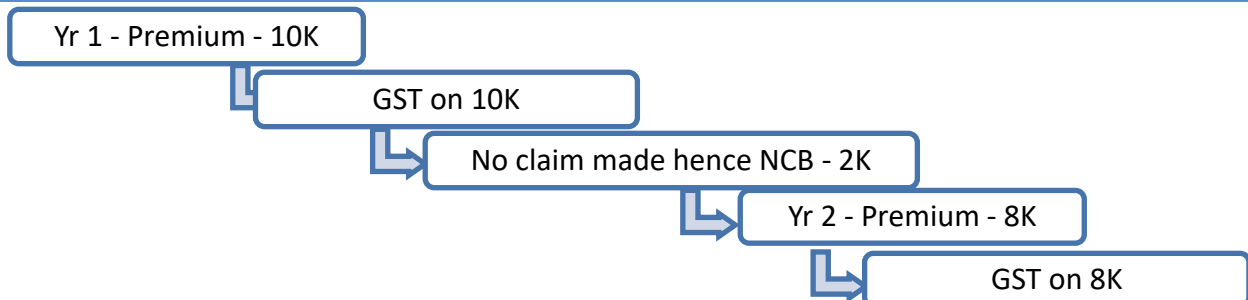
iii) Proportionate ITC reversed by recipient (Will be given in question)

(recipient to provide self-certificate of reversal of ITC if amount up-to 5 lacs for a FY, if above 5 lacs then CA certificate)

| 3 Conditions satisfied? | Original invoice | Discount given by credit note | GST payable on | ITC can be taken by recipient on |
|-------------------------|------------------|-------------------------------|----------------|----------------------------------|
| Yes | 10,000/- | 1000/- | 9000/- | 9000/- |
| No | 10,000/- | 1000/- | 10,000/- | 10,000/- |

| Discount | Whether 1 st condition satisfied? |
|--|--|
| Volume discount agreed before start of year (Get discount of 1% on purchase of 10k piece a year) | Yes |
| Discount after reviewing customer's performance | No |
| Secondary discount : discount basis revaluation of price | No |
| 2% discount if customer pay within 1 month (Pre-agreed) | Yes |
| 2% discount given on payment (Discount given basis negotiation) | No |

Treatment of No Claim Bonus (NCB) on insurance policy



NCB is provided at the time of supply and recorded in invoice



hence qualified as discount and VOS is net actual insurance premium after deduction of NCB. Insured has not provided any supply in form of agreeing to refrain from claim, hence NCB is not a consideration.

Rule - 33 Value of Supply in Case Pure Agent

Example: Firm A is engaged to handle the legal work for incorporation of company B. Other than its service fees, A also recovers from B, registration fee and approval fee paid to ROC. A is merely acting as a pure agent in the payment of those fees. Therefore, A's recovery of such expenses is a reimbursement and not part of the value of supply made by A to B.

Provisions:

Expense incurred by supplier as a pure agent is not included in VOS

If following conditions satisfy:

- Payment made on behalf of recipient as pure agent
- Payment authorized by recipient to supplier
- Supplier shows amount separately in invoices
- Payment made in addition to main supplier on his own account

Who is Pure Agent:

- a) Entered into agreement with recipient to act as pure agent
- b) Neither intend nor hold any title to goods/ service procured
- c) Does not use goods/services for his own
- d) Receive only actual amount incurred

Note:

1. Hotel exp., Travelling exp., Telephone exp. etc. reimbursed to perform service not considered as pure agent and included in VOS.

Treatment of Airport levies: Passenger service fees (PSF) /User development fee (UDF)

- Levied by Airport operator (E.g. Jaipur airport) for airport services
- Collected by Airlines (E.g. Indigo) along with fare on behalf of Airport operator
- Here, Airline acting as pure Agent and not liable to charge GST.
- **Tax liability is on airport operator on such PSF/UDF**
- Airlines charges collection fee from operator → Taxable on Airlines



GST on supply of electricity by real estate cos, malls etc. to tenants/lessee

| Scenario | Nature | Taxability |
|---|--|---|
| Electricity is being supplied bundled with renting or maintenance (Electricity billed separately/combined) | Becomes composite supply Renting is principal supply | GST rate on rent will apply on electricity charges also |
| Charges same amount as charged by Electricity Board/discom | Then deemed as pure agent | Not included in value of rent → No GST |

Rule 27: When - Consideration not wholly in money (Full or part consideration received in kind)

Example: Sale of new laptop in consideration of Rs. 40,000 + old mobile.

Value to be computed in the given order:

- Open market value (OMV)
- Total consideration in money + value of non-monetary consideration
- Value of supplies of like kind and quality
- Value as per Rule 30 = Cost + 10%
- Value as per Rule 31 = Reasonable means

Rule 28(1): VOS between Distinct/ Related persons, other than through Agent

Example: Sale of laptop by Jethalal to Tappu @ any price or without any charge

Distinct person : Supply between different GST number of same PAN.

A. Value to be computed in the given order:

- Open market value
- Value of supplies of like kind and quality
- Value as per Rule 30 = Cost + 10%
- Value as per Rule 31 = Reasonable means

B. Additional "**Options**" (Supplier has option to take value lower of value as per A and B)

- ◆ Recipient sold goods AS SUCH : 90% of price at which **RECIPIENT**, sold like kind/quality goods to its unrelated customer.

If Tappu sold similar laptop to customer @50,000 then value as per this provision by Jethalal to Tappu will be Rs. 45,000 (90% of 50,000).

- ◆ Only if recipient eligible for full ITC - Any value taken in invoice will be deemed as OMV.



Value of providing guarantee (To related person “in India”) – Rule 28(2)

Example: Holding co. providing guarantee to bank towards loan taken by subsidiary. It will be a deemed supply of Guarantee service by holding co.

| Guarantor | VOS | |
|---|--|---|
| Director | No consideration can be paid as per RBI guideline hence VOS/OMV will be ZERO | |
| Other Related Persons e.g. holding co | Recipient eligible for full ITC | Recipient not eligible for full ITC |
| | Any value taken in invoice will be deemed as VOS | Higher of: (Amendment) a) 1% * Guarantee amount * Guarantee years b) Actual consideration |
| *Note : 1% of guarantee amt. irrespective of actual loan disbursement amt. Recipient also can take full ITC irrespective of actual loan disbursement | | |
| By Ex-Director, Unrelated person | Transaction value | |

These provisions will not apply if guarantee given to foreign entity.

Example : Loan sanctioned : 5 lacs, Guarantee given by holding co. for 4 lacs for 2 years, loan actually disbursed for 3 lacs.

VOS = 1%* 4 lacs* 2 years = Rs. 8000/- : GST @18% = 1440/-

Head office (HO) providing services to Branch office (BO) or import from related person

1) HO provides various services to BOs through employees located at HO like HR, IT support, GST filing etc.

2) Person imported services from his related person outside India (Amendment)

What will be VOS?

| BO/importer eligible for full ITC? | VOS |
|------------------------------------|--|
| Yes | Invoice issued → Any value taken will be deemed OMV No invoice issued → OMV will be deemed as NIL |
| No | VOS needs to be calculated However, salary cost of employees is not mandatory to include while calculating VOS. |

Rule 29: Supply made/received through Agent

Value to be computed in given order:



- Open market value OR 90% of price charged by recipient to his unrelated customer for supply goods of like kind and quality (Supplier has option to take lower value)
- Value as per rule 30 = Cost + 10%
- Value as per Rule 31 = Reasonable means

State Marketing Corporation is considered as Agent.

Rule 30

Rule 30 : Value = 110% of cost of production/ acquisition/ provision of goods or services

Rule 31A, 31B, 31C

| | |
|--|---|
| Lottery | Higher of: a) Face value of ticket * 100/128 b) Price notified in Gazette * 100/128 Note: GST rate on Lottery is 28% |
| Betting, Gambling, or Horse racing | 100% of the face value of the bet or the amount paid to totalisator. |
| (i) Online Gaming & Online Money gaming (ii) Casino | (i) Total amount paid/deposited with the supplier, by player. (ii) Total amount paid for purchase of tokens, chips, or participation in Casino. Note for both: Amount returned, refunded and not used is not deductible. Amount won and used without withdraw – not included. |

Rule 32: Rules for notified services

Purchase/Sale of forex – Value of Conversion Service

1st Method: Rule 32(2)(a)

| | |
|---|---|
| FC to Rs. | (Buy/sale Rate – RRR) * FC If RRR not available - 1% of INR received/given |
| FC to FC Ex. (Conversion of \$ in €) | Lower of : 1% * RRR * FC1 (\$) 1%* RRR * FC2 (€) |

RRR - RBI Reference Rate

2nd Method – Once opted can't be withdrawn for rest part of FY. Rule 32(2)(b)

| | |
|----------------------|--|
| Rs. Up-to 1 Lac | Higher of 1% of amount or Rs. 250/- |
| Rs. 1 Lac to 10 Lacs | 1000 + 0.5% *(Amount – 1 Lac) |



| | |
|---------------|---|
| Above 10 Lacs | Lower of: a) $5500 + 0.1\% * (\text{Amount} - 10 \text{ Lacs})$ b) 60,000/- |
|---------------|---|

Booking of Air ticket by agent

| | |
|----------------------|--|
| Domestic Flight | 5% of <u>Base</u> fare (fare excluding charges/taxes) |
| International Flight | 10% of <u>Base</u> fare (fare excluding charges/taxes) |

If actual commission is lower than calculated above then actual commission can be taken as VOS.

Service of life insurance business for e.g LIC

| | |
|---|---|
| Policy only towards risk cover | Gross premium |
| Policy cover Risk + Investment | |
| If Amount Allocated for Investment Is Known | Gross premium – investment allocation |
| Amount allocated for Investment not known | |
| a) Single Premium Policy | 10% of premium |
| b) Multiple Premium | 25% of premium in 1 st <u>Year</u> 12.5% of Premium in 2 nd <u>Year</u> onwards. |

Note for forex, flight and insurance: By above calculation value of supply will come and tax to be calculated on such value @applicable rate



Buying and selling of second-hand goods (Margin scheme)

Applicable :

Made by second hand dealer

+

Sale as it is or only after minor processing without changing nature of goods

| Nature | VOS |
|---|---|
| ITC availed on purchase | Sale price |
| ITC not availed on purchase | Sale price (-) Purchase value (ignore repair cost) Ignore if negative |
| Sale of goods repossessed from URP borrower | Sale price - [Purchase price of borrower - 5% per quarter or part] (sale - purchase date) |
| Motor vehicle + sold by owner + ITC not availed on purchase | Sale price - depreciated value |

Coupon/Voucher = Money value of supplies redeemable against such voucher/ coupon.

Domizos voucher of Rs. 500/- sold for Rs. 400/-

VOS = Rs. 500/-

Rule 34: Exchange Rate for Valuation

In case of Goods: Rate notified by CBIC

On Date of TOS

In case of Service: Rate as per GAAP

Rule 35: If Value of supply inclusive of GST

Where the value of supply is inclusive of GST:

Value of supply without Tax = (Value inclusive of Tax) ÷ (100 + Tax rate)

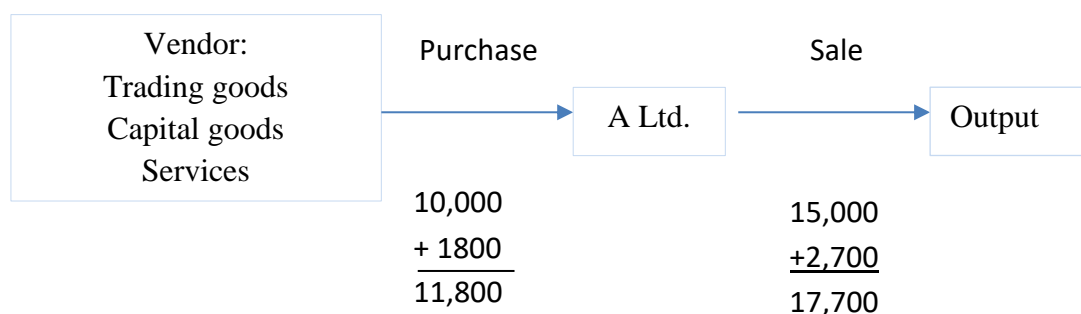
Tax amount = (Value inclusive of Tax) ÷ (100 + Tax rate) * Tax Rate



Chapter 7 – Input Tax Credit (ITC)

Basic

1. Input Tax means:
 - a) Tax charged on purchase of goods/services in FCM.
 - b) Tax payable by self in RCM.
 - c) IGST paid on import of goods.
2. Input Tax Credit means: Credit of input tax.



Vendors will report sale with GST of Rs. 1800/- to A Ltd. in GSTR1, which will reflect in GSTR 2A of A Ltd.

Tax Liability of A Ltd. to be paid in GSTR 3B

| | |
|---|---------------|
| Output tax liability | 2700 |
| Already paid on purchase (Input tax credit) | <u>(1800)</u> |
| Taxes to be paid thru Bank | 900 |

- Note that **ITC of purchases** made in FCM as well as **RCM is allowed** in same way.
- ITC Availment : Means tax payer claimed/taken ITC and credited to its balance of ITC at GST Portal
- ITC Utilization: Use the ITC availed to make tax payment.

CONDITIONS FOR TAKING ITC – SEC 16

A buyer is eligible to take ITC, only if all below are satisfied. This is to be checked for each invoice.

| Conditions |
|--|
| G/S used/intended for <u>his business purpose</u> . |
| He is in <u>possession of a tax invoice</u> or debit note or other prescribed documents. |



He has **RECEIVED** the G/S.

- Supplier delivered/shipped goods to other person/job worker on direction of Buyer (Bill to Ship to)
- It will be deemed that buyer received the goods.
- **If in lots – Full ITC ONLY on receipt of LAST lot.**

Supplier reported invoice/DN in GSTR-1/IFF which reflected in 2B of buyer.

ITC reflected in 2B has **not been restricted.**

Buyer filed his own GSTR-3B

Not claimed Depreciation on **such ITC** under Income Tax.

Machine – 1L, GST – 18K: If Depreciation on 1.18L → No ITC.

ITC is not restricted u/s 17(5)

State of buyer (LOR) and Place of supply (POS) in same state → ITC allowed

Akshay Kumar of MH taken hotel service in Rajasthan → No ITC

Claimed ITC within time limit

Time limit to avail ITC - Sec. 16(4)

Earlier of following

- 30th November, following the FY to which such invoice/DN pertains
or
- Actual date of filing annual return

Example:

| Document | Annual return filed on | Time limit |
|------------------------------------|------------------------|------------|
| Invoice – 15.02.2023 (FY 22-23) | 25.10.2023 | 25.10.2023 |
| Debit Note – 01.05.2023 (FY 23-24) | 31.12.2024 | 30.11.2024 |

RCM service received from URP or Import of service (say on 15.08. 2023)

→ in such case, (as per invoicing provisions) service receiver prepared invoice (say on 10.04.2024)

→ Above time limit will apply from such invoice date i.e. 10.04.2024

→ hence ITC can be taken till 30.11.2025 (Amendment)

Reversal of ITC after availment:

2 cases given below



1. Payment not made within 180 days to vendor (Rule 37)

- ITC has been availed
- Payment not made wholly or partly within 180 days from date of invoice
- Reverse ITC proportionately
- In 3B filed following completion of 180 days
- With Interest @18% (Date of reversal – date of utilization of ITC)
- No reversal required for → invoice under RCM & Schedule I supply.

- Re-avail ITC when payment made later on [No time limit restriction of 16(4)]
- Interest can't be re-availed

2. Supplier not filed GSTR 3B (Rule 37A)

- ITC has been availed
- Supplier not filed GSTR-3B of invoice month.
- Till 30th September of next FY.
- Reverse ITC in 3B filed till 30th November
- Pay Interest - if not reversed till 30th November (Date of reversal – date of utilization of ITC)
- Re-avail ITC when 3B filed by vendor later on [No time limit restriction]

Prescribed documents for taking ITC (Rule 36)

- Invoice/Debit note/revised invoice
- Self- Invoice in case of RCM, subject to payment of tax.
- Document by ISD (Input Service Distributor)
- Bill of Entry (in case of import)

Note - Delivery challan and bill of supply not considered tax paying document

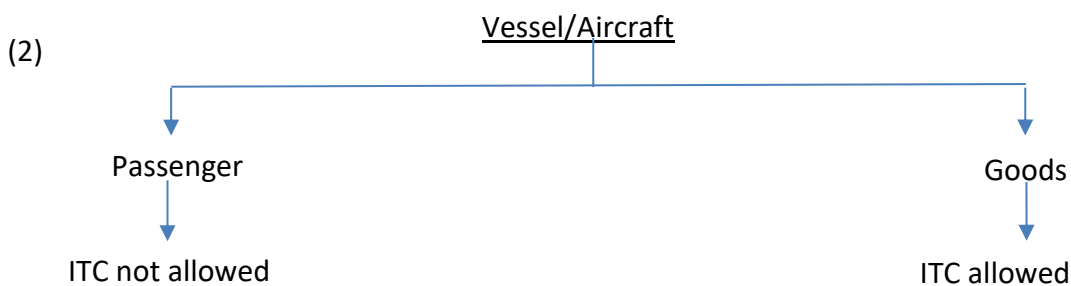
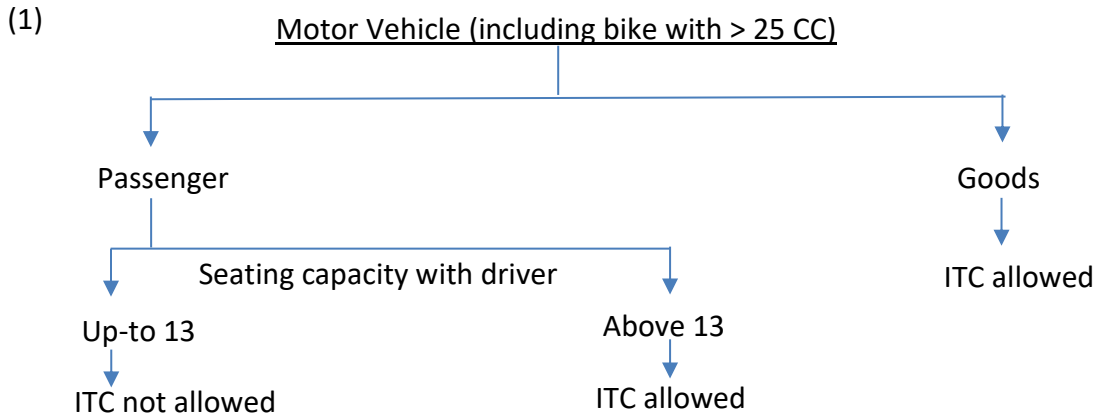
Mandatory details required on tax paying document

- GSTIN of supplier and recipient
- Description of goods and services
- Value of goods and services
- Tax amount
- Place of supply (in case inter-state supply)

Blocked credit u/s 17 (5)

ITC not available in respect of following: Even if all above conditions of Sec-16 satisfied.





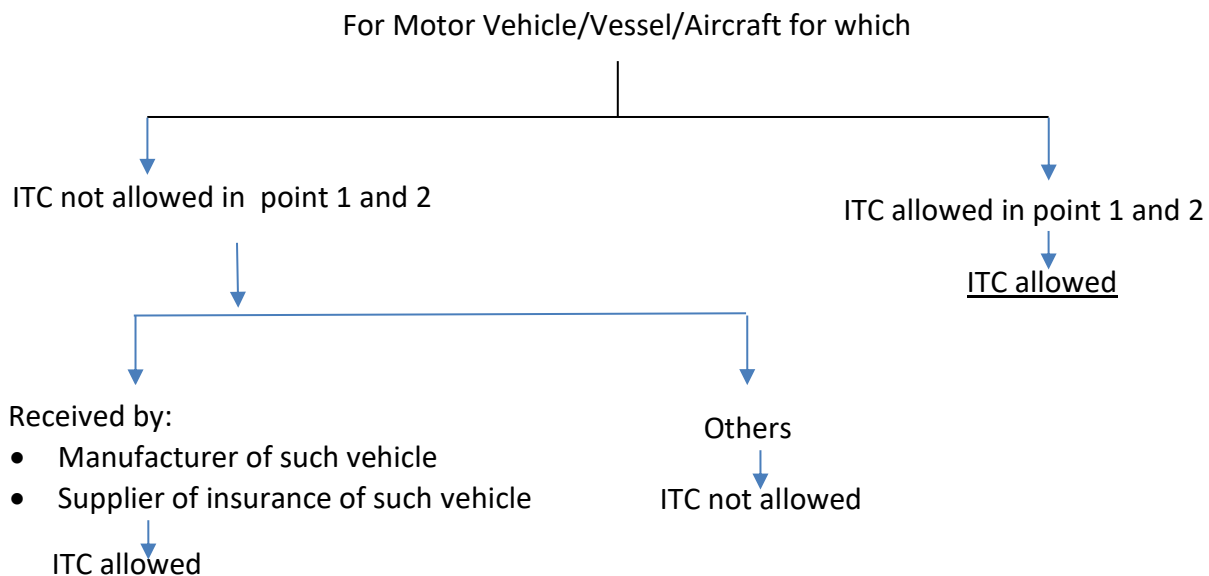
ITC allowed, if such Motor vehicle, Vessel, Aircraft used for making following supplies:

- For further supply as such or given on rent.
- In business of Transportation of passenger
- Providing training on driving, flying.

On purchase of demo vehicle by dealer (Amendment)

Dealer selling cars in its own name → ITC Allowed (Because demo car used for supply of other cars)
 Car being sold on manufacturer invoice and dealer only taking commission → ITC not allow to dealer

(3) Insurance, Servicing, repair and maintenance



ITC to insurance company on repair of vehicle by insured (Amendment)

Radhika hit his Scooty and got it repaired from Lucky garage. Radhika made the payment to Lucky Garage and insurance co paid to Radhika. ITC to insurance company?

| Scenario | Treatment |
|---|---|
| 2 invoices raised by Lucky garage. 1 for 1000/- in name of Insurance co. and another for 500/- in name of Radhika | <ul style="list-style-type: none"> Person who is "liable to pay" i.e. insurance co. is recipient of service. Consideration : include payment by Radhika, which reimbursed by Insurance Co. Sec 17(5) : ITC on repair is allowed to insurance service provider <p>Hence, ITC available on 1000/-</p> |
| Lucky garage issued single invoice of 1500/- in name of insurance co. Insurance co. paid 1000/- | |
| Rs. 1500/- Invoice raised in the name of Radhika | ITC not available because conditions of Sec 16, regarding insurance company should have invoice and should reflect in its GSTR -2B are not satisfied. |

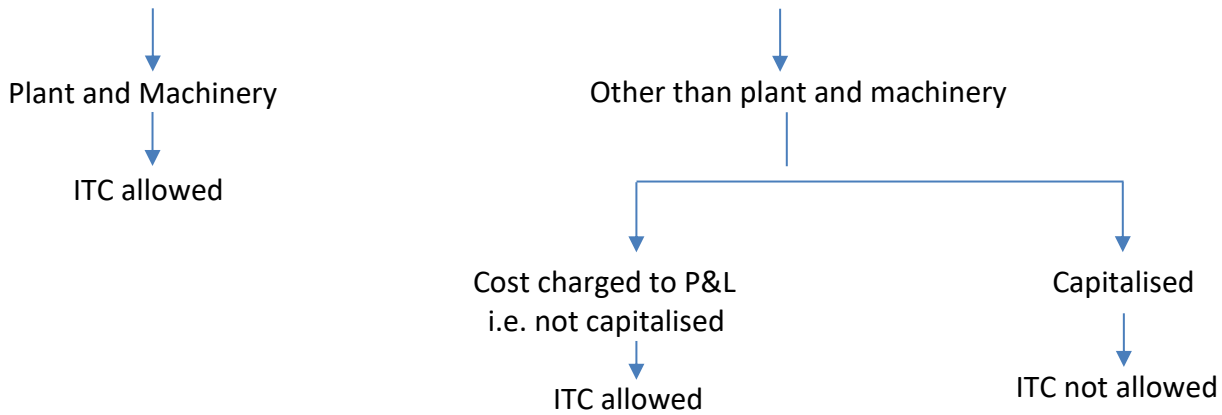
(4) Following Goods/Services:

| | |
|------------------|---|
| Food | Food and Beverage, Outdoor catering |
| Beauty | Beauty treatment, Cosmetic and plastic surgery |
| Health | Health Services, membership of club, health and fitness center |
| Insurance | Life and Health Insurance |
| Travel | a) Travel benefits to employees on vacation b) <u>Renting/ leasing/hiring</u> of motor vehicle/aircraft, vessel on which ITC not allowed in point (1) and point (2) (Remember : ITC allowed on <u>passenger transport service</u> viz. flight/train ticket) |
| <u>Exception</u> | ITC is allowed, if goods/services: a) Received to provide same category of supply, or b) Provided to employees due to <u>statutory obligation</u> e.g. Factory Act. Note: Company's policy not a statutory obligation |

(5) Work contract service or goods and services

for construction, reconstruction, renovation, repair of Immovable property for own use





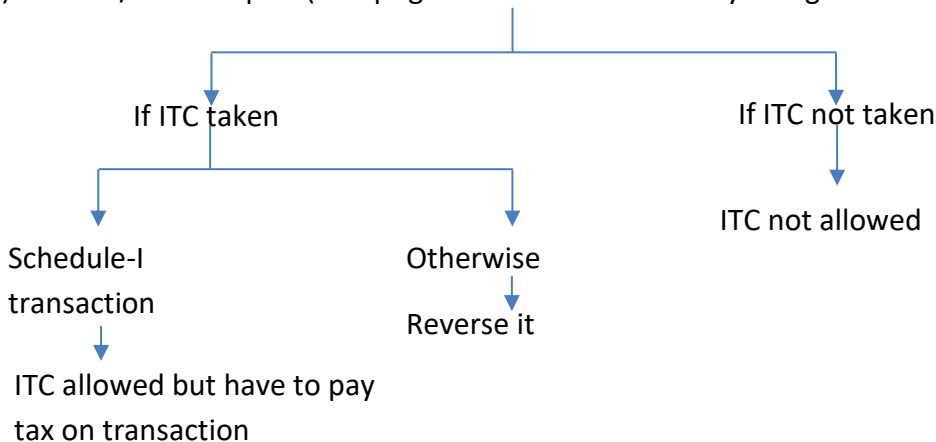
| <u>P&M includes (ITC allowed)</u> | <u>P&M excludes (ITC not allowed)</u> |
|---|---|
| a) Apparatus/equipment/machinery fixed to earth by foundation/structure. b) Including such foundation/structure c) Pipeline inside factory | a) Land and building or other civil structure eg. Factory, office, hotel etc. b) Telecommunication tower c) Pipeline outside factory |

❖ ITC is eligible on duct and manhole used in OFC network by telecom company (Not fall under land/building/civil structure) (Amendment)

❖ If works contract services used for making further supply of works contract service → ITC allowed

Other cases of blocked credit

- (6) Tax paid on inward supply for personal consumption
- (7) Goods/services used for activities of Corporate Social Responsibility (CSR)
- (8) Goods lost, stolen, destroyed, and written off. Except: Normal manufacturing loss.
 Goods/parts replaced by supplier during warranty → No need to reverse ITC on such goods (Amend)
- (9) Gift/free samples (Except given under offer like buy one get one free)



(9) Where tax paid by supplier after notice/order received u/s 74 (Fraud)



E.g. Supplier raised invoice @12%, later on department finalized that GST rate should be @18% and raised demand of 6% u/s 74. (Buyer of such goods cant take ITC of 6%)

- (10) Goods/services purchased from composition supplier
- (11) Goods/services purchased by non-resident taxable person (NRTP) except on imported goods
- (12) Goods/services used exclusively for further supply of Exempted goods/services.
- (13) Goods/services used exclusively for non-business purpose.

Apportionment of ITC

In certain circumstances, buyer is eligible for part of the ITC from a single invoice.

Definition:

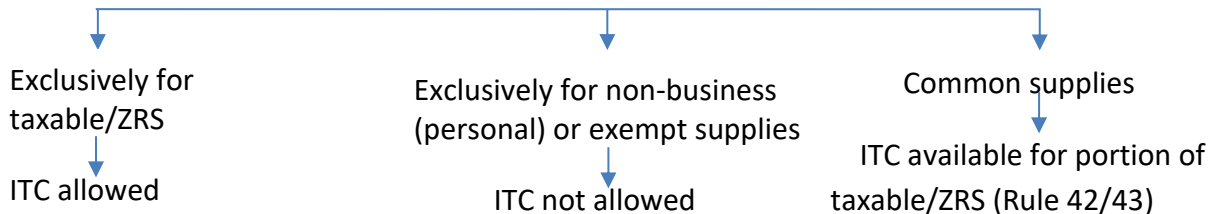
Zero rated supply (ZRS) means :

- a) Export or Supply to SEZ of taxable goods/services with payment of IGST
- b) Export or Supply to SEZ of taxable goods/service without payment under LUT/bond
- c) Export or Supply to SEZ of exempted goods/service without payment under LUT/bond

Exempt/ Nil rated supply means : Goods/services on which GST is exempt or 0% + sold with India.

PRINCIPLE OF ITC:

ITC on Input/Input Service/capital goods used



Rule-42-Apportionment of ITC on Input/Input Service

Manner of determination of ITC where input and input services are used for taxable as well as exempted supplies/ non-business purpose.

(1) Monthly Process

| | | |
|------|---|----|
| | Total Input Tax | T |
| Less | Input tax on Input and Input Service Exclusively for non-business (personal) purpose | T1 |
| Less | Input tax on Input and Input service Exclusively for Exempt supplies | T2 |

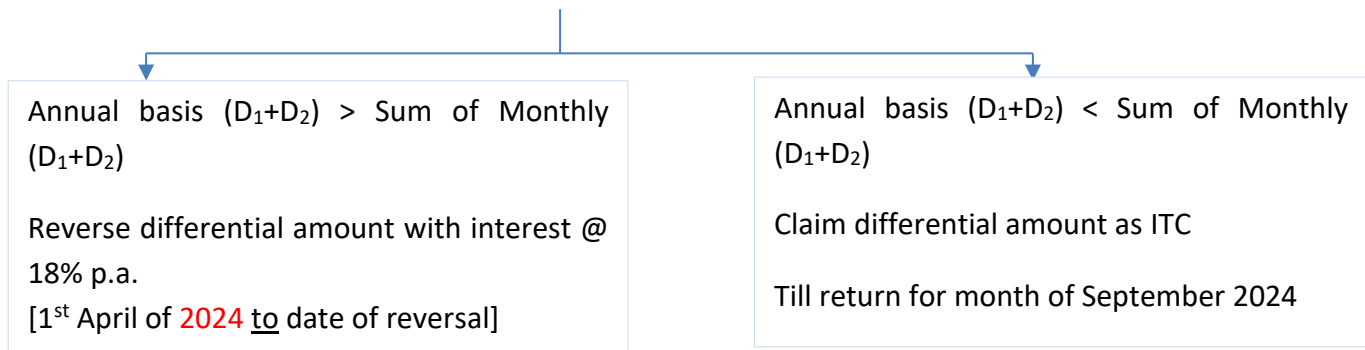


| | | |
|------|---|-----------------|
| Less | Blocked credit u/s 17 (5) | T3 |
| | <u>Total ITC credited to credit ledger (ECrI)</u> | C1 |
| Less | Input tax on Input and Input service Exclusively for taxable and Zero rated supply | T4 |
| | <u>Common credit</u> | C2 |
| Less | Common credit attributable to exempt supply $C2 \times \frac{\text{Exempted Supplies (E)}}{\text{Total turnover (F)}}$ | D1 |
| Less | Common credit attributable to non-business ($C2 \times 5\%$) | D2 |
| | <u>Net Eligible common credit</u> | C3 |
| | <u>Total Eligible credit/ ITC Available</u> | <u>(T4+ C3)</u> |

Note – D2 to be calculated only if specifically mentioned or clearly indicated in question

(2) Annual Process : E.g. for 2023-24

- D_1 and D_2 shall be calculated on annual basis, if



Calculation of Exempt supplies (E) and Total supplies (F)

| Nature of Supply | Treatment for calculation of Exempted Supply (E) |
|---|--|
| Nil Rate + Exempted supply | Exempted Supply |
| Non GST Supply: - 5 Petroleum products | Exempted Supply |



| | |
|---|---------------------------|
| - Alcohol for human consumption | |
| Outward Supply under RCM | Exempted Supply |
| Sale of securities (Value : 1% of sale value) | Exempted Supply |
| Sale of land and completed building (Entire consideration post CC) (Value as per Stamp Duty valuation) | Exempted Supply |
| Supply of goods from Duty Free Shops at <u>arrival terminal</u> in international airports | Exempted Supply |
| Interest on deposit/loan/advance | Taxable Supply |
| Zero Rated Supply (ZRS): i) Export with or without(LUT) payment of tax ii) Supply to SEZ with/without payment (Both : Taxable or exempted goods/service) | Taxable Supply |
| Other Taxable supply (Including under-construction building) | Taxable Supply |
| Total Turnover (F) | Taxable + Exempted Supply |
| Schedule III transactions other than sale of land and building | No Supply - Ignore |
| Sale of Duty Credit Scrip | No Supply - Ignore |
| Excise Duty, VAT, CST paid on petroleum products | No Supply - Ignore |

Life insurance policy having investment + risk coverage (Amendment)

- Policy premium : 10k (For investment : 9K, for risk coverage 1k)
- GST on 1k (As per concept covered in Value of supply chapter)
- Whether 9k is exempt or non-taxable supply? → Answer: NO
- Whether 9k to be included in exempted turnover for reversal u/r 42 → No, because this amount is not relating to exempt/non-taxable supply

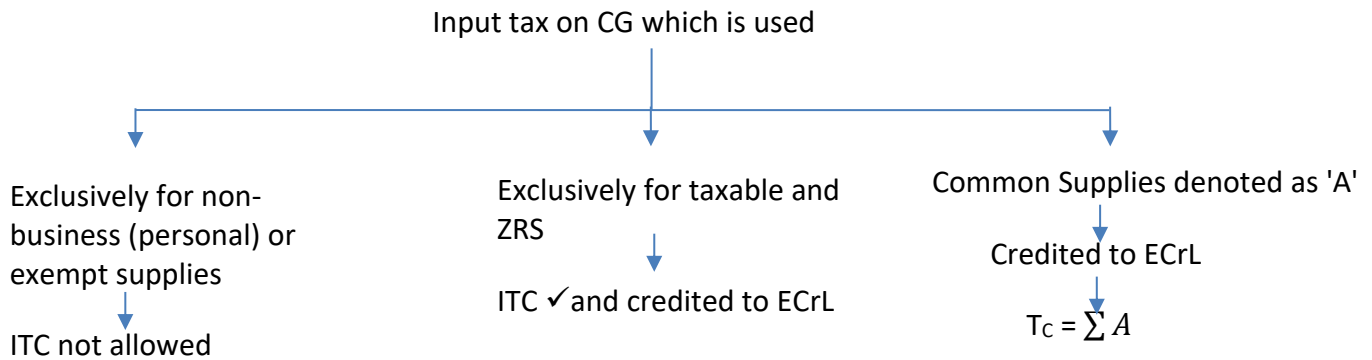
Rule - 43 Apportionment of Credit on Capital Goods (CG)

Example : In Kirana shop racks purchased in Apr'24 and computer purchased in Jul'24 and both being commonly used for sale of soap and rice (rice is exempt in GST if sold loose)

ITC on such purchase not to be reversed in exempted to total ratio in the month of purchase, rather 1/60 portion to be reversed for **60 months (Useful life)** using each month's ratio.



Itna complicate kyu? → To avoid planning by company by purchasing these assets in the month when exempted supply is less.



- Common Credit on CG are initially availed fully
- Keep on adding “A” till 60 months from date of purchase → $T_c = \sum A$
- Then on monthly basis credit attributable to exempt supplies added to output tax liability

| | |
|--|---|
| Monthly common credit (T_m) | $\left[\frac{\text{Total common credit } (T_c)}{60} \right]$ |
| Common credit attributed to exempt supply (T_e) (To be added to output liability) | $T_m \times \frac{E [\text{Exempt Supply}]}{F [\text{Total Turnover}]}$ |

Change in use of CG

Where there is:

- i) Change in use of CG
Ex. – Machine purchased on 01.02.2022 product A (Taxable), from 20.05.2023 also being used for product B (Exempted).
- ii) Change in taxability of goods (T to Ex or vice versa)
Ex. - Product A become exempted from 20.05.2023

| CG Earlier used | CG Now used | Treatment |
|-----------------|-------------|---|
| Taxable | Common | <ul style="list-style-type: none"> • Full credit already obtained hence no treatment |



| | | |
|--------|------------------|---|
| | | <ul style="list-style-type: none"> Start monthly reversal [Add in Tc] for remainder useful life |
| Exempt | Common | <ul style="list-style-type: none"> Take full credit Reverse credit for period for which used only in exempt supplies Reversal amount = 5% for each quarter/part used for exempt Start monthly reversal [Add in Tc] for remaining useful life |
| Common | Only for taxable | <ul style="list-style-type: none"> Full credit already obtained hence no treatment Stop monthly reversal [remove from Tc] |
| Common | Only for exempt | <ul style="list-style-type: none"> Full credit already obtained hence reverse for remaining period (ITC Availed ÷ 60 months x balance life) Stop monthly reversal [remove from Tc] |

Special option available to Bank/FI/NBFC

Interest received against loan/advance is exempted supply.

Hence, for Proportionate ITC reversal 2 options available.

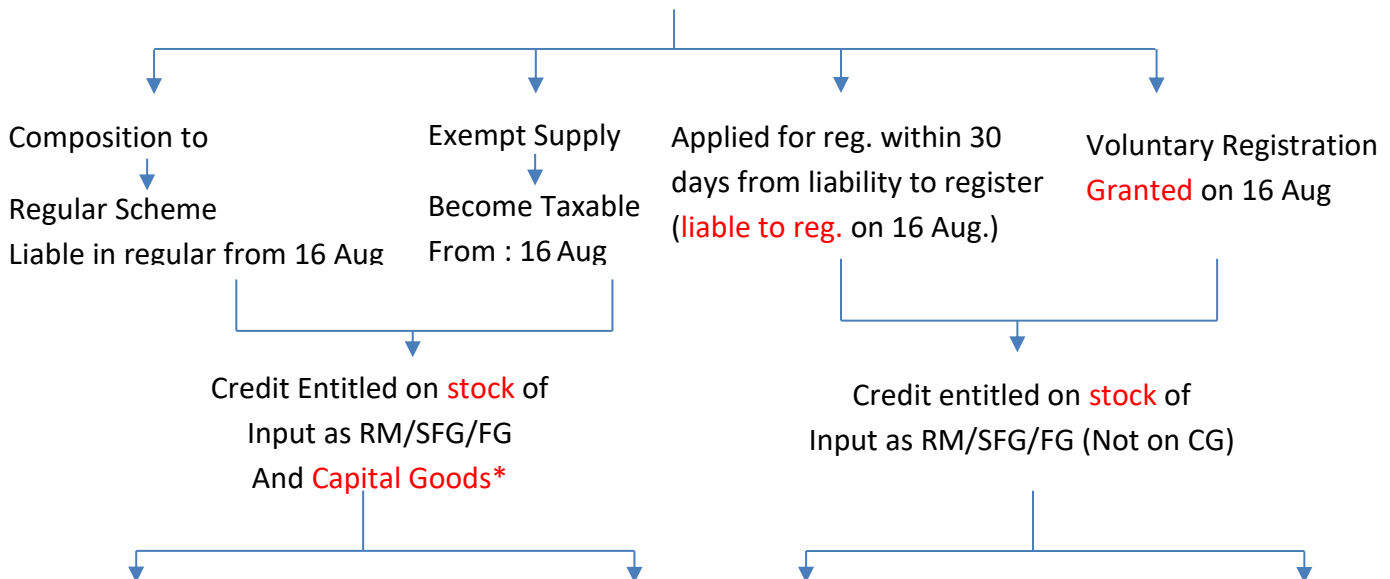
(A) Follow rule 42 and 43

Or

- (B) i) Avail 50% of **eligible ITC**, remaining shall lapse
 ii) Avail 100% of ITC on purchase from same PAN entity (distinct person)
 iii) Do not avail ITC on non-business purpose and blocked credit u/s 17(5)

Once exercised option 'B' can't be changed for remaining part of financial year

Special cases enabling availment of ITC – Sec 18(1)



On day immediately preceding dates given above (In this case on 15th Aug)

Conditions:

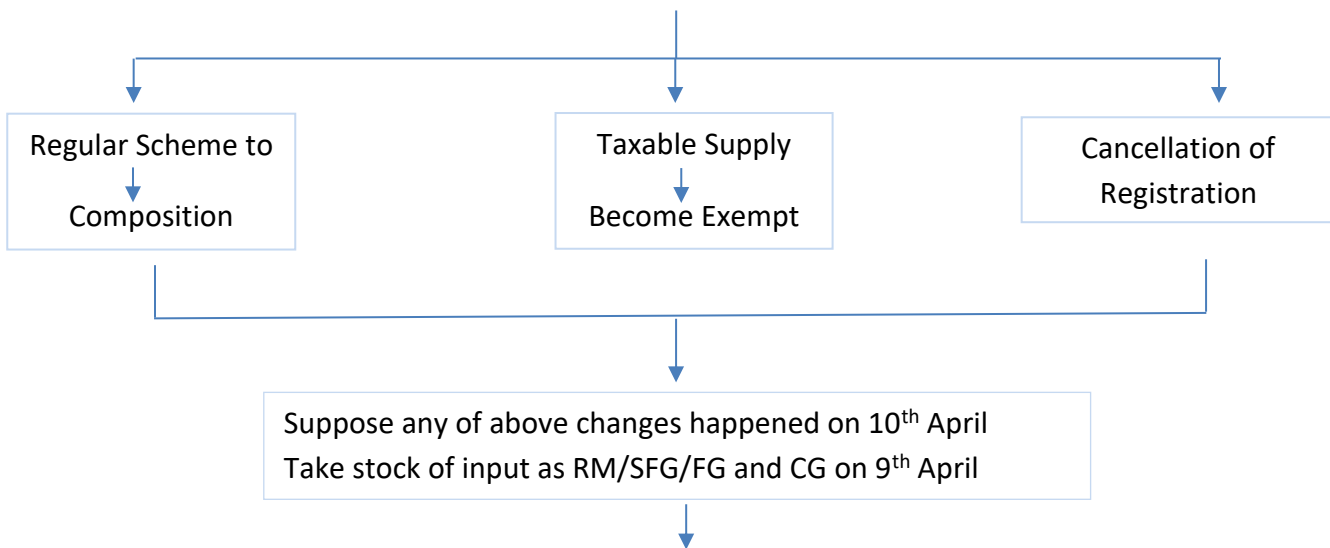
1. ITC can be availed only if invoice is not older than 1 year
2. *Computation of ITC in case of capital goods

ITC = Total ITC (-) 5% of each quarter/part of quarter

Ex. → Purchased on 25th Nov (1. Nov to Dec, 2. Jan to Mar, 3. Apr to Jun, 4. Jul to Aug. = Total 4Q)

- File electronic declaration within 30 days from relevant date containing details of input/CG
- If aggregate credit > 2,00,000 → details to be certified by CA/CMA

Special Cases requiring reversal of ITC



Amount of ITC reversal:

(i) Inputs

- a) If invoice available : Proportional reversal based on invoice
- b) If invoice not available : Based on prevailing market price (CA/CMA certificate required)

(ii) Capital Goods

ITC (x) (60 months – used **months**/part of months) (÷) 60

In cancellation of reg. : Also, calculate output tax on such Input/CG and take higher of ITC & output

Tax liability on sale of Capital Goods after use [Sec – 18(6)]

Higher of:

- i) ITC taken (-) 5% per calendar quarter/part of quarter

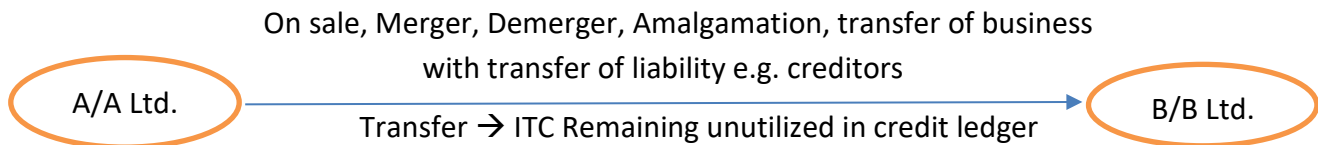


(Sale date – purchase date)

ii) Tax on transaction value

Note : Tax on transaction value only in case of refractory bricks, moulds and dies, jigs and fixtures are supplied as scrap.

Transfer of ITC on A/c of Change in Constitution



Conditions and Method

- File Form ITC-02 along with amount of ITC to be transferred, with
- Copy of CA certificate, certifying that liability has also been transferred.
- Transferee to accept amount on ITC on GST portal to get credit of ITC.

In case of Demerger/Part Business Transfer.

i) ITC to be transferred – State-wise

$$\boxed{\begin{array}{c} \text{ITC balance} \\ \text{(On date of filing ITC-02)} \end{array}} \times \boxed{\begin{array}{c} \text{Asset transferred} \\ \text{Total Asset on date transfer} \end{array}}$$

- ii) Value of Asset to be taken at state level.
- iii) Take value of all assets → whether or not ITC taken
- iv) Ratio to be applied on total ITC (Not head-wise).
- v) Transfer can be made from any head (CGST/SGST/IGST)

Transfer of ITC within same PAN

On obtaining separate registration for multiple places of business within a state/UT

↓
ITC to be transferred in ratio of value of asset within 30 days of taking registration.

Input Service Distributor (ISD)

Concept

- Reliance Digital taken registration in 10 States
- Paid 10 lacs to Star plus for TV ad to be watched all India.
- On which State/ GST Number Star plus to raise invoice on Reliance?
- Any one state can't take the invoice as services consumed all over India.



- Hence, concept of ISD introduced. ISD to take separate GST number
- ISD to take the invoice on that GST number and distribute ITC on 10 lacs to all benefitted (attributable) States in turnover ratio.

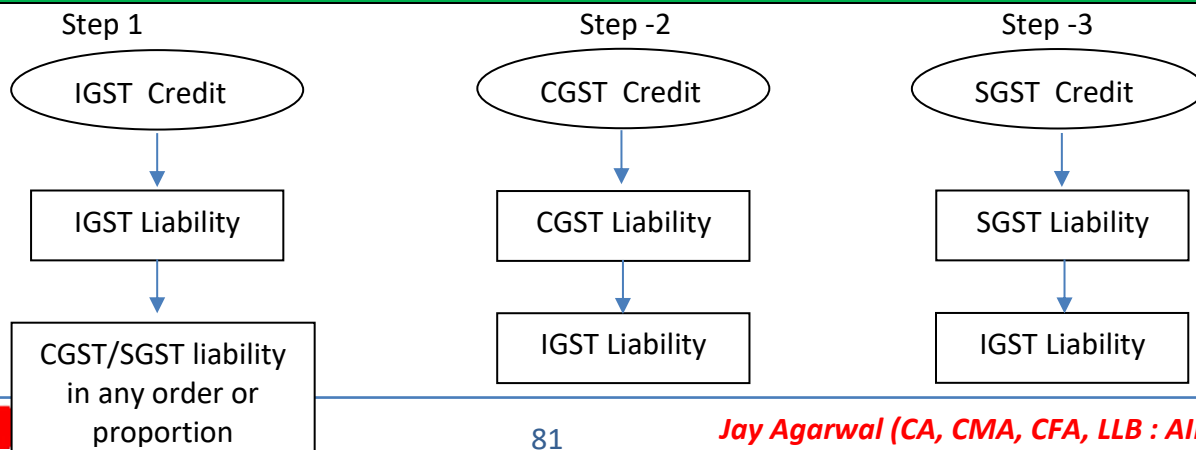
Provisions:

- Separate registration to be taken by ISD.
- If benefitted state is one → distribute to that State.
- If benefitted state is more/all → distribute to more/all benefitted state.
- Ratio for distribution :
 - Turnover of recipient (÷) Turnover of all recipient to which ITC relates (x) ITC
- Take Turnover of previous FY → If not available, take turnover of previous quarter.
- Distribute both eligible and in-eligible credit.
- ITC distributed even recipient is unregistered or making only exempted supply.
- Credit note to be distributed in same ratio of original distribution.
- GSTR-6 return is to be filed by 13th of next month.
- Any excess ITC distributed to any recipient, will be recovered from recipient.

Manner of distribution : Suppose ISD registration taken in MH state.

| Type of ITC in ISD | Distributed as |
|---------------------|--|
| Credit of IGST | Credit of IGST to all (Same/different State) |
| Credit of CGST/SGST | Recipient and ISD in different state → IGST |
| | Recipient (MH) and ISD in same State → CGST/SGST |

Utilization of ITC



~~SGST Liability~~

Only when CGST credit exhausted

~~CGST Liability~~

- C/S credit can be utilized only when IGST credit has been utilized fully
- ITC can be utilized to make payment of output tax (tax on sale), means ITC can't be utilized to pay
 - i) Amount other than tax i.e. fees, penalty interest etc.
 - ii) Tax on purchase under reverse charge mechanism
- **Any tax paid under RCM can be taken as ITC in same period**

Compulsorily pay thru cash

Example:

| Total ITC available | IGST | CGST | SGST |
|---------------------|-----------|-----------|-----------|
| Opening Balance | 11,00,000 | 18,00,000 | 10,00,000 |
| Credit availed | 18,00,000 | 6,00,000 | 6,00,000 |
| Total | 29,00,000 | 24,00,000 | 16,00,000 |
| Liability | 22,00,000 | 20,00,000 | 20,00,000 |

Utilisation:

| | IGST | CGST | SGST |
|---------------------|-------------|-------------|-------------|
| Gross GST liability | 22,00,000 | 20,00,000 | 20,00,000 |
| - IGST Credit used | (22,00,000) | (3,00,000) | (4,00,000) |
| - CGST Credit used | | (17,00,000) | |
| - SGST Credit used | | | (16,00,000) |
| Gross GST liability | 22,00,000 | 20,00,000 | 20,00,000 |
| Cash payment | 0 | 0 | 0 |
| ITC Carried forward | 0 | 7,00,000 | 0 |

Transfer of ITC between Govt.

On cross utilization of ITC, Central govt. will transfer amount at his end as follows :

| | |
|------------------------|----------------------------|
| IGST utilized for CGST | Transfer from IGST to CGST |
|------------------------|----------------------------|



| | |
|------------------------|--|
| IGST utilized for SGST | Apportion from IGST to State Govt. where person registered |
| CGST utilized for IGST | Transfer from CGST to IGST |

Rule - 86 B - Restriction on Use of ITC

Applicable on:

- In case of registered person having taxable supply [excluding zero rated and exempt supply] in a month > 50,00,000/-
- Maximum 99% of output tax liability can be paid through ITC ledger

↓
Rest needs to be paid in cash

Exception:-

- (i) Any of the following deposited Income tax > 1 Lac in each last 2 FYs.
 - a) Registered person or
 - b) Karta/Proprietor/MD of regd. person or
 - c) Any two partner/Whole Time Director/ Member of Board

- (ii) Registered person received refund > 1,00,000 for unutilized ITC in last FY for
 - a) Zero rated supply, or
 - b) Inverted duty structure

- (iii) If > 1% of YTD's output tax liability paid through cash ledger in current FY
[RCM GST paid not considered]

Apr liability : 5L, ITC : 4L , Cash payment : 1L
 May liability : 6L, ITC : 7L, Cash payment : ?
 Ans : NIL (Because >1% tax of YTD liability (5L+6L = 11L) i.e. 11k is already been paid)

- (iv) Not applicable on: -
 - Government Department
 - PSU
 - Local Authority
 - Statutory Body

- (v) Commissioner may remove this restriction after due verification/safeguard

Example :

| | |
|------------------------|-----------|
| Output Tax Liability - | 70,00,000 |
| ITC Available - | 69,50,000 |

Assuming 86B applicable



| | | |
|------------------------|---|--------------------------|
| 70,00,000 × 99% | = | 69,30,000 <i>or</i> |
| Available ITC | = | <u>69,50,000</u> |
| So, Credit Utilization | = | 69,30,000 (Lower of two) |
| Cash Payment | = | 70,000/- |

Restriction on utilization (Blocking) of ITC Balance (Rule 86A)

Restriction can be imposed on utilization on any amount, if credit availed fraudulently

- Through **fake invoices**/debit notes from non-existent supplier, or
- Person availing credit found **non-existent**, or
- Without receipt** of goods and services, or
- Without having invoice**/ tax paying document, or
- Tax not been** paid by supplier to Govt.

Restriction can be for Maximum 1 year



Chapter 8 – Registration

For payment of taxes and filing of returns etc., person is required to take the registration STATE WISE.

If person is not liable to take reg., then no tax liability on supply made by such person.

Who is liable to register

Sec 22 – Registration required if all India turnover is above limit

Sec 24 – Compulsory registration to be taken even if turnover is below limit.

Sec - 22 Person liable for registration

Every supplier of goods/services obtain registration

Where – Every state/UT from where **Taxable** supplies are made

When - If **All India aggregate T/O** exceed specified limit in a **current FY** (No relevance of previous FY)

| States | Limit |
|--|--------|
| Manipur, Mizoram, Tripura, Nagaland (4) Key : <u>Make My Trip to Nagaland</u> | 10 Lac |
| Arunachal Pradesh, Uttarakhand, Sikkim, Meghalaya (AUSM) Telangana, Puducherry (TePu) (6) | 20 Lac |
| All other States | |
| ➤ Making supply of services other than interest on loan | 20 Lac |
| ➤ Making Supply of Specified Goods | 20 Lac |
| ➤ Making inter-state supply of Handmade/Handicraft goods with (PAN+EWB) | 20 Lac |
| ➤ <u>Not supplying all 3</u> | 40 Lac |

Specified goods (Manufacturing and trading both are covered)

- Ice Cream, other edible Ice
- PAN Masala
- Tobacco / Tobacco Substitutes viz. Cigarette
- Fly ash bricks/blocks, building bricks, fossil meal bricks
- Earthing roofing tiles



Note : For composition scheme, only Manufacturing of above is prohibited, additionally aerated water (cold-drink) prohibited.

• Example :

| Question | | | Solution | | | |
|-----------------|-----------|------------|------------------------|------------------|-----------|--|
| State | Supply | Actual T/o | Individual State limit | Limit will apply | Reg. req? | Reason |
| Delhi | No Supply | 0 | | - | No | No supply |
| Mizoram | Exempted | 5 | 10 | - | No | Exclusive exempt in State |
| Meghalaya | Taxable | 7 | 20 | 20 | Yes | Lowest limit applicable to State from where taxable supply made, will apply to all States |
| Punjab | Taxable | 6 | 40 | | Yes | |
| MP | Services | 3 | 20 | | Yes | |
| Agg. T/O | | 22 | | | | Agg. turnover (Includes wholly exempt state also) |

Aggregate Turnover

Aggregate Turnover - Calculated from 1st April of FY

Take All India value under same PAN

Includes: Value of all outward supplies

1) Taxable Supplies

2) Outward Supplies under RCM

3) Exempt Supplies including Petroleum & Alcohol

4) Exports

5) Inter-state supplies

6) Supply between distinct person

7) Taxes other than GST

8) Interest/discount on loan/deposit

9) Goods supplied by principle from Job worker place

Excludes:

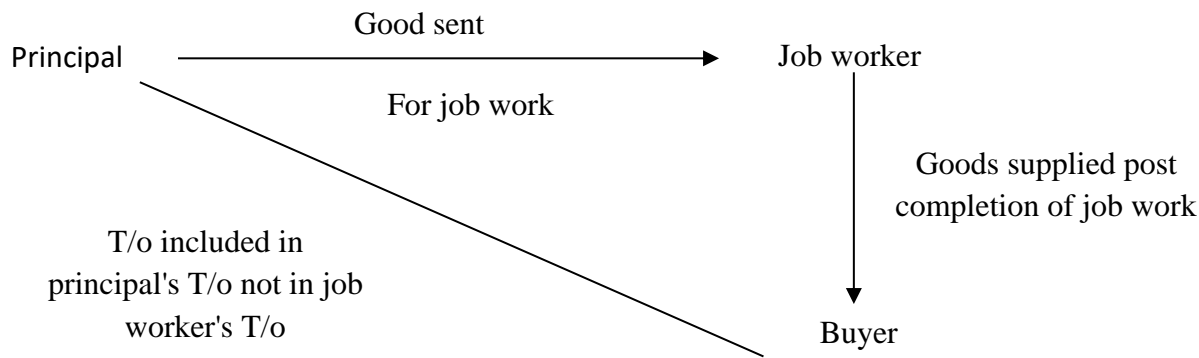
➤ Inward supplies under RCM

➤ GST and compensation cess

➤ Schedule 3 supplies

❖ Interest income included for Reg. and excluded for composition, all other things are same.





- Any individual having one person company (OPC) and making supply through it such T/O does not included in that person's aggregate T/O

Sec-24 Compulsory Registration

Person needs to take registration even not crossing limit of aggregate turnover

- (i) Person making inter-state TAXABLE supply of GOODS (services allowed) except, Notified handicraft/handmade goods if person obtained PAN and generating EWB. Handmade goods means – Predominantly (>50%) by hand (some machine may be used)
- (ii) CTP making taxable supply
Except inter-state supply of notified handicraft/handmade goods with (PAN + EWB)
✓ Making intra-state supply of notified handicraft/handmade goods → Liable for reg.
- (iii) Person supplying GOODS through ECO, who liable to collect TCS (Services allowed)
No compulsory registration if
 - (a) Supplying goods within the State in single state only.
 - (b) Obtain PAN
 - (c) Declare on the common portal: PAN, address and state and take enrolment no.
- (iv) Person (Agent) making TAXABLE supply on behalf of other TAXABLE person
- (v) Person liable to pay tax under RCM (Inward supplies)
- (vi) Person required to deduct TDS U/s 51
- (vii) ECO required to collect TCS u/s 52 e.g. Amazon
- (viii) ECO required to pay tax U/s 9(5) e.g. Ola, Swiggy, Urbanclap, Oyo
- (ix) Input service distributor [ISD]



- (x) Non-resident taxable person (NRTP) + Making **taxable supply**
- (xi) OIDAR service provider from outside India who is providing services **to unregistered person.**
- (xii) **Person supplying online money gaming from outside India**

Transfer of business

| Reason | Date of Reg. req? |
|--|---|
| Due to succession/death or going concern | Date of transfer |
| Amalgamation/ De-merger etc. on order of court | Date from which ROC issues cert. of incorporation |

Sec-23 Person not liable for registration

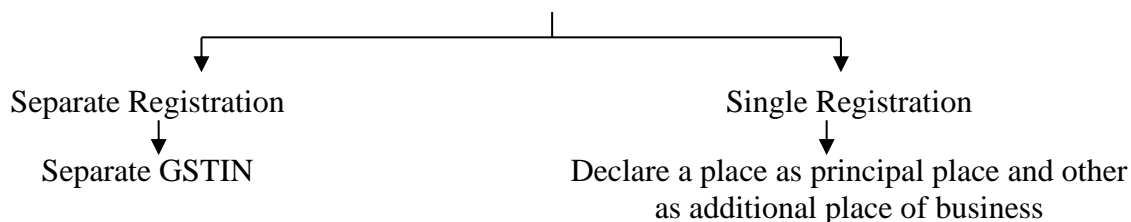
- (i) Person engaged **exclusively** in non-taxable (Petroleum/ alcohol) and exempt supply.
- (ii) **Individual and HUF** Agriculturist, **to the extent** supplying produce from cultivation of land.
Note: T/O from Agri : 31 lacs, from trading : 10 lacs → Agg. T/O : 41 lacs → liable for reg. u/s 22.
- (iii) Person making only RCM supplies (outward supplies) ex. Advocate.
Exception : Metal scrap is under RCM, however supplier of metal scrap is liable to take reg. if turnover exceeds threshold limit u/s 22. Once reg. taken by supplier, liability will be under FCM. (Amendment)

Special points - Registration

- GST Identification Number (GSTIN) - Unique no. in GST to identify tax payer

| State code | | PAN | | | | | | | | | | Entity code | | Random No. |
|------------|---|-----|---|---|---|---|---|---|----|----|----|-------------|----|------------|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 |
| | | | | | | | | | | | | | | |

- PAN is must for GST No. However, TDS u/s 51 can get reg. basis TAN
- Separate reg. mandatory for SEZ unit/developer and non SEZ unit even both in the same State.
- For others - It is optional to take separate reg. for more than 1 places in single state



When to apply for registration

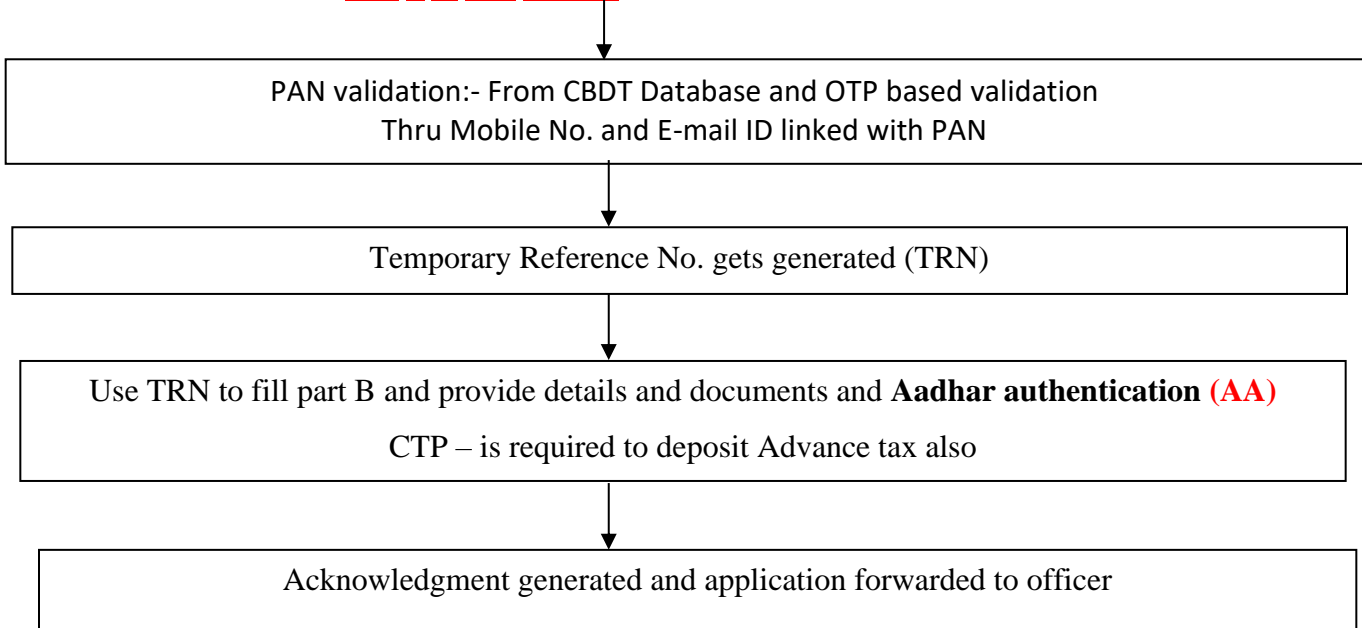
| | |
|---|---|
| Liable to register u/s 22/24 | Within 30 days from date of becoming liable to register |
| Casual taxable person (CTP) Non-resident taxable person (NRTP) | At-least 5 days prior to commencement of business |

- Supplying from Territorial water, take registration in nearest State/UT.
- Person not liable, can take voluntary reg. → All provisions (Tax/ITC etc.) will apply
- At every PPOB/APOB. → Display Reg. certificate (In form REG-06) & print GST number on name board at entry.
- Reg. granted or cancelled in CGST will be deemed as granted/cancelled in SGST and vice-versa

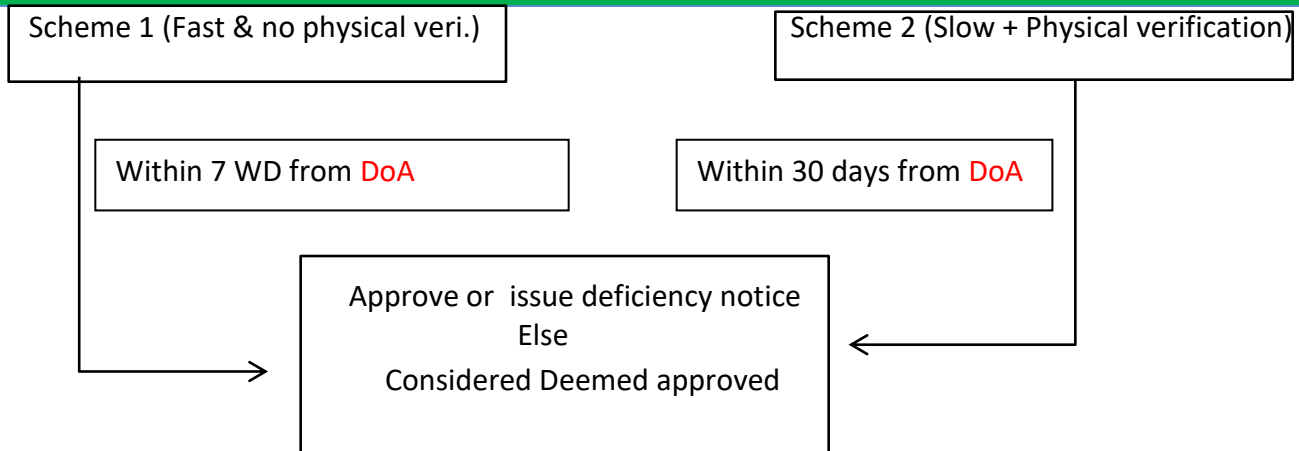
Procedure of registration

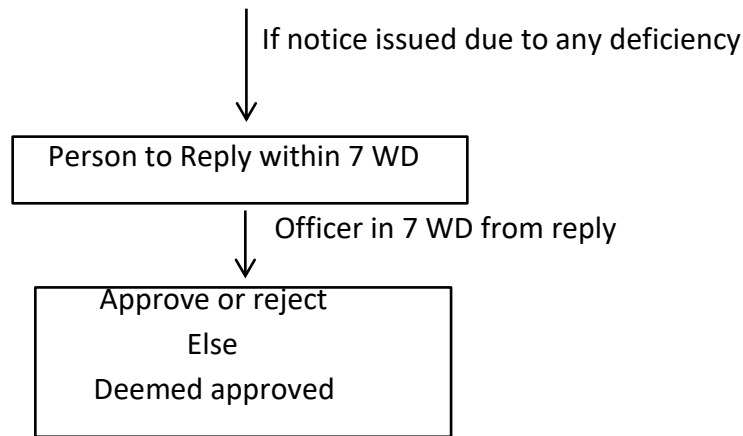
Part - A

Declare - PAN, State/UT in [Part A of GST REG-01](#)



Procedure after receipt of application by officer





Scheme 2 apply if any one is there, else scheme 1

- (i) person failed or not opted for AA or
- (ii) Person did AA, however, is identified, based on data analysis and risk parameters, for carrying out physical veri. or
- (iii) Officer deems it fit to do physical veri. of places of business,

In scheme 2, physical verification of business place will be done by officer before approving reg.

Date of Application (DoA) for above chart

| If AA done | AA opted but not done | AA not opted |
|--------------|------------------------------|-------------------------|
| • Date of AA | • 15 days from filing Part B | • Date of filing part B |

Process of AA

By sending OTP on mobile and e-mail linked with Aadhar + Bio-metric, photo and verification of original documents at Facilitation center.

| Applicant | Aadhar authentication of |
|-----------------------|--|
| Individual | Himself + Authorized signatory |
| Other than Individual | Karta/MD/WTD/Partner/Board of trustee + Authorised signatory |

1. Existing registered person shall go under AA in order to be eligible for :-

- Filling application for revocation of cancellation
- Filling refund application under RFD - 01
- Refund of IGST paid on goods exported



2. AA Not applicable on following

- Person not citizen of India
- Dept/establishment of CG/SG
- Local Authority
- Statutory Body
- PSU
- Person applying for UIN

Details of bank account

- Provide while filing application for Reg.
- Else provide **(Relaxation)**
 Within 30 days from Date of grant of reg.
 Filing of GSTR1/IFF
 Whichever is earlier
- No relaxation to TDS and TCS collector or Suo-moto reg. (Submit while filing application)

Suo-moto reg. by officer

| | |
|--------------------|---|
| When | During enquiry officer finds that person liable for reg. but not taken, Then officer will issue Temporary registration (TR) |
| Person | Either file application for reg within 90 days or File appeal against TR |
| If appeal rejected | File application for reg. within 30 days |
| Effective date | Date of grant of TR |

Special Provisions related to CTP/NRTP

| CTP | NRTP |
|---|--|
| A person who occasionally undertake <u>business</u> transaction + in state/UT where he has no PoB Example : Exhibition | A foreigner who occasionally undertake transaction But no fixed PoB or Residence in India |

- Compulsory reg. u/s 24 and can't take composition scheme.
- Individual NRTP to submit valid passport, for reg.
- Obtain reg. 5 days before commencement of business
- Pay tax in advance thru cash ledger (Estimated liability – ITC) with application
- Registration valid for



Time period applied for }
 or } Lower
 90 days }

[further extendable by 90 days with additional advance tax]

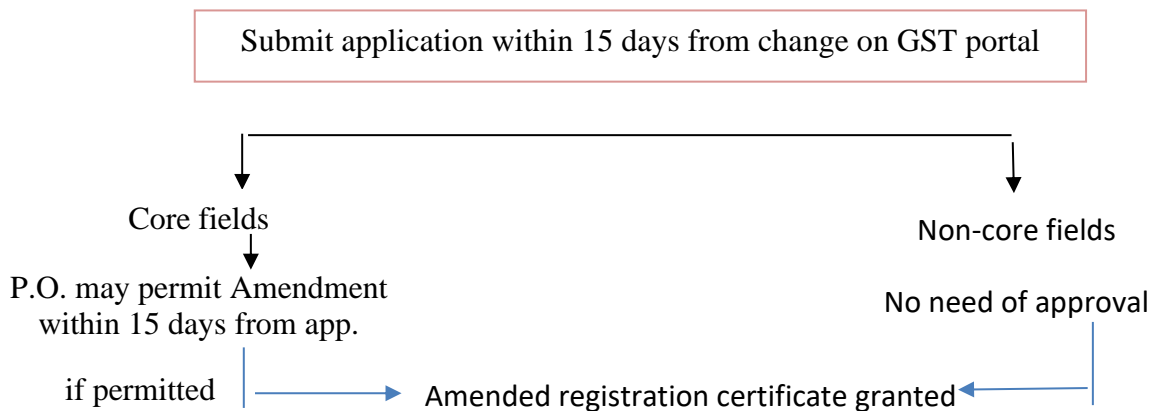
- In case long running exhibition for > 180 days
 - Can't be treated as CTP and not required to pay advance tax
 - Take registration as normal tax payer
 - Can surrender once exhibition is completed

UIN - Unique identification number

| | |
|--------------|---|
| Who can take | Specialized Agency of UN or any financial institution of UN Consulate or Embassies |
| Purpose | To obtain refund of tax paid on inward supplies |
| Centralised | Single number for All India |
| Process | Submission of application, or Recommendation from MEA, GOI |
| Grant | Within 3 days of application |

Amendment of registration (Sec-28)

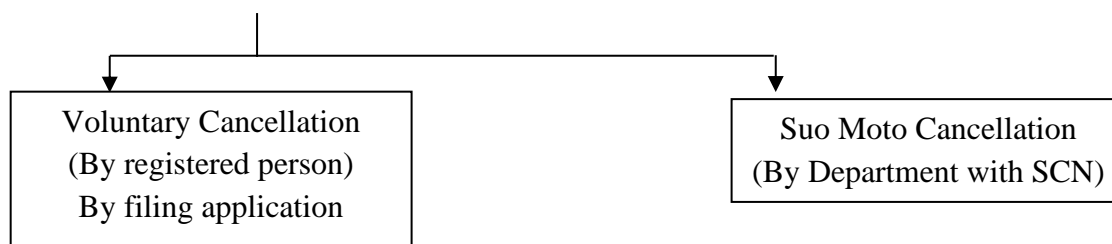
| Core field | Non-core field |
|---|---|
| Legal name of business Address of principal/additional place of business Addition/deletion in main partner/Karta/MD/BOD etc. | All other fields like Email Id, Mobile No., Authorised signatory |



- Deemed amendment if not approved or SCN given in 15 WD or within 7 WD after SCN reply.
- Amendment effective date → Date of application
- Reg. can't be amended only new reg. to be taken in case
 - Change of PAN for e.g. proprietorship converted to partnership firm.
 - Change of state

Cancellation of Registration

Two ways



Circumstance when Reg. can be cancelled either Suo-moto or on application by RP

(Apply within 30 days)

- Business Discontinued, transferred, amalgamated, demerged or other-wise disposed of,
- Change in constitution of business
- No longer liable to register u/s 22 or 24
- Wish to opt out of voluntary reg.

Circumstances when officer may suo-moto cancel registration

Registration related

- 1) Reg. taken by means of fraud/willful misstatement/ suppression of facts
- 2) Voluntary registered person not commenced business within 6 months from reg.
- 3) Doesn't conduct business from registered place
- 4) Don't provide bank A/c details within time

Delay/non-filing of return

- 5) Composition supplier (Yearly) - 3 months lapsed from due date
- 6) Monthly return filer fails to file GSTR 3B for continuous 6 months
- 7) Quarterly return filer fails to file GSTR 3B for continuous 2 quarters



- 8) Returns for the period of effective date of cancellation to order of revocation of cancellation not filed within 30 days of revocation. (Amendment)

Others

- 9) Violate provision of anti-profiteering
- 10) Issue invoice/bill without supply of goods and service
- 11) Avail ITC in violation of Section 16.
- 12) Reported higher liability in GSTR-1 then paid in 3B.
- 13) Reported higher ITC in 3B than available in 2B.
- 14) Violates rule - 86B (99% liability to be paid through ITC)

Suspension of registration

Officer may suspend reg. in following cases – (Temporary step before final decision on cancellation)

1. Cancellation applied by person or suo-moto cancellation for which cancellation process is going on.
2. Liability as per GSTR-1/1A is higher than 3B.
3. ITC as per GSTR 3B is higher than 2B
4. Not provided bank a/c details within time

| Scenario | Deemed date of suspension |
|-----------------------------|--|
| RP applied for cancellation | Date of application, or Date from cancellation sought Which-ever later |
| Suo-moto cancellation | Date determined by officer |

- **While reg. suspended**
 - shall not issue tax invoice + not to charge tax
 - shall not furnish any return
 - No refund will be granted (In case suo-moto cancellation)
- **Deemed revocation of suspension**
 - On completion of cancellation proceeding
 - If pending returns been filed before cancellation + Pay tax+int.
 - On submission of Bank account details
- Provision of revised tax invoice and first return will apply in respect of supplies made during suspension period.
- Tax liability prior to cancellation will continue.

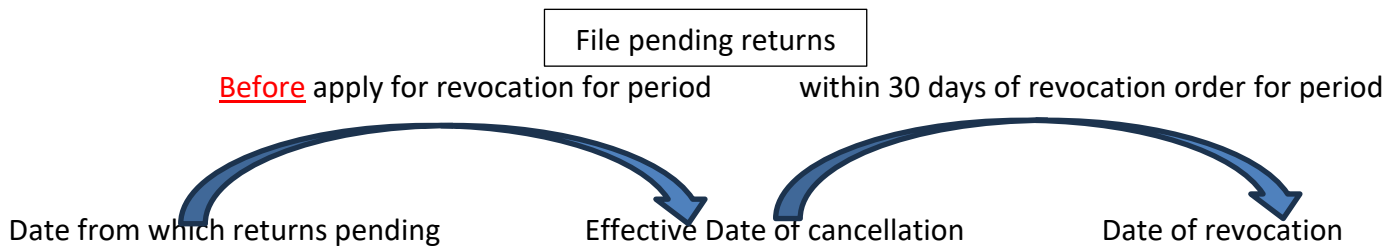


Procedure for revocation of Suo-moto cancellation (By department)

| | |
|-------------------------------|--|
| Revocation cant applied | By UIN holder & When cancellation applied by reg. person |
| Application | Within 90 days from service of order of cancellation Extention: Further 180 days by Commissioner/ AdC/JC on sufficient reason |
| Revocation order or SCN | Within 30 days |
| Reply of SCN | Within 7 days |
| Revocation or rejection order | Within 30 days |

Filing of pending returns

GST portal do not allow filing after effective date of cancellation, hence file pending returns + pay tax + int.



Chapter 9 Tax invoice, Credit and Debit Notes

Types of documents

Document issued by **Registered person**

| Type of document | Nature of transaction |
|----------------------------|---|
| Tax invoice | Supply of taxable goods Supply of service under RCM e.g. by registered advocate |
| Bill of supply | Supply of exempted goods Supply by Composition taxpayer |
| Invoice cum bill of supply | Supply of taxable + exempted goods together to URP |
| Issue 1 TI and 1 BoS | If supply of taxable + exempted goods together to RP |
| Receipt voucher | On receipt of advance <ul style="list-style-type: none"> ➤ Rate of tax not determinable – Pay @18% ➤ Nature of supply not determinable – Treat Inter-state supply |
| Refund voucher | On refund of advance received when no supply was made and no invoice issued |
| Self-invoice | On purchase of RCM services from URP vendor or on import of service. Eg. Reliance will prepare invoice on self when legal service received from Unreg. Advocate. |
| Payment voucher | On payment to RCM vendor (Whether RP or URP) |
| ISD invoice | Issued by ISD to recipient on distribution of ITC |

Delivery Challan

Sometime in some cases at time of removal of goods, quantity is not known or transaction is not supply

- In such case delivery challan can be issued and tax invoice can be issued once sale is finalized.
 - Supply of liquid gas - Quantity while removing not known
 - Transport of goods for Job work or for reason other than supply
 - Art work sent to exhibition
 - Goods sent on sale on approval basis
- Goods sent in completely or semi knocked down (CKD/SKD) condition or in batch/lots
 - Supplier shall issue complete tax invoice before 1st dispatch
 - Issue Delivery challan for every consignment which shall accompany with certified copy of Invoice
 - Original copy of invoice to be sent with last consignment/lot



Document other than tax invoice permitted

Supplier either issue tax invoice or document mentioned

| Supplier | Document | Optional details |
|--|--|---|
| 1. Insurance/Banking co./FI/NBFC | Periodic consolidated invoice/ statement | <ul style="list-style-type: none"> Invoice serial no. Recipient address |
| 2. GTA for transport of goods through road | Documents containing <ol style="list-style-type: none"> 1. Gross weight of consignment 2. Name of consignor/consignee 3. Registration no. of carriage 4. Place of origin/destination 5. Details of goods 6. GSTIN of Payee 7. Other Information same as Tax Invoice | |
| 3. Passenger transportation | Tickets | Invoice serial no. Recipient address |
| 4. Movie ticket in multiplex (Inox etc.) | E-ticket | Recipient details |

Details on document

- HSN Code - Code used to identify goods/services (8 digit code)

| Agg. T/O in previous FY | HSN code digits on TI/BoS and GSTR1 filing |
|-------------------------|--|
| ≤ 5 crores | B2B Supply - 4 digit B2C Supply - 4 digit (optional) |
| > 5 crores | 6 Digit |

- Number of copies of invoices/delivery challan

| | | |
|--------------------|----------|--|
| Supply of Goods | 3 Copies | 1 st – Recipient, 2 nd – Transporter, 3 rd - Supplier |
| Supply of Services | 2 Copies | 1 st – Recipient, 2 nd – Supplier |

- Address on invoice

| Customer | VOS | Requirement |
|----------|----------|------------------------------|
| RP | | Name, address, GSTIN is must |
| URP | ≥ 50,000 | Name, address, State is must |



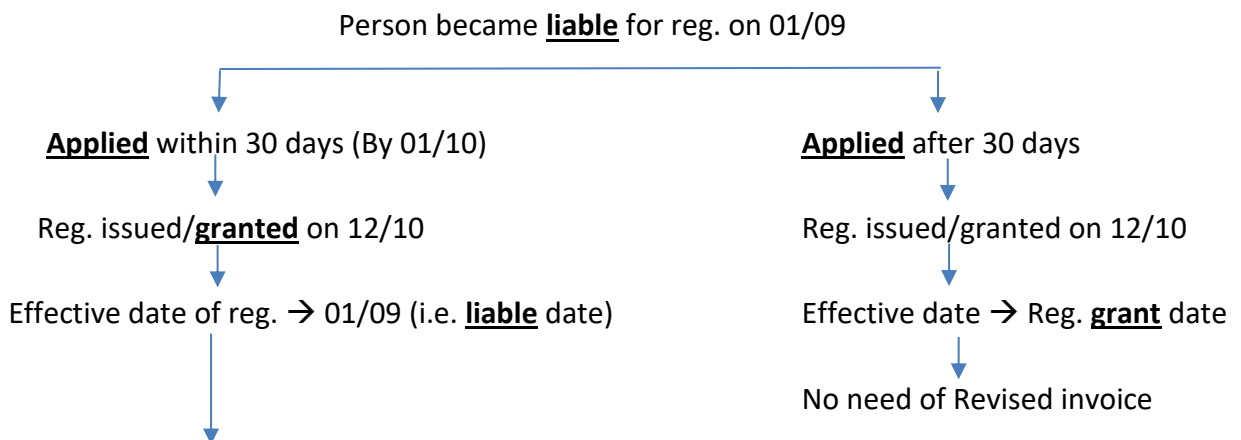
| | | |
|-------------------------------------|--------------|--|
| URP | Up-to 49,999 | Must if customer demand, else optional |
| URP (Supplier OMG, OIDAR, thru ECO) | Up-to 49,999 | State name is must (Basis it POS to determine) |

Consolidated Invoice

- Consolidate invoice for a day can be issued in place of transaction-wise tax invoice if
 - Value of supply per transaction up-to 199 (Less than 200)
 - +
 - Recipient is unregistered
 - +
 - Recipient doesn't require invoice

Note : Multiplex theater can't issue consolidated invoice.

Revised Tax invoice



- Prepare revised invoice for period: Effective date of registration (01/09) To Date of grant of reg. certificate (12/10)
- Prepare it within 1 Month from grant i.e. by 12/11

Logic : So that he can mention his GST number and tax amount on invoice and reg. customer gets the ITC

- Consolidate revised tax invoice can be issued only if
 - Inter-state B2C < 1,00,000 State wise consolidate invoice
 - Inter-state B2C ≥ 1,00,000 Recipient wise consolidate invoice
 - Intra state B2C Single Consolidate Invoice



E-Invoicing of [Tax invoice/debit note/credit note]

E-invoicing doesn't mean generating invoice on Govt portal it's just reporting invoice on Govt Portal (Invoice Registration Portal) "IRP"

| | |
|------------------------|---|
| Applicable on | Notified suppliers, ie. Agg. Turnover > 5 Crs in any previous FY from 2017-18 onwards. |
| On which supply | B2B and Export – Tax invoice, DN, CN Including supply to person reg. only for TDS. |
| Supply under RCM | Supplier of RCM service eg. Advocate having T/O > 5 Crs – E-invoice by Advocate Advocate T/O < 5 Crs, recipient T/O > 5 Crs – E-invoice not applicable |
| Exempted supplier | <ul style="list-style-type: none"> • Input service distributor (ISD) • SEZ units (not developers) (T/O of DTA + SEZ > 5 Crs → DTA to raise E-invoice) • Insurance/Bank/FI/NBFC • Goods transporter agency (GTA) • Passenger transportation services (ticket) • Admission to <u>Multiplex</u> • Govt department or local authority <p style="text-align: center; color: red;"><u>Exemption at entity level – Banks selling bullion – No need of E-invoice.</u></p> |
| Consequence | Invoice issued without IRN will not be treated as valid invoice, recipient cant take ITC |
| If E-invoice generated | No need to carry physical invoice during transit, only QR and IRN can be shown digitally during verification. |

Process to generate E-invoice

- Supplier upload invoice details in form INV-01 online on www.Einvoice1.gst.gov.in (IRP)
- IRP, return e-Invoice with IRN (64 digits), sign and QR code to supplier.
- Supplier either take PDF copy given by IRP or incorporate QR code on invoice copy generated from own system and give it to customer/transporter.
- IRP, send Data to GST system for updating GSTR-1 of supplier and 2A of buyer
- And E-way bill system for creating E-way bill
- Cancellation → within 24 hours of generation
- E-invoice can't be amended, details can be amended in GSTR1.
- E-invoice can be generated by ECO on behalf of supplier



Dynamic QR Code (DQR) on B2C invoice

| | |
|-------------------|--|
| Meaning of DQR | Payment QR which can be paid thru Phonepe/Googlepe etc. with amount embedded in QR. Customer need not to enter amount in app. |
| Requirement | <ul style="list-style-type: none"> • If invoice printed before payment - Invoice copy should contain DQR code • If invoice printed after payment – D-mart, online etc. <ul style="list-style-type: none"> ➤ DQR should be displayed digitally for payment and ➤ Transaction Id, date, time, mode and amount of payment to be printed on invoice (Called as cross reference) |
| Apply on | Notified supplier i.e Agg. T/O > 500 Crores in any previous FY from 2017-18 onwards. Supplier to generate DQR even if supplied thru ECO |
| On which supply | Tax invoice, DN, CN issued to URP (B2C), UIN. |
| Not applicable on | <ul style="list-style-type: none"> • Insurance/Bank/FI/NBFC • Goods transporter agency (GTA) • Passenger transportation services (ticket) • Admission to <u>Multiplex</u> • OIDAR services • <u>Export</u> • <u>Recipient outside + POS in India + payment received in forex</u> |

Debit Note and Credit Note

After raising tax invoice by supplier, DN/CN may be issued by supplier

| Debit Note | Credit Note |
|---|--|
| <u>In following cases debit note issued by supplier</u> | <u>In following cases credit note issued by supplier</u> |
| Invoice value < Actual value of supply Example : Invoice already raised for Rs. 100/-, later supplier came to know that agreed price was 110/-, now DN of Rs. 10/- to prepare. | Invoice value > Actual value of supply |
| Invoice tax rate < Actual tax rate | Invoice tax rate > actual tax rate |
| | Quality of supplied G/S not satisfactory hence required partial/total reimbursement of invoice value |
| | Goods returned by buyer |
| <ul style="list-style-type: none"> ✓ Supplier tax liability will increase ✓ Recipient can take ITC | <ul style="list-style-type: none"> ✓ Supplier tax liability will decrease provided ✓ ITC to be reversed by recipient |



| | |
|---------------|--|
| No time limit | <u>Time limit for issuance – Earlier of</u> 30th of November following end of FY to which original invoice relates Or <u>ACTUAL</u> Date of furnishing annual return (Not due date) |
|---------------|--|

Secondary discount

- GST CN can't be issued for secondary discount which is not known at the time of supply.
- Supplier can issue financial CN without GST.
- Tax liability of supplier will not get reduced.

Return of expired medicines – (Cipla sold Paracetamol to Ram medical store) - 2 options

| Treatment on return | Treatment on destroy medicine by Cipla |
|---|---|
| Option 1 : Ram medical raise tax invoice on Cipla | Cipla not take/reverse ITC of such invoice |
| Option 2 : See whether returned by 30 th Nov./Annual return? | |
| Yes – Cipla to raise GST CN which will reduce Cipla's GST liability. | Cipla reverse ITC of RM used in manufacturing |
| No – Cipla to raise financial CN without reducing GST liab. | |

Prohibition on unauthorized collection

Unregistered supplier – Do not collect tax on supply

Registered supplier – Do not collect tax except in accordance with provisions of GST law



Chapter 10– Accounts and Records & E-way bill

Location of Books of Accounts (BoA) and records

- Each registered person to maintain BoA and records (Paper or electronic form)
 - If only one Place of Business (PoB) – At such PoB
 - If multiple additional PoB – At respective APoB.
- Principal and the auctioneer for auction or treaty supply of tea, coffee, rubber etc., may maintain BoA at Principal PoB instead of each PoB after intimation to jurisdictional officer.

Which accounts and records are required to be maintained?

True and correct accounts shall be maintained for

- Production/manufacture of goods
- Inward and outward supply of goods/services
- Stock of goods (Opening, receipt etc.)
- Input tax credit
- RCM and output tax payable and paid
- Register of Invoice, DN, CN issued/received
- Address of premises where goods stored
- Other prescribed details

} Following details not required to be maintained by composition tax payer

- If any taxable goods are stored without accounting in BoA or other than declared places without the valid documents, officer will consider it as deemed supply and charge tax by following sec. 73/74.

Additional details to be maintained by specific persons

| Person | Records to be maintained |
|------------------|---|
| Manufacturer | Monthly production A/c showing quantitative details of inputs used and FG produced including waste |
| Service Provider | Quantity details of goods used in provision of service including input services utilized and services supplied |
| Agent | <ul style="list-style-type: none"> • Authorization received by him from each principal to receive/supply goods • Details i.e. description, value, quantity of goods received/supplied on behalf of principal • Details of Accounts statement issued to principal |



| | |
|--|--|
| | <ul style="list-style-type: none"> • Tax paid on receipt/supply of goods on behalf of principal |
| Work Contractor | <ul style="list-style-type: none"> • Name and address of person on whose behalf work executed • Description, quantity and value of goods/services received and utilized. • Name and address of supplier • Details of payment received |
| Warehouse owner/operator and transporter (Registered or not) | <ul style="list-style-type: none"> • If not registered - Obtain unique enrollment no (Single for All India) • Book of accounts for period during which goods remained in warehouse with details of dispatch, movement, receipt and disposal • Stored goods should be identifiable item-wise and owner wise to enable physical verification. • Records of goods transported, delivered and goods stored along with GSTIN of Consignor and consignee |
| Custodian/clearing and forwarding agent | <ul style="list-style-type: none"> • Detail of goods handled on behalf of registered person and • Provide details whenever required by proper officer |

Manner of maintaining accounts and records

Manually – Each volume of Books should be serially numbered.

Electronic

- Books can be stored in electronic mode and shall be authenticated through [digital signature](#)
- Proper [backup](#) should be maintained in case destruction of records
- Provide passwords of file and explanation of codes used for access
- Provide data in print copies or electronic readable form (e.g. Pen drive)

Correction in BoA

| | |
|------------|---|
| Physical | <ul style="list-style-type: none"> ➤ Records should not be erased/overwritten ➤ Incorrect entries, to be scored out under attestation, there-after correct entry to record. |
| Electronic | <ul style="list-style-type: none"> ➤ Audit trails to be maintained for any change or edit in data |

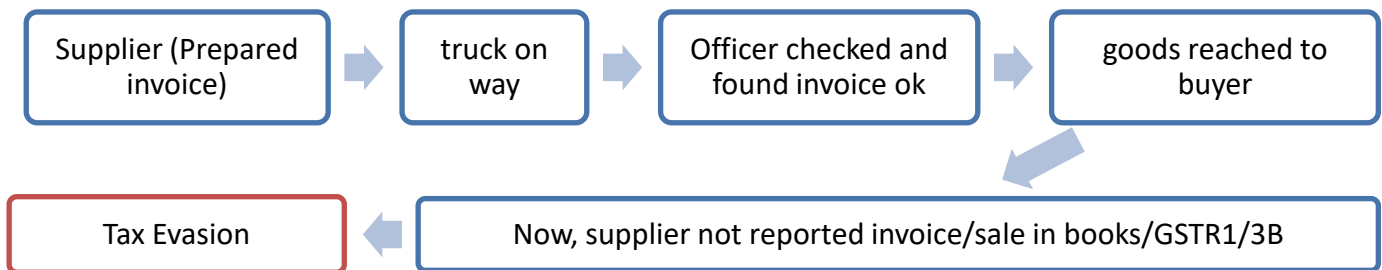


Period of retention of records

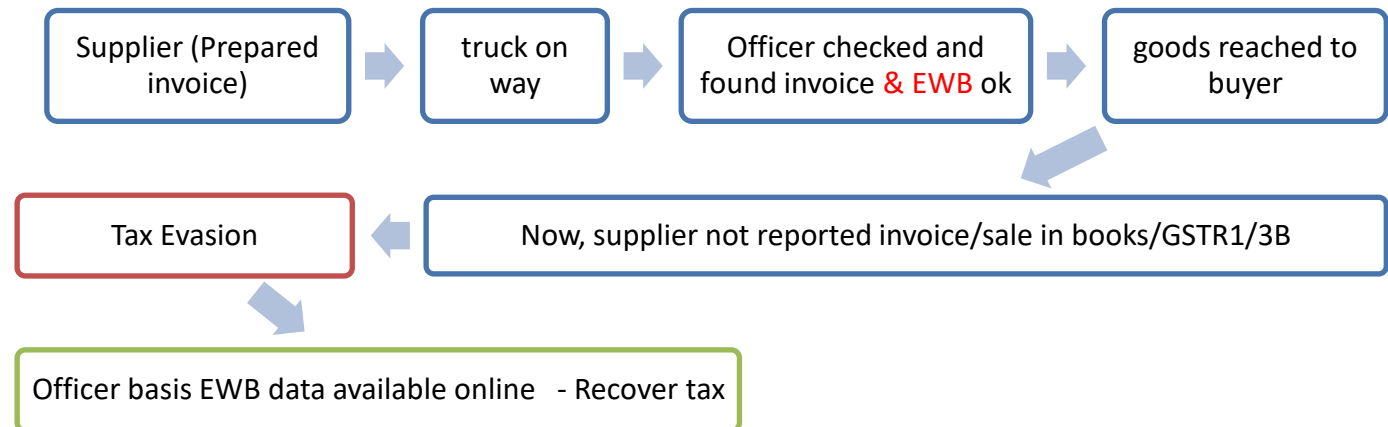
- 72 months from Due date of annual return of F.Y. to which records relates
- If registered person is subjected to any appeal/proceeding/court Case etc. till
 - 1 year from disposal, or
 - 72 months from Due date of annual returnwhichever is later

E-way Bill - Basic

Problem without E-way bill (EWB)



Solution with EWB



What is E-way Bill

- Go to www.ewaybillgst.gov.in
- Fill details of invoice and truck/vehicle number
- One document will get generate in PDF with 12 digit number called EWB.
- Carry EWB and invoice with truck.



When EWB needs to be generated

- Every registered person who cause movement of goods of consignment value > 50,000/- [Including GST excluding exempt supply]
 - In relation to supply
 - For reason other than supply – Ex. Transfer to another branch within/outside State.
 - Inward supply from unregistered person

Shall generate EWB before commencement of movement

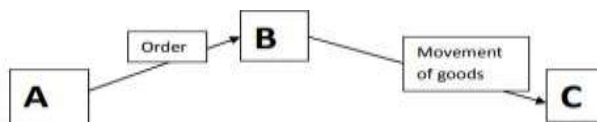
- Compulsory EWB irrespective of consignment value
 - Inter-state transfer of goods by principal to Job worker
 - Inter-state transfer of handicraft/handmade goods by Unregistered supplier

| Question | EWB applicability? |
|---|--|
| Sale of garments for 48,000 (excluding GST @18%) | Yes (including GST value is 56,540 (48000*1.18)) |
| Sending such garments to job-worker <u>within State</u> | No (value below 50,000 as GST not leviable on job work movement) |
| Sending from Punjab to job-worker in Haryana | Yes |

Who will generate E-way bill

- Registered supplier or registered recipient (Road, Rail, Vessel, Air)
- Only in case of road transport, transporter can also generate.

Bill to Ship to model



Invoice -1: Issued by 'B' to 'A'.

Invoice -2: Issued by 'A' to 'C'.

- EWB can be generated basis invoice 1 OR invoice 2.
- 2 EWB not required.



Information in EWB

Form EWB-01 for generation of EWB has 2 parts

| Part | Details |
|---------|---|
| Part -A | Details of goods supplied GSTIN of supplier and recipient, place of dispatch and delivery, doc no, date, value etc. |
| Part-B | (i) Transport doc no. and (ii) Vehicle no. (Only in case of road transport) |

- Part B can be filled within 15 days of generation of part A, however before start of movement.
- E-way bill valid only after Part-B is filled

Exception

Goods transported for distance up-to 50 km within state/UT from

- consignor place to transporter place
 - transporter place to consignee place
- In case of change in vehicle/mode during transit → update part B

Validity period in E-way bill

| Transport through | Distance | Validity Period |
|--|--|---------------------------|
| 1) <u>Over-dimension</u> cargo | Up-to 20 km | 1 day |
| 2) Multiple-modal shipment in which at-least one leg involve transport by ship | For every 20 km or part thereof | 1 additional day |
| All other | Up-to 200 km for every 200 km or part thereof | 1 day 1 additional day |

- Validity starts only after filling Part B
- Validity ends at midnight (12am) irrespective of time of generation
Ex. : EWB generated 02:00 A.M. of 13th Sep for journey of 350 km
So validity would be 2 days i.e. end of the day (midnight 12:00 AM) of 15 Sep. (Night b/w 15th- 16th)
Here he got 48 + 22 = 70 hours' time.
- Validity can be extended within (before/after) 8 hours of expiry if delayed due to exceptional circumstances.



- **Cancellation** allowed only **within 24 hours** of generation of part B.
 - No cancellation allowed when same has been verified during trip by officer.

Other points

- EWB is invoice specific, every invoice requires separate EWB even if transported in same vehicle to same customer.
- EWB can't be amended except vehicle no.
- EWB can be accepted/rejected by second person in specified time, else considered deemed accepted. Specified time – Earlier of : 72 hours or time of delivery of goods.

Situation where EWB not required

1. Transport of following goods
 - i. LPG for Supply to home
 - ii. Kerosene Oil for PDS
 - iii. Postal baggage by Postal Dept.
 - iv. Pearls, Semi-Precious/ Precious Stones, Coral
 - v. Precious metal, Jewellery, gold/ Silversmith **Except imitation Jewellery**
 - vi. Currency
 - vii. Used Personal/ household effect
 - viii. Empty cargo container
 - ix. Empty Cylinder for packing LNG for other than supply
 - x. Liquor, 5 petroleum products and exempt goods viz. wheat, fruits etc. (except de-oiled cake)
 - xi. Schedule 3 transactions
2. Transport in non-motorised vehicle
3. Transport from custom port/airport/land custom station to ICD/CFS for clearance.
4. Transport under custom bond from ICD/CFS to custom port/airport/land custom station or from one custom station to another.
5. Transport under custom supervision/seal.
6. under custom bond/ supervision
7. **Transit** cargo to/from Nepal/ Bhutan
8. Movement by Defence department
9. CG/SG/LA for transport of Goods by rail
10. Goods transported to/fro within 20km for weight with Delivery challan



Person in charge shall carry

- Physical or Digital E-invoice QR code OR Bill of Supply OR Delivery challan + BoE in case of import
- +
- Copy of EWB OR 12 digit number of EWB (not required in case Rail/ Air / vessel)
- In case of Rail, no need to carry EWB with goods, however EWB is to be produced at the time of delivery to recipient.

Inspection and verification of goods

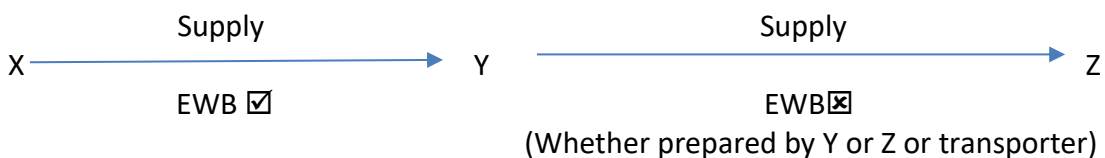
- Officer can intercept the vehicle and verify goods and documents in-transit
- A summary report of inspection in online form EWB-03 Part A within 24 hours and final report in Part B within 3 days (+3 days extended).
- Once physical verification done during transit, no further verification will be done in same/different State unless specific Info of tax evasion.
- If vehicle carry goods of 25 invoices in which 5 invoices without EWB then detention of goods relating to 5 invoices and said vehicle.

Blocking of EWB facility

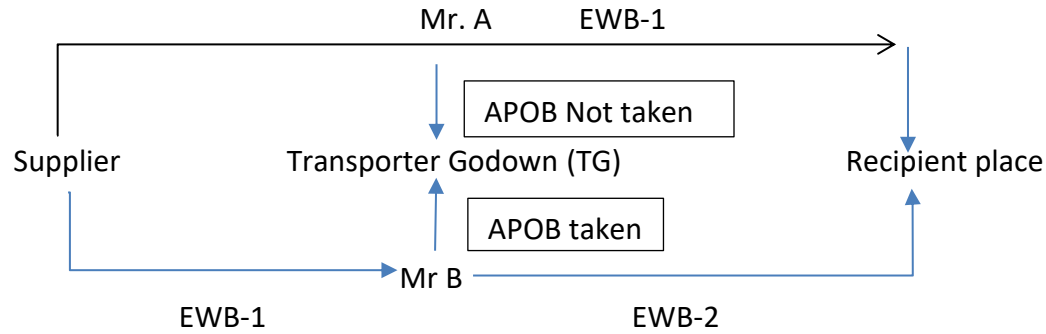
- EWB is blocked in respect of any outward movement of goods of a person, who is
 - Composition tax-payer not filed payment statement (CMP-08) for 2 consecutive Quarter
 - Regular tax payer not filed return in GSR-3B or GSTR- 1 for 2 consecutive tax periods (month/quarter)
 - Whose registration suspended
- Commissioner may allow to generate E-way bill on receipt of application.

Note : No restriction on inward/purchase EWB on said person.

Example: Mr. Y not filed GSTR-1/3B for last 2 months.



Goods stored in transporter godown



- Recipient wish to store goods at transporter's godown (TG)
- Recipient (A) not taken APOB of TG → Single EWB to be generated, hence single validity of EWB and goods should reach to **recipient place** within validity or extend the validity.
- Recipient (B) taken APOB of TG → 2 EWB to be generated & separate validity apply based on creation of each EWB.



Chapter 11 - Payment of Tax

Ledgers on GST Portal

- E-cash Ledger (ECL) - Cash balance with Dept.
- E-credit Ledger - ITC balance with Dept.
- E-liability Ledger - Liability with Dept.

Electronic Cash Ledger



| Electronic Cash Ledger | Electronic Credit (ITC) Ledger |
|---|---|
| Source of Deposit (Credit) | |
| Amount deposited through challan (Bank, UPI etc.) | ITC taken in GST return (GSTR-3B) |
| TDS/TCS deducted by Govt. dept/ECO | Refund of, excess tax payment made thru ITC |
| On rejection of refund of cash ledger Only after giving undertaking that appeal will not be filed or appeal is finally rejected. | On rejection of refund <u>Only after giving undertaking that appeal will not be filed or appeal is finally rejected.</u> |
| Utilization (Debit) | |
| Payment of output tax (Self or demand) | Payment of output tax (Self <u>or demand</u>) |
| Payment of "RCM liability", interest, penalty and fee | ← <u>(Can't be paid thru ITC)</u> |
| Remaining amount can be taken as refund in bank | Refund allowed only in case of ZRS & inverted duty (Ch. 15) |
| Transfer from major/minor head to another major/minor within same GST Number. (PMT-09) | Cross utilization allowed except b/w CGST and SGST |
| Transfer from CGST/IGST head to another's GSTIN CGST/IGST head under same PAN (Distinct Person) | Not allowed |



| | |
|---|----------------------------------|
| CGST/IGST MH $\xrightarrow{\checkmark}$ CGST/IGST GJ CGST/SGST/IGST MH $\xrightarrow{\boxtimes}$ SGST GJ SGST MH $\xrightarrow{\boxtimes}$ CGST/SGST/IGST GJ <u>Trf. not allowed: If transferor has outstanding liability.</u> | |
| Payment of pre-deposit in appeal | Payment of pre-deposit in appeal |

- Cash deposit over the counter thru Bank is allowed up-to 10,000/- per challan per tax period.
- Unlimited deposit in cash allowed by:-
 - Govt. Department or person notified by Commissioner
 - Officer authorised to recover dues from person including recovery through sale of Property; or amount collected during Investigation.

Electronic liability register

| | |
|--|------------------------------------|
| Has 2 parts : 1. Return related liab. | 2. Other than return related liab. |
| Source of liability (Debit) | |
| Liability reported in return (3B, TCS, TDS) | |
| Liability determined by officer or self | |
| Int. u/s 50 | |
| Discharge (Credit) | |
| Payment of liability made thru Cash/ITC ledger in return | |
| Payment by other than return e.g. DRC-03 | |

Order of discharge of liability

- 1st : Self-assessed tax and other dues of Previous tax period return
- 2nd : Self-assessed tax and other due of current tax period return
- 3rd : All dues including demand determined U/s 73 & 74



Sec-50 Interest

| | Delayed payment of tax | Wrong ITC taken & utilised | | | | |
|---|---|--|--------------------|---|--|---|
| Rate | 18% p.a (On day basis 365 days) | 18% p.a (365 days) | | | | |
| Period | From – Next day from DUE DATE of payment To – Actual Date of payment | From – Next day from Date of utilisation To – Actual Date of reversal/payment Date of utilization <table border="1" style="width: 100%; margin-top: 5px;"> <tr style="background-color: #ADD8E6;"> <th style="width: 50%;">Utilised in return</th> <th style="width: 50%;">Other than return</th> </tr> <tr> <td>Earlier of due date or actual date of return</td> <td>Date of debit in credit ledger</td> </tr> </table> | Utilised in return | Other than return | Earlier of due date or actual date of return | Date of debit in credit ledger |
| Utilised in return | Other than return | | | | | |
| Earlier of due date or actual date of return | Date of debit in credit ledger | | | | | |
| On Amount | Delayed payment due to 1. Liability say for Reported in return of same month but return filed belated (after due date) <p style="text-align: center;">And</p> 2. Proceeding u/s 73/34 not started <table border="1" style="width: 100%; margin-top: 5px;"> <tr style="background-color: #ADD8E6;"> <th style="width: 50%;">If both 2 conditions met</th> <th style="width: 50%;">Otherwise</th> </tr> <tr> <td>Amount on which int. apply = (Gross liability – ITC – balance in cash ledger if deposited on or before due date) (Amend)</td> <td>On Gross liability</td> </tr> </table> | If both 2 conditions met | Otherwise | Amount on which int. apply = (Gross liability – ITC – balance in cash ledger if deposited on or before due date) (Amend) | On Gross liability | Calculation of ITC utilized ITC wrongly availed (CGST + SGST + IGST) (less) ITC balance of (CGST+SGST+IGST) Cess ITC utilization to be calculated separately. |
| If both 2 conditions met | Otherwise | | | | | |
| Amount on which int. apply = (Gross liability – ITC – balance in cash ledger if deposited on or before due date) (Amend) | On Gross liability | | | | | |

Example: Delayed payment of tax

Month of March (Due date 20th April)

FC liability: 1300

RCM Liability: 200,

Opening ITC + ITC for Mar 900

| Scenarios | Interest? |
|--|---|
| “Mar return” filed on 16.05 (Belated) | Period – 21.04 to 16.05 On : $(1300-900)+200 *26/365*18\%$ Int : 7.69 |
| Liability reported in “Apr return” filed on 19.05 | Period – 21.04 to 19.05 On : $1500 *29/365*18\%$ Int : 21.45 |



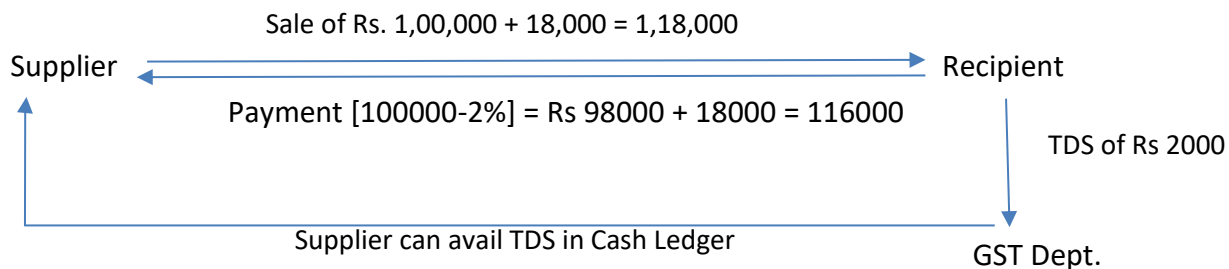
Example : Wrong ITC

ITC availed in return of Jan of Rs.15,00,000 out of which goods of ITC 5,00,000 were not received.
Such wrongly availed ITC of Rs. 5,00,000, reversed on 20th May.

ITC balance on

| 3B filing date | ITC closing Balance | Utilised | Interest days? | Interest |
|--|---------------------|----------|---------------------|----------|
| 20 th Feb after filing Jan return | 6,00,000 | 0 | | |
| 19 th Mar | 4,00,000 | 1,00,000 | M-12+A-30+M-20 = 62 | 3057 |
| 22 th Apr | 3,50,000 | 50,000 | A-10+M-20 = 30 | 740 |
| 20 th May (before pay back) | 3,50,000 | 0 | | |

Sec-51 : Tax deducted at source (TDS) transaction flow



Provisions

Recipient : who required to Deduct TDS

- Local Authority
- Dept/ Establishment of CG/ SG
- Government Agencies
- Society Established by CG/SG/LA under Society Act
- An Authority/ Board or other body
 - Setup by an act of Parliament/ State legislature or CG/SG
 - +
 - With 51% or more Participation by way of equity/ control is with Govt.
- PSU
- Registered person purchasing metal scrap from **another registered person. (Amendment)**
Special note : Registered person purchasing metal scrap from unregistered person is under RCM



When

| | |
|------------------------|---|
| <u>Applicable when</u> | <u>“Contract value” excluding GST of taxable supply > 2.5 lacs</u> |
| <u>Rate of TDS</u> | 1% (CGST) + 1% (SGST) or 2% (IGST) Actual “Invoice value” excluding GST of <u>taxable</u> supply |
| <u>Note</u> | If invoice value and tax rate given then back calculate to derive taxable value in both cases |

| Example | TDS? |
|--|--|
| Contract value including GST @18% : 2,80,000 | No |
| Contact value excluding GST 6,00,000 (Taxable : 2,30,000, exempted : 3,70,000) | No |
| Contract value including GST 4,00,000 Invoice value including GST @18% : 3,00,000 | Yes 3,00,000/ 1.18 * 2% = 5084.75/- |

When not required to Deduct TDS

- Supply in-between persons notified to deduct TDS (Ex : Supply by Dept. of CG to PSU)
This exemption not apply in case of metal scrap purchase
- Supplier is unregistered
- Exempt and Schedule III Supplies
- Supply under RCM
- LOS & POS is in state A and LOR in State B

| LOS | POS | LOR | TDS |
|-----|-----|-----|-----------------------|
| MH | MH | MH | 1% CGST + 1% SGST(MH) |
| MH | MH | GJ | No |
| MH | GJ | GJ | 2% IGST |
| MH | RJ | GJ | 2% IGST |

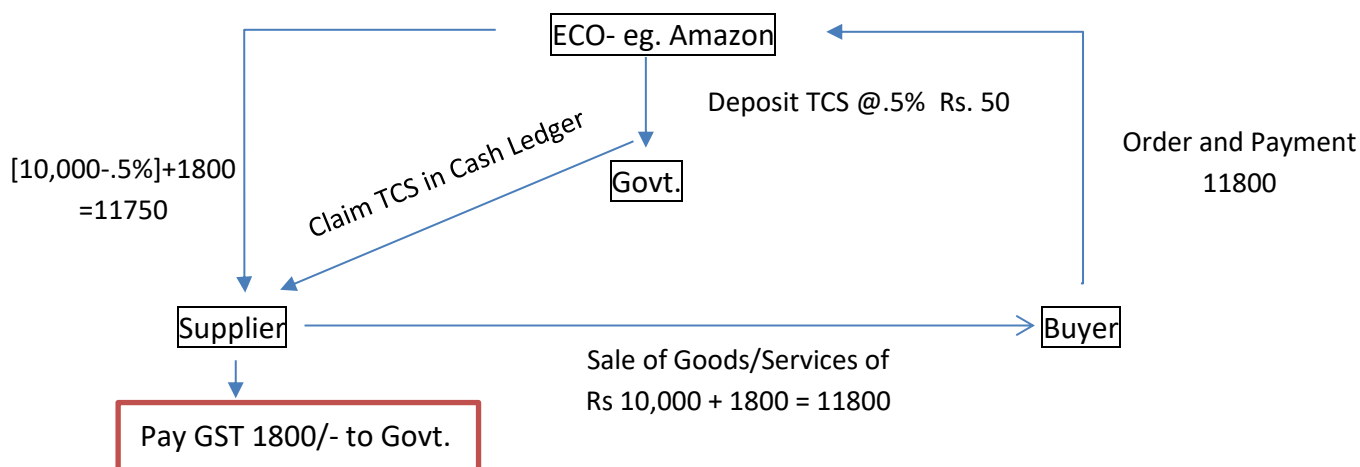
Compliance and procedure

- Time of deduction → Payment of credit in books of recipient whichever earlier
- Deductor deposit TDS by 10th of next month in GSTR-7
- Int. @18% for delay payment.
- Late fee : Lower of 25+25 per days or 1000+1000
- TDS Certificate in Form GSTR-7A be provided to supplier within 5 days of GSTR-7.
- TDS deducted shall reflect in Cash ledger of supplier
- Excess deduction – Take refund unless credited in cash ledger of supplier.



- If ECO do not have physical presence in India, then ECO needs to appoint a person in India for compliance.
- ECO will pay tax from cash ledger, ITC can't be used.

(2) Section-52 Tax collected at source (TCS)



| Section 52: Tax collected at source (TCS) | |
|---|--|
| Tax payment | By supplier |
| TCS | Collected by ECO (other than agent) if <u>consideration</u> collected <u>by ECO</u> |
| No TCS | <ul style="list-style-type: none"> ➤ Supplier supplies own product through own website/app ➤ Where consideration for supply has been <u>collected by supplier</u> only ➤ Supply of services notified under section 9(5) ➤ Exempt Supplies ➤ Recipient Required to pay tax on RCM, import of service ➤ <u>Supply of goods/services by unregistered supplier</u> |
| Rate | 0.25% (CGST) + 0.25% (SGST) or .5% (IGST) on taxable value (Amendment) |
| Value | Supplier wise (For the month) Value of <u>taxable</u> supplies (-) Supplies returned (-) 9(5) supplies |



If in a month, return is higher than sale, negative value to ignore

- Sale made in Oct, delivery & collection in Nov – TCS should be in sale month i.e. Oct.
- ECO deposit TCS by 10th of next month in GSTR-8.
- Nil Return not mandatory.
- Late fee : Lower of 100+100 per days or 5000+5000

Multiple ECO

- Customer order through ECO-1, ECO-1 send it to ECO-2 and supplied by supplier registered with ECO-2. TCS will be by ECO-2 **who making payment** to supplier.
- If ECO-2 is **himself** supplier of goods → TCS by ECO-1

Notice by Deputy Comm. on ECO

1. For furnishing details of G/S supplied and goods lying in godown of ECO.
2. Submit in 15 WD.
3. Fail : Penalty u/s 122 + up-to 25000/-

Supply through ECO

| Nature | By URP supplier | By Composition supplier |
|---------------------|--|-------------------------|
| Services under 9(5) | Allowed | Allowed |
| Other services | Allowed | Not allowed |
| Goods | Allow only when enrollment no. taken by supplier and operate from single state only. | Allowed |
| TCS | No TCS | ECO Collect TCS |
| | Inter-state supply not allowed | |
| | Report in GSTR-8 | |

Example : Slipkart is a supplier selling its own products through a web site hosted by it. Does it fall under the definition of an “ECO”? Whether Slipkart to collect TCS?

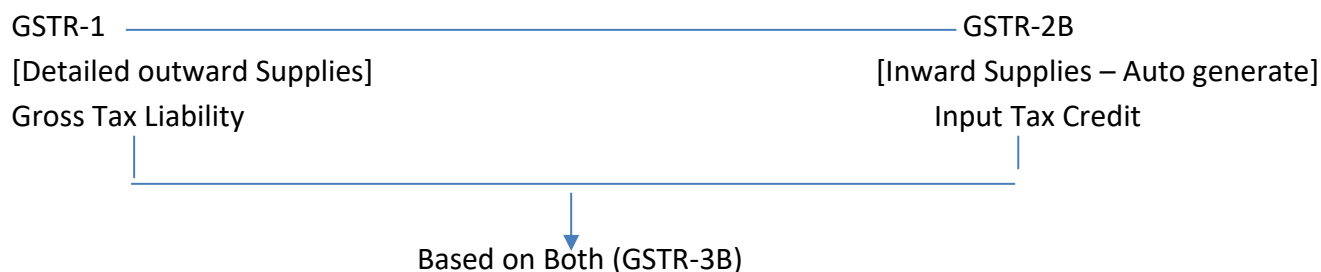
Ans : As per the definitions, Slipkart will come under the definition of an “ECO”.

However, u/s 52, TCS is required to be collected on the net value of taxable supplies made through it by other suppliers where the consideration is to be collected by the ECO. In cases where someone is selling their own products through a website, there is no requirement to collect TCS. These transactions will be liable to GST at the prevailing rates.

Thus, Slipkart is not required to collect TCS.



Chapter 13 - Returns



GSTR 3B contains : Summary of outward supply, RCM, ITC and payment from cash/credit ledger.

| Return | Return filers | QRMP | Others |
|---------------------|--|---|---|
| GSTR-1 (U/s 37) | Every Registered Person including casual taxable person (CTP) Except:- TONIC | 13 TH of next month (Quarterly) | 11 th of next month (Monthly) |
| GSTR-3B (U/s 39) | <ul style="list-style-type: none"> ➤ TDS Deductor/ TCS collector ➤ OIDAR services from outside India ➤ N RTP ➤ ISD ➤ Composition tax payer | 22 nd /24 th of next month (Quarterly) | 20 th Of next month (Monthly) |

Outward supplies in GSTR-1 shall be reported in following manner

- Invoice wise (Invoice number, date, amount, customer GST no. etc.) of
 - i) B2B sale, Export
 - ii) Inter-state B2C where invoice value > 1 lacs
 - iii) Credit/Debit notes against above
- Consolidated (Tax rate and POS level)
 - iv) All B2C sale other than above
 - v) Credit/Debit notes against (iv)
 - vi) Advance received/adjusted
- Separate tables for Amendment of prior period.
- Tax payment will not be made through GSTR-1

➤ Details of Invoices can be uploaded/deleted on regular basis until filed.

➤ Return is mandatory even no/nil transaction.

➤ Returns can be filed **sequentially in chronology.**



Form GSTR – 1A (Amendment)

1. Optional form to amend or report additional sale which missed reporting in GSTR-1
2. Can be filed after filing GSTR1 but before filing GSTR 3B of that month.
3. GSTR-1A has similar tables, fields as GSTR1 (discussed above)

Rectification of Errors

- Same month's return (e.g. July) can-not be revised unlike Income Tax.
- Rectification can be done in subsequent month return (e.g. Sep) through amendment tables.
 - But Maximum up to
 - 30th November of following FY
 - Actual date of filing Annual Return
- **No Rectification allowed if mistake discovered by tax authorities**

} Earlier

Debarring/blocking filing of GSTR-1/IFF

Not allowed to file GSTR-1/IFF if

- a) Not submitted details of bank account after taking registration
 - b) GSTR-1 OR 3B of previous month/quarter not filed.
 - c) Intimation issued
 - u/r 88C for diff in tax liability b/w GSTR-1/1A vs. 3B or
 - u/r 88D for diff in ITC b/w GSTR 2B vs. 3B
 - is not paid or not replied.
- Issued online + Email when diff is more than specified amount/percentage
 - If not paid or not replied within 7 days or reply not acceptable by officer.
 - For 88C → Recovery proceeding starts u/s 79.
 - For 88D → Proceeding u/s 73/74

Form GSTR 2A, 2B, 4A, 6A

It is System generated read only statement of inward supplies visible to buyer.

| Form No | Buyer is |
|-----------|--------------------|
| 2A and 2B | Registered person |
| 4A | Composition person |
| 6A | ISD |

Containing and generates basis

1. Outward supply reported by supplier in GSTR-1/5, IFF
2. Distribution reported by ISD in GSTR-6
3. TDS/TCS reported by deductor/collector in GSTR-7/8
4. Details of Import based on BoEs filed with custom/SEZ.



Form 2A and 2B are largely same, only following timing differences

| GSTR-2A | GSTR 2B |
|---------------------------|--|
| Available real time basis | Available once a month on 14 th of next month |
| Updates regularly | Static statement – No changes |
| | Based on supplier return filing date GSTR 2B of Apr generated on 14 th May contain, invoice reported in Monthly GSTR1/1A FILED from 12 th Apr to 11 th May Quarterly GST1/IFF, GSTR5/6 filed from 14 th Apr to 13 th May Filing date is relevant, following not relevant : <ol style="list-style-type: none"> 1. Invoice date 2. Return month |

Quarterly Return and Monthly Payment (QRMP) Scheme

Following person can opt to file return (GSTR1 and 3B) Quarterly and pay tax monthly

- Taxpayer having Agg. T/O up-to 5 Crs in **last** FY
[If Agg. T/O cross 5 Crs in current FY say Nov → Then start filing monthly from next quarter i.e. Jan]
- All monthly returns which already **due** have been filed on the date of opting QRMP.
- Optional scheme - Can opt-in from any Quarter and opt-out from any Quarter.
- Some GSTIN under PAN can opt other may not opt.

IFF (Invoice Furnishing Facility) for QRMP taxpayer

- Recipient faced problem in taking ITC as QRMP supplier filing GSTR-1 Quarterly, hence
- **Option** given to QRMP supplier to submit monthly **B2B/CN/DN** invoices but maximum Rs 50 lacs in each 1st and 2nd month by filing IFF.
- Till 13th of next month (Can't file after due-date)
- **3rd month's invoice and invoices not reported in IFF** to be uploaded in Quarterly GSTR-1.
- Invoices uploaded in IFF, not to be uploaded in GSTR-1
- Invoices reported in IFF/GSTR1 will reflect in 2A/2B of buyer.

Monthly Payment of tax under QRMP

For first 2 month of Quarter → 25th of next month in form PMT-06

For last month of Quarter → 22nd/24th of next month in GSTR-3B

How Much to Pay in first 2 months on monthly basis



Option 1 - Self-Assessment Method

- Normally calculate and deposit tax
- [Liability for the month – (Available ITC+ cash)]
- Interest u/s 50 if short-paid/ delay in filing 3B/PMT-06

Option 2 - Fixed Sum Method

- Payment as below by auto populated challan
 - (i) If last return (3B) filed quarterly → 35% of tax paid in cash in last return
 - (ii) If last return (3B) filed monthly → Amount of tax paid in cash in last return
- However, no amount to pay
 - For 1st month → If Balance in Cash + Credit Ledger ≥ Actual calculated liability
 - For 2nd month → If Balance in Cash + Credit Ledger ≥ Cumulative Liability of 2 months
 - If NIL tax liability in the month
- Interest calculation:
 - No Interest if 35% payment been made on due dates (Even if actual liability is higher)
 - Int @18% on delay in filing PMT-06 on said 35% amount
 - Int @18% if delay in filing GSTR-3B on net cash liability less payment made in PMT-06

Common for both schemes

- Above payments will reflect in cash ledger.
- Full quarter actual liability to be reported in GSTR-3B and any additional payment can be taken as refund only after filing 3B.
- No late fee on PMT-06/IFF

Other returns

| Form | Type | Periodicity | Due date | Nil return mandatory? |
|---------|---|-------------|---|-----------------------|
| CMP-08 | Composition Suppliers <u>(For payment)</u> | Quarterly | 18 th of next month from end of Q | Yes |
| GSTR-4 | Composition Supplier | Annually | 30 th June of next FY (Amendment) | Yes |
| GSTR-5 | NRTP | Monthly | Earlier of 13 th of next month <u>or</u> 7 th day from validity ends | No |
| GSTR-5A | Supplier – Outside India Providing - OIDAR or online money gaming | Monthly | 20 th of next month Supply to URP → Tax by OIDAR Supply to RP → RCM by RP Report both in return | Yes |
| GSTR-6 | ISD | Monthly | 13 th of next month | Yes |
| GSTR-7 | TDS Deducter | Monthly | 10 th of next month | No |
| GSTR-8 | TCS Collector | | | |



| | | | | |
|---------------------------|----------------------|----------|---|----|
| GSTR-9 (Annual return) | If Agg. T/O > 2 Crs. | Annually | 31 ST Dec. of succeeding F.Y. | No |
| GSTR-9C* | If Agg. T/O > 5 Crs. | | Exemption: If person's Accounts subjected to audit by <u>CAG</u> & (TONIC) persons TDS/TCS, OIDAR, NRTP, ISD, <u>CTP</u> | |
| GSTR-11 | UIN | | Details of inward supply for taking refund | No |

GSTR-9C - is called as Reconciliation Statement of reco b/w value in GSTR-9 vs. FS

First Return

Report supplies made during Effective date of registration TO Actual date of grant of RC in 1st GSTR-1 due to be filed after getting RC.

Ex. : Effective date – 25th Apr
RC given on – 13th May

Sale b/w 25th Apr to 13th May and 13th May to 31st May to be reported in GSTR-1 of May to be filed on 11th Jun

Final Return: - (GSTR-10)

Whose registration surrendered/cancelled

Within 3 months of:

- Date of Cancellation
 - Or
 - Date of Order of Cancellation
- } Later

Delayed filing of GSTR-1/ GSTR-3B/ GSTR 4/ GSTR-7 – Late fees

| | Agg. T/O in previous FY | | | |
|---------------------|-------------------------|------------------------------|---------------|-------------|
| | Nil Return | Up-to 1.5 Crs & GSTR-7 (TDS) | >1.5 to 5 Crs | Above 5 Crs |
| Per day (CGST+SGST) | 10+10 | 25+25 | | |
| <u>Maximum cap</u> | 250+250 | 1000+1000 | 2500+2500 | 5000+5000 |

Max late filing allowed → 3 years from due date.



Goods and Services Tax Practitioners (GSTPs)

Who can be GSTP

| | |
|--|--|
| <ul style="list-style-type: none">• Indian Citizen• Person of sound mind• Solvent• Not convicted by Court | Having <u>any</u> of below following qualification <ul style="list-style-type: none">➤ Retired Group B gazette officer or above of State tax/CBIC ≥ 2 years exp.➤ Enrolled as STP/TRP under earlier tax ≥ 5 years <u>or</u>➤ Any of the Prescribed Qualification |
|--|--|

Prescribed Qualification

- Graduate/Post Graduate in Commerce/ Law/ Banking/ Audit/ Business from Indian University
- Foreign University Degree equivalent to above degree
- Passed final exam by ICAI/ ICSI/ ICMAI
- Any other examination notified

Activities which can be undertaken by GSTP

Reg. person can authorize on GST portal to GSTP to

- Fill challan and Deposit into cash ledger
- Furnish Info for E-way bill generation
- Allowed to appear as authorised representative
- File intimation to opt/withdraw composition scheme
- File a refund claim
- Application for Amendment/ Cancellation of Registration
- Furnish GSTR1, 3B, 9, 9C etc. → Confirmation req., if not given considered deemed confirmation.

Confirmation of Reg. person is required.

Information Return

Purpose : To collect info from third parties like Bank, electricity dept. to check GST compliance by person.

To be filed by authorities responsible for maintaining records of
Registration or statement of accounts or periodic return containing details of
payment of tax and other details of transaction of goods or services (GSTN)
Bank related transactions (Bank)
Consumption of electricity (Electricity board)
Sale/purchase of property (Registrar)

Defective return → Correction to be done → Else considered as not filed.

Not-filed → notice → required to file in 90 days → still not filed → penalty C+S (100 per day/ max. 5000)



Chapter 14 – Import and Export

Import of goods

- Means → Bringing goods into India from place outside India
- Deemed as Inter-state supply liable to IGST
- Levy and collection through Custom Act
- Importer file BoE and pay [Custom Duty+ IGST/Compensation Cess] – (Not in GST return)
- ITC can be taken in GST return (GSTR -3B) based on BoE (Subject to compliance of sec 16/17)
- Following Items Exempt from IGST
 - Goods imported by SEZ/ 100% EOU
 - Import of Baggage

Value for calculation IGST/Cess on import of goods.

| | |
|---|---|
| BoE filed by original importer | Custom value + all custom duties |
| Goods sold by importer in high sea and BoE filed by third buyer | Price paid by last high sea sales buyer + all custom duties |
| Goods sold by importer in custom warehouse and BoE filed by third buyer | Higher of a) Custom value + all custom duties b) Transaction value paid by last buyer |

Import of Online Money Gaming (OMG)

- OMG is actionable claim hence falls under goods and liable to GST.
- Supplier to obtain registration and pay GST

Import of service other than OIDAR – covered in supply and POS chapter.

- Importer to pay tax under RCM and take ITC, both in GSTR – 3B.
- Importer to take compulsory reg.
- Import in Territorial water and exclusive economic zone will liable to RCM.

Online Information and Database Access and Retrieval Services (OIDAR)

If below 2 conditions satisfy, service will fall under OIDAR

Condition A → Service delivery mediated through info. technology (IT) over internet

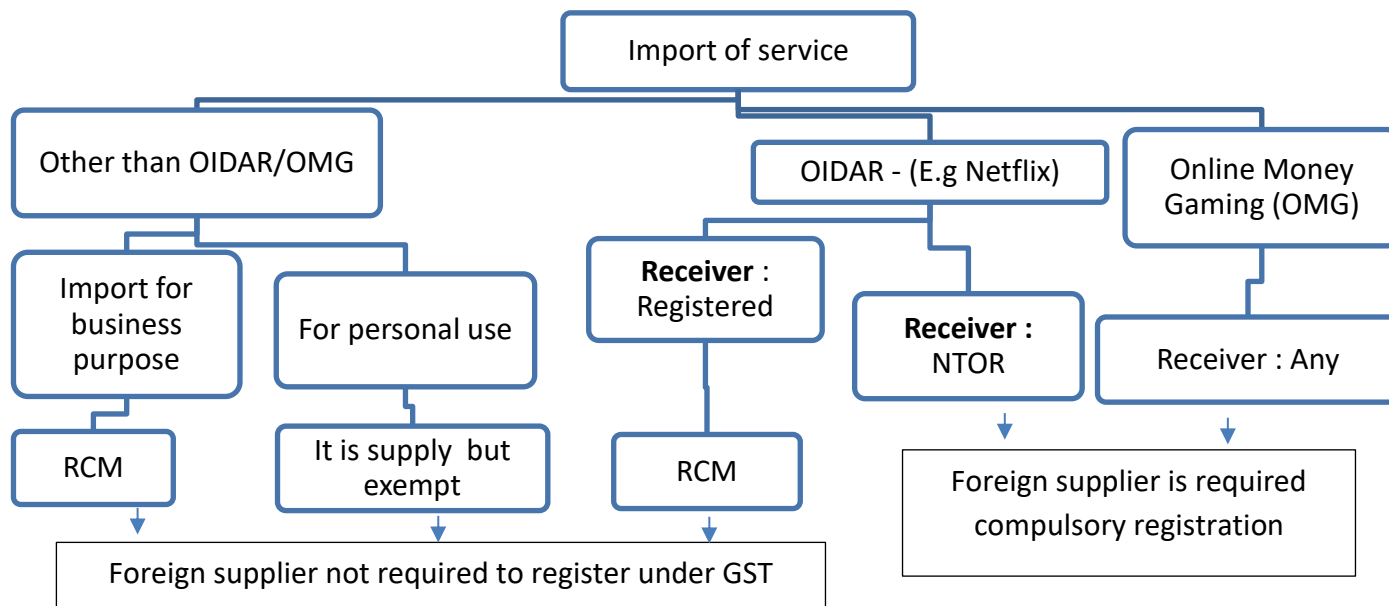
Condition B → Impossible to ensure without IT

Ex. Netflix, E-books, Software etc. excluding online gaming

| Service | A | B | OIDAR/No |
|-------------------------------------|---|---|-----------|
| PDF manually mailed by provider | ✓ | X | Not OIDAR |
| PDF automatically emailed by system | ✓ | ✓ | OIDAR |



| | | | |
|--|---|---|-----------|
| PDF automatically download from website | ✓ | ✓ | OIDAR |
| Photographs available for download | ✓ | ✓ | OIDAR |
| Online Course with Pre-Recorded video+ PDF | ✓ | ✓ | OIDAR |
| + Support from live tutor | ✓ | X | Not OIDAR |



- Non-resident taxable person (NTOR) means
 - ✓ Unregistered person, or
 - ✓ Registration taken for TDS compliance

If Intermediary (Located outside India) arranges/facilitate OIDAR services, such intermediary will become deemed supplier and liable to pay GST.

Except:- All 4 conditions satisfy below

- Invoice identifies the service and its supplier.
- Intermediary neither collect nor responsible for payment
- Intermediary not authorise delivery
- T & C not set by Intermediary

Registration for foreign OIDAR/Intermediary, OMG and ECO 9(5)

1. Single registration at India level
2. If supplier not have presence in India, representative for any purpose to take reg.
3. If both not there, appoint a person for reg and payment.
4. Failed to comply – App/website will be blocked.



Export of Services:

- All 5 conditions should satisfy

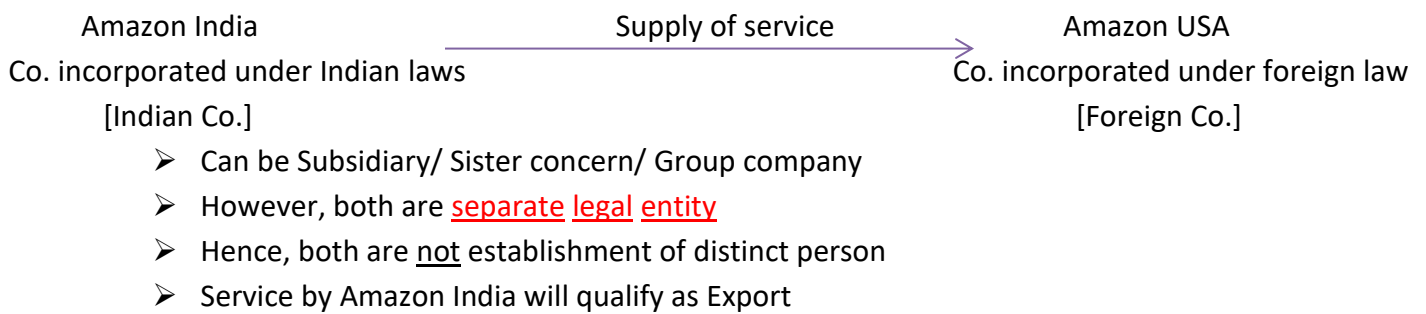
| (1) LOS | (2) LOR | (3) POS |
|---------|---------------|---------------|
| India | Outside India | Outside India |

4. Payment received in convertible forex or in INR, where permitted by RBI

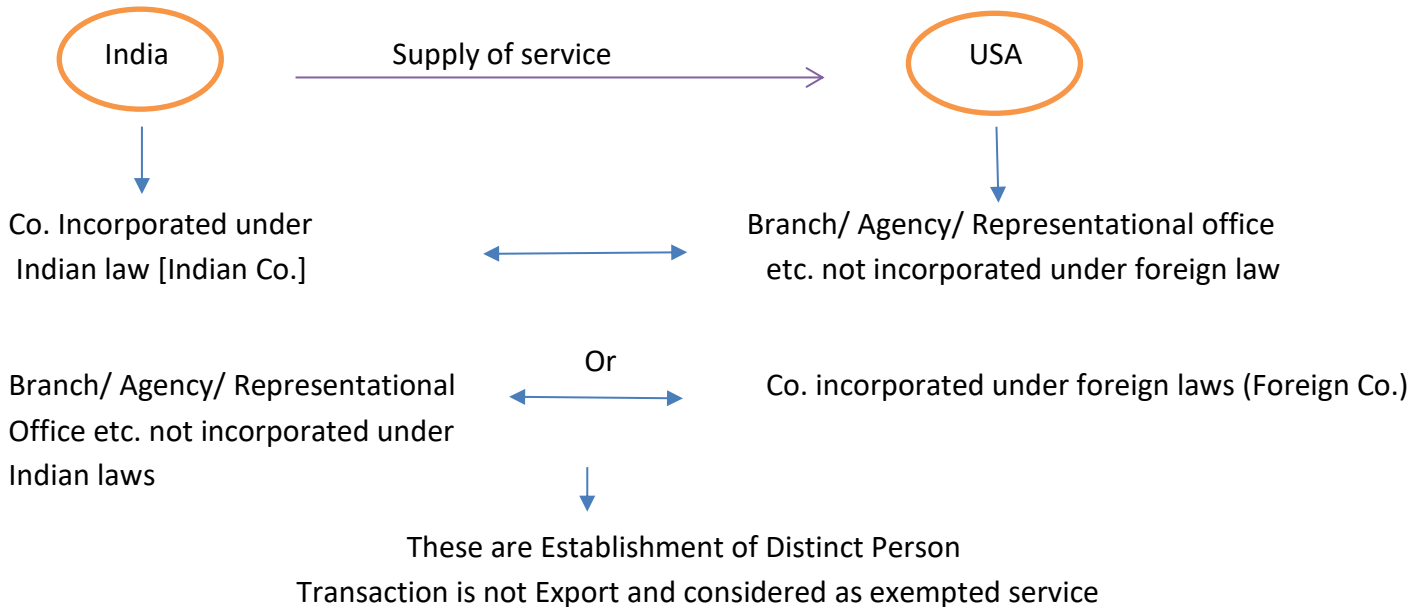
INR received from Special Rupee Vostro Account is acceptable.

5. Recipient is separate entity and not merely establishment/branch/distinct person of single entity

Scenerio-1



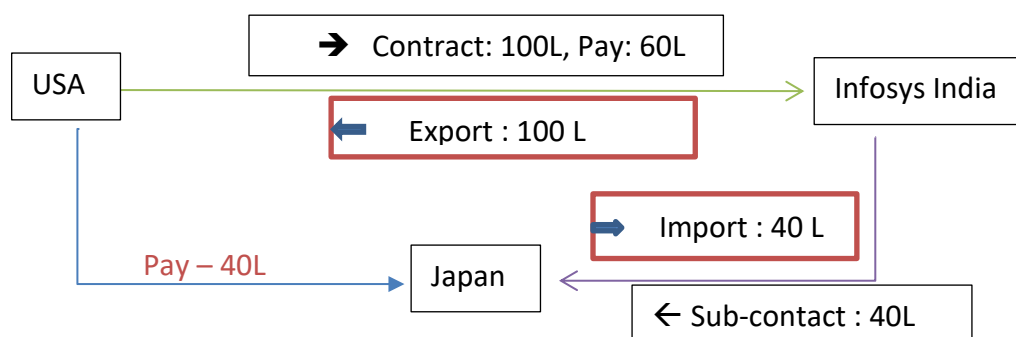
Scenerio-2



Note : Import from both these foreign parties (related person) will liable to RCM by importer whether with/without consideration if used for business.



Sub-contacting of service by Indian exporter to another person outside India.



- Even though full payment not received in India, as service receiver has paid to sub-contractor of Japan, still it will be **deemed received** in India and export will be 100 lacs.
- Infosys India to pay RCM on 40L

Export of Goods

Means: Taking goods from India to place outside India

- USA company bought goods but delivery to person in India → Not an export
- Supply to own branch outside India → Export

Zero rated supply (ZRS)

Following covered in ZRS

1. Export of taxable goods & services
2. Supply of taxable goods/ services to SEZ unit/ developer for **authorised operation**
3. Export/SEZ supply of exempted goods/ services e.g. wheat

Supplier has 2 options while making export/supply to SEZ as follows:

1. Export with payment of IGST
2. Export without payment of GST by filing LUT/bond.

Taxability explained thru below example :

| Description | Export without pay | Export with payment of IGST |
|--|--------------------|-----------------------------|
| Export value (CIF/FOB) as per contract | 15000 | 15000 |
| GST liability (Assume 18% rate) | NIL | 2700 |
| ITC on purchase (assumed purchase of 10,000) | 1800 | 1800 |
| Net cash payment in GSTR- 3B | NIL | 900 |
| ITC balance (Accumulated ITC) | 1800 | NIL |



| | | |
|---|---|----------------------------|
| Take refund of ITC balance by filing refund application as per formula u/r 89(4) | 1800 (Actual amt may vary based on formula) | N.A. |
| Take refund of IGST Paid | N.A. | 2700 (Always same as paid) |
| Closing ITC | NIL | NIL |

- In both options, ITC is eligible except on 17(5) items.
- Certain goods have been notified which can-not be exported with IGST payment, and can be exported only by LUT/Bond like Tobacco etc.

Bond/ LUT procedure

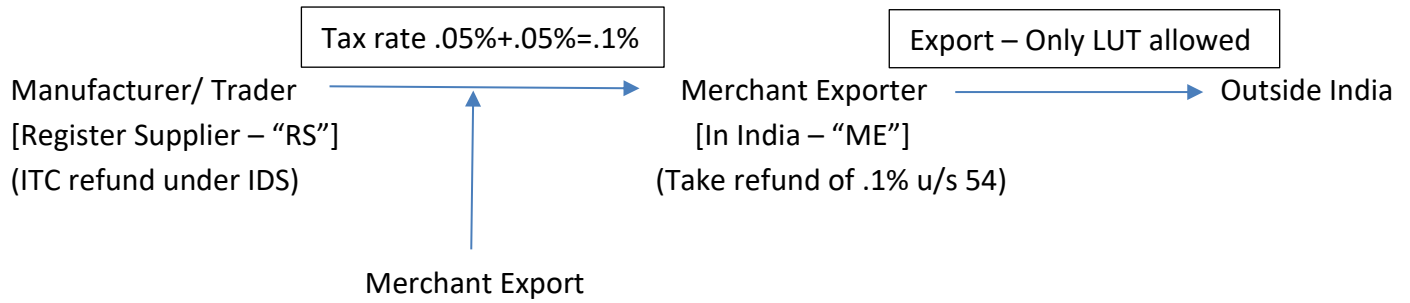
- In export/SEZ without payment of tax, exporter to execute LUT or bond before export/SEZ, binding to pay tax + 18% interest within 15 days
 - In case of goods: from expiry of 3 month from date of invoice if goods not exported out of India
 - In case of services: from expiry of 1 year or **period allowed by FEMA + extended by RBI, whichever later**, from date of invoice if payment not received in forex or INR (where permitted by RBI) (**Amend**)
- If not paid tax + interest, facility of export without payment of GST under bond/LUT not allowed
 - Allowed if paid later on
- LUT allowed to all person except person **prosecuted for tax > 250 lacs**
- If prosecuted >250 lac : Exporter to provide bond to the extent of tax on intended export + Bank Guarantee of 15% of bond amount
- LUT valid for full F.Y. except withdrawn due to non-payment of tax + interest
- Invoice in INR is allowed, however receipt should be in forex except when INR allowed by RBI/FEMA.

Export to Nepal and Bhutan

- Considered as normal export
- Receipt in INR allowed
- For goods : Amount should receive within FEMA time limit else recovery of refund.



Merchant Export



Conditions:-

- RS should supply goods to ME on tax invoices
- ME to export within 90 days
- Mention GSTIN and invoice number of RS on Bill of Export/shipping bills
- Submit Shipping bill and EGM to tax officer of RS.
- ME Registered with Export Promotion Council

Accommodation service to SEZ

Service of accommodation, conference etc. TO

SEZ unit/developer

One provision says : POS is location of property hence intra-state

Other provisions says : SEZ supply is always Deemed Inter-state

Hence conflict, so specific provision will prevail

SEZ provision is specific hence said supply will be inter-state supply.



Chapter 15 – Refunds

Unjust enrichment (UE)

- Means: Mr. X filing refund even though incidence/burden of tax passed on to Mr. Y
- Person filing refund require to submit self-declaration/ CA certificate of NO unjust enrichment
 - Self declaration ≤ Refund 2 lacs < CA/CMA certificate
- Where certificate required but not provided – Refund will not be given to person but credited to Consumer Welfare fund (CWF)

Exception to unjust enrichment

In below cases no need to prove “no unjust enrichment” hence certificate/declaration not required.

- Refund on account of Zero Rate supply
- Refund of ITC in inverted duty structure
- Refund of tax paid on advance received if invoice not issued later on
- Refund of IGST paid instead of CGST/SGST and vice-versa
- Refund of excess advance tax by CTP/NRTP

Time limit for filing refund

- Refund from cash ledger (including TCS/TDS deducted) – No limit
- Other refunds - Within 2 years from Relevant Date

1st Refund filed 10th May → Defi Memo issued - 25th May → 2nd time refund filed

- Exclude 10th May to 25th May in 2 years computation

| Category | Relevant date |
|--|--|
| Export of Goods | Ship : Date on which ship/ aircraft leaves Land : Date on which goods pass frontier Post : Date of dispatch of goods by post office. |
| Export of services | <ul style="list-style-type: none"> • Date of Receipt of Payment • Date of Invoice Whichever later |
| Inverted Duty Structure Supply to SEZ | Due date of return (20 th) in which sale made. |



| | |
|---|---|
| Refund of tax paid on advance received if invoice not issued later on | Date of Payment of tax |
| Refund of IGST paid instead of CGST/SGST and vice-versa | Date on which correct tax paid |
| Deemed Export <u>(Filed by supplier or recipient)</u> | Actual date of return filed by supplier for such supply |
| Judgement/ Decree/ Order/ Direction | Date of <u>communication</u> such Judgement etc. |
| Finalisation of provisional assessment | Date of adjustment of tax after final assessment |
| Person other than Supplier | Date of Receipt of G/S |
| Any other case | Date of Payment of tax |
| Excess advance tax by CTP/NRTP | In last return |

- No refund if amount up-to Rs. 999 (per tax head) [N.A. in case of refund of balance in cash ledger]

Refund of IGST : Export/supply to SEZ on payment of IGST

Supplier has 2 options while making export/supply to SEZ as follows:

| Description | Export without pay (i.e under LUT/Bond) | Export with payment of IGST |
|---|---|-----------------------------|
| Export value (CIF/FOB) as per contract | 15000 | 15000 |
| GST liability (Assume 18% rate) | NIL | 2700 |
| ITC on purchase (assumed purchase of 10,000) | 1800 | 1800 |
| Net cash payment in GSTR- 3B | NIL | 900 |
| ITC balance (Accumulated ITC) | 1800 | NIL |
| Take refund of ITC balance by filing refund application as per formula u/r 89(4) | 1800 (Actual amt may vary based on formula) | N.A. |
| Take refund of IGST Paid | N.A. | 2700 (Always same as paid) |
| Closing ITC | NIL | NIL |



Process of taking refund:

| Export of goods | Export of service/supply to SEZ |
|---|---|
| No need to file refund app | Refund app in RFD-01 along with documents |
| Shipping bill/bill of export act as refund app. | Refund can be taken after receipt of consideration. Bank Realisation Cert (BRC) required. |
| 3B filed and AA done | |

Note : Whenever export sale price revised upward after export. Pay IGST on such differential value and take refund by filing refund application in form RFD-01.

Refund with payment of IGST can't be made when export made by Merchant exporter (Who purchased @0.1%)

Refund of accumulated ITC on export/SEZ without payment of GST - Rule 89(4)

Refer above example :

As the person may involve in ZRS as well normal supply, refund will be proportionate.

$$\text{Refund: } \left[\frac{\text{T/O of ZRS of Goods} + \text{T/O of ZRS of Services}}{\text{Adjusted total T/O}} \times \text{Net ITC} \right]$$

Net ITC: ITC taken during refund period on input goods and input services

Ignore

- ITC on Capital Goods
- ~~ITC availed for which refund claimed in 89(4A)/(4B) (Rule 89(4A)/(4B) itself deleted by amendment)~~
- Refund of ITC taken by recipient of deemed export
- Blocked credit u/s 17(5)
- ITC relating to domestic exempt supply
- Opening/closing ITC
- Invoice not reflected in GSTR-2B

T/O of ZRS of Goods : Lower of

- Value in export invoice
- 1.5 times the value of like goods supplied in India [to avoid over reporting of ZRS]
- FOB value in shipping bill/ Bill of Export

~~Excludes: Turnover u/r 89(4A)/(4B) (Deleted by amendment)~~



T/O of ZRS of Services

| | |
|---|--------------|
| Aggregate payment received during refund period | xxx |
| (+) Supply completed during refund period, payment received earlier | xxx |
| (-) Advance received for ZRS but service not yet provided | <u>(xxx)</u> |
| | xxx |

Adjusted Total T/O

- Domestic taxable supply of G/S
- T/O of ZRS of G+S as determined above
- Deemed export supply where ITC taken by buyer.

Ignore

- **Domestic** exempt supply (i.e. Other than ZRS of exempted G/S)

Ex: Mr. A made following transactions during April

| | |
|---|-------------|
| Net ITC for the month | 10,00,000/- |
| Goods supplied domestically | 15,00,000/- |
| Goods exported without IGST payment [Domestic Value 16,00,000] | 22,00,000/- |
| Exempted goods exported (domestic value 4,00,000) | 3,00,000/- |
| Services exported during period but payment received last year | 20,00,000/- |
| Services advance received for export but services not completed | 40,00,000/- |
| Services provided and payment received for export | 60,00,000/- |
| Services provided domestically | 20,00,000/- |
| Exempted goods supplied domestically | 10,00,000/- |

Solution

| | |
|---|----------------------|
| • Net ITC available | 1000000 |
| T/O of ZRS of Goods | |
| Value of ZRS | 2500000 |
| 1.5 times of domestic value | 3000000 [20 Lac*1.5] |
| Lower | 25,00,000 |
| T/O of ZRS of Services | |
| • Payment received for ZRS | 6000000 |
| • Received earlier, services provided during period | 2000000 |
| • Advance recd. not provided services | <u>(4000000)</u> |
| Net | 40,00,000 |

Adjusted total T/O

$$= 2500000+4000000+1500000+2000000= 10000000$$



$$\text{Refund: } 1000000 \times \frac{[4000000+2500000]}{10000000} = 650000$$

Restriction on refund

| <u>Refund not allowed</u> | <u>Refund allowed</u> |
|---------------------------------------|--|
| If export duty applicable | If export duty not applicable or having nil rate |
| If availed duty drawback of CGST/SGST | If drawback of only custom duties taken |

Grant of provisional refund

- Provisional refund of 90% amount on A/c of ZRS can be issued within 7 days from date of acknowledgement of refund application.
- 10% after due verification of documents
- No provisional refund to person prosecuted in past 5 years immediately preceding refund period of amount > 2.5 crore

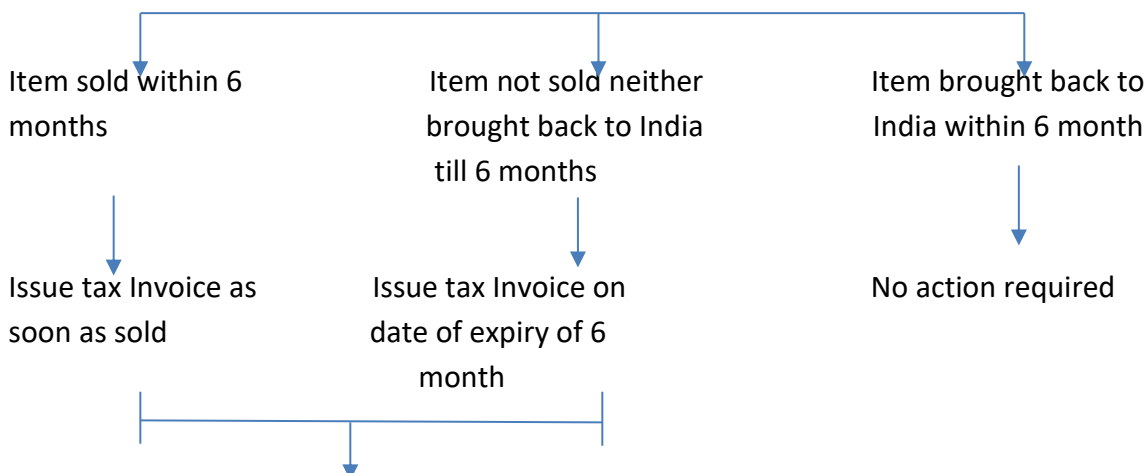
Recovery of refund of ITC or IGST paid on export of **Goods**

- If sale amount not received within FEMA limit
- Deposit proportionate refund within 30 days with interest
 - Except if RBI write off the requirement of realization
- If amount received later on within RBI extended limit, refund again granted.

Note: In case of service, transaction will not become export unless consideration not received hence refund granted only after receipt of consideration.

Clarification on goods taken out of India but not brought back

Goods taken outside India for exhibition or sale/ approved basis don't constitute supply as no consideration involved at this stage [Prepare delivery challan]



- Refund of accumulated ITC u/r 89(4) allowed – Even no Bond/ LUT filed.
- Option of pay IGST and claim refund is not available as invoice being made after sending goods.

Deemed Export

- Transactions deemed as export even though goods were supplied in India.
- Such goods should be manufactured in India
- Supplier to pay tax at the time of supply. Option not to pay tax (Bond/ LUT) not available
- Refund of tax can be taken either by:-
 - Supplier: If ITC not availed by recipient and furnish undertaking to supplier. Or,
 - Recipient



Following supplies notified as deemed export

- Supply of Goods/gold against Advance authorisation
- Supply of Capital Goods against EPCG authorisation
- Supply of Goods to EOU/EHTPU/STPU/BTPU

Refund of accumulated ITC on account of Inverted Duty Structure (IDS) - Rule 89(5)

Inverted duty structure situation comes when

Tax rate on input/raw material (not IS/CG) is higher than tax rate on output/FG

- Eligible refund of ITC under IDS shall be calculated as below:

$$\text{Refund: } \left[\frac{\text{T/O of Inverted duty supply} \times \text{Net ITC}}{\text{Adjusted total T/O}} - \frac{\text{Tax payable on IDS} \times \text{Net ITC}}{\text{ITC availed on Input + Input Service}} \right]$$

Net ITC: ITC taken during refund period on input goods

Include

- ITC on all products irrespective of tax rate
- ITC on any goods not capitalised

Ignore

- ITC on Capital Goods and input services
- ~~ITC availed for which refund claimed in 89(4A)/(4B) (deleted by amendment)~~
- Blocked credit u/s 17(5)
- ITC on domestic exempt supply excluding ZRS
- Opening/closing ITC



- Invoice not reflected in GSTR-2B

Adjusted total T/O – Same as applicable for ZRS

Refund - specific cases

1. Govt. may notify goods on which IDS refund is not allowed.
2. No refund on reduction in tax rate (diff tax rate at diff time)
3. Refund available if supply made under concessional noti. (diff tax rate at same time)
4. Refund available to Supplier who supplied to merchant exporter @0.1%

Ex: ABC Ltd. is an equipment manufacturer

| | |
|--------------------------------------|-------|
| Outward supply of equipment A [@12%] | 10000 |
| Outward supply of equipment B [@28%] | 25000 |
| | |
| Purchase | |
| Input for equipment A [@28%] | 8000 |
| Input for equipment B [@12%] | 20000 |
| Input service [@5%] | 2000 |
| Capital goods [@12%] | 2000 |

Ans:

$$\text{Net ITC} = 8000 * 28\% + 20000 * 12\% = 4640$$

$$\text{T/O of inverted rate supply} = 10000$$

$$\text{Adjusted total T/O} = 10000 + 25000 = 35000$$

$$\text{ITC availed on input and input services} = 4640 + 2000 * 5\% = 4740$$

$$\begin{aligned} \text{Refund: } & \left[\frac{4640 * 10000}{35000} - \frac{[10000 * 12\%] * 4640}{4740} \right] \\ & = 1325 - 1174 \\ & = 150/- \end{aligned}$$

Refund will be lower of below 3 [applicable for both ZRS and IDS - 89(4) & 89(5)]

- Amount as per formula
- ITC balance at the end of tax period for which refund filed after filing return in 3B
- ITC balance on the date of filing refund application



Refund of advance tax deposited by CTP/NRTP

- CTP/NRTP required to deposit tax in advance while applying for registration which credited to cash ledger
- Refund of balance amount - only if he has filed all returns
- Refund can be claimed in last return.

Refund to UN Bodies/ embassies etc.

- Supplier to charge tax, UN bodies gets refund.

Conditions:

- Purchase from registered person/ import of goods
- Invoice should have name and UIN of UN bodies
 - If UIN not mentioned, submit attested copy of invoice.
- Refund app. within 2 years from end of quarter of purchase along with form GSTR-11.
- UN Bodies/Embassies
 1. Foreign diplomatic mission or consular post in India
 2. Diplomatic/ Career Consular agent
 3. United Nations
 4. Specified International Organisation
- ❖ Refund of 50% of GST paid on purchase made by CSD (Canteen Store Dept) for sale to unit canteen or customers.

Payment in wrong head (Sec-77)

- If person paid CGST/SGST treating Intra-state but subsequently held inter-state then after payment of IGST, CGST/SGST shall be refunded and vice versa.
- Limit : 2 years from date of correct payment.
- No interest liability.

Refund of IGST paid on supply of goods to tourists leaving India

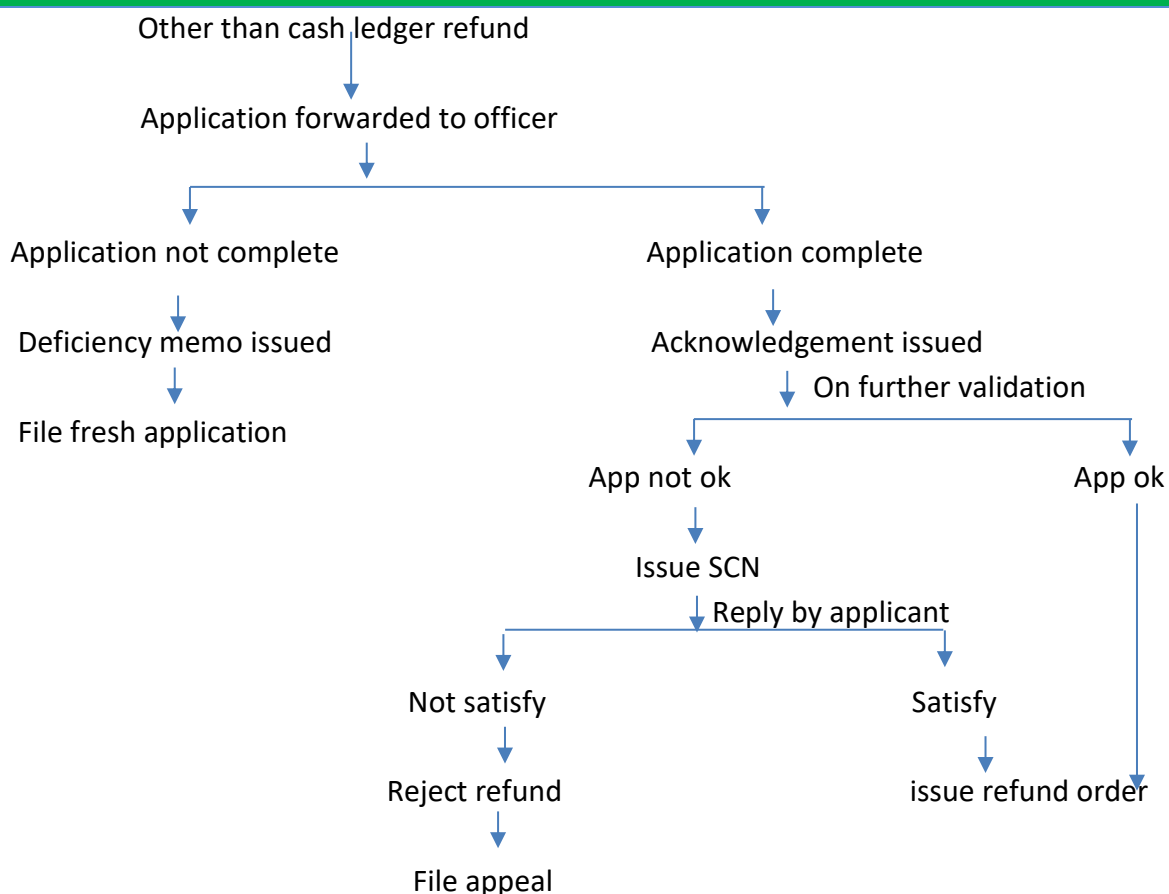
- Refunded to tourists on goods being taken outside India (No refund if consumed in India)
- Tourist means person
 - Not normally resident of India +
 - Came and stay in India ≤ 6 months for legitimate non-immigrant purpose



Refund to unregistered person

- Unregistered person (URP) booked flat etc. or taken insurance and cancelled the contract later on.
- Supplier refunded full/partial amount without tax as
- Time limit to issue GST CN (30th Nov of next FY) by vendor expired.
- URP can file GST refund within 2 years of cancellation
- GST refund will be proportionate.
- Unjust enrichment declaration/certificate not required.

Procedure on Receipt of refund claim



| Refund type | Refund treatment |
|---------------------------------------|--|
| Refund of GST on export/deemed export | Amount will receive in bank account |
| Refund of ITC on a/c of ZRS or IDS | ITC ledger will be debited (reduced) and amount receive in bank account. |
| If such refund rejected | ITC ledger will be credited back after declaration that appeal will not be filed or after appeal is finally rejected |



| | |
|--|---|
| Other refunds e.g. refund of advance to customer | If tax was paid from cash ledger = Refund in bank If tax paid from ITC ledger = ITC ledger will credited (increased) |
|--|---|

Withholding of refund

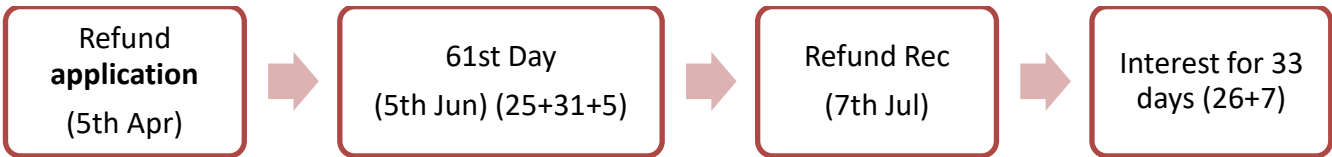
- Refund arising from any order is subject matter of appeal or any proceeding is pending and granting refund may adversely affect revenue (If later paid then interest @6% p.a.)
- Return or payment (not stayed by court etc. till due date of appeal) is due – Either withheld until return/payment made or deduct and pay balance.
- Additional point in export with IGST pay → If custom violation been done or officer feels verification of exporter req.

Interest on delayed refund

@9% p.a. - If refund arise from order of Adjudication/appeal/court

@6% p.a. - All other cases (This will cover appeal order against refund rejection)

Period calculation : In both cases



Chapter 16 : Job work

Job work means any treatment/process undertaken on goods belonging to another person.

Example: Raymond (Principle) sent fabric (input) to Tailor Ltd. (Job-worker) for stitching.

Sewing machines (capital goods) also provided by Raymond.

- **Principle to Job-worker**

- Take ITC on purchase
- No invoice, No tax.
- Delivery Challan + EWB (Inter-state : Always, Intra-state : If value > 50,000/-)
- Report delivery challan in Form ITC-04
- Principal may sale the goods directly form place of job-worker on invoice + tax of principle or export under LUT only if
 - Principal disclose job worker place as additional place of business

Or

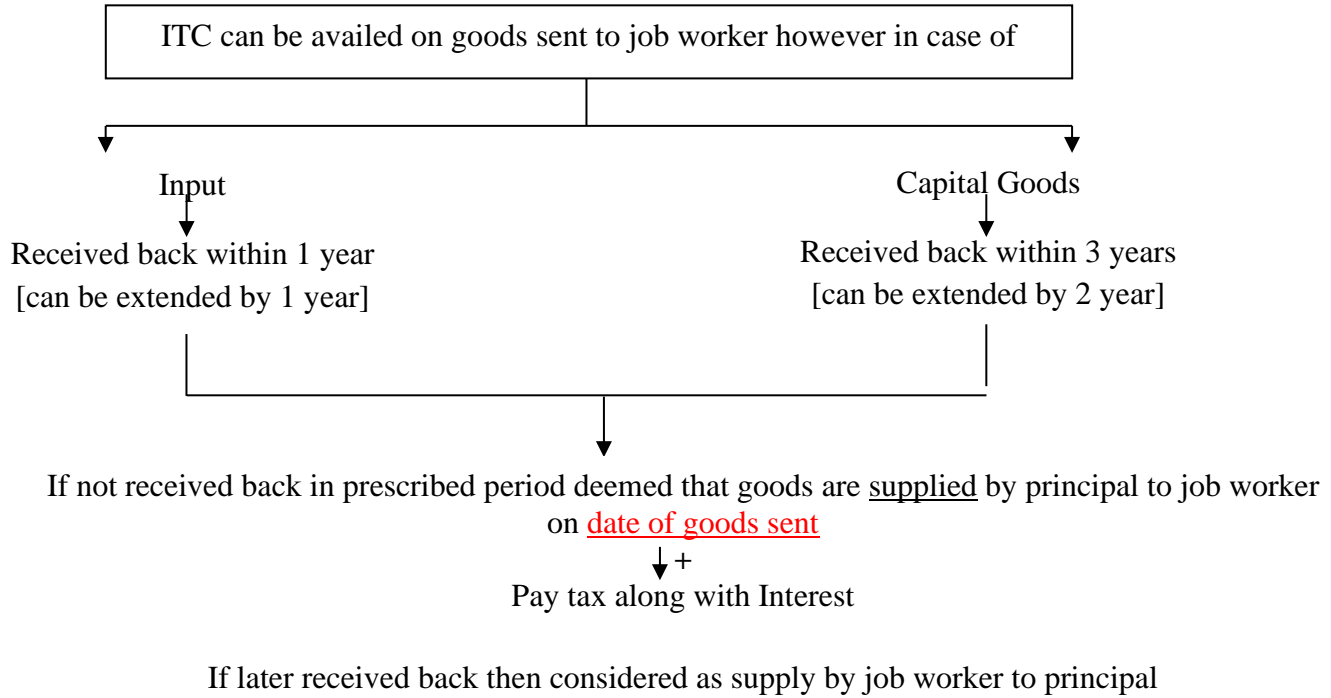
- Job worker is registered

- **Return of processed goods by Job-worker to principle**

- No invoice, no tax on goods
- Charge tax on job-work charges if registered.
- Take ITC of inputs etc. used in Job-work services.
- Can send to another job-worker
- Registration : Only if T/O > 20 lacs (10 lacs in 4 States) both for Intra/Inter.
- Waste/scrap can be sold by Job-worker if registered.



Goods not returned within time limit



Notes :-

- (i) 1/3 years from
 - a) Sent by Principal – From date of sending
 - b) Sent directly from vendor – From date of receipt by Job-worker
- (ii) In case moulds/dies/jigs/tools – No time limit of return applicable.

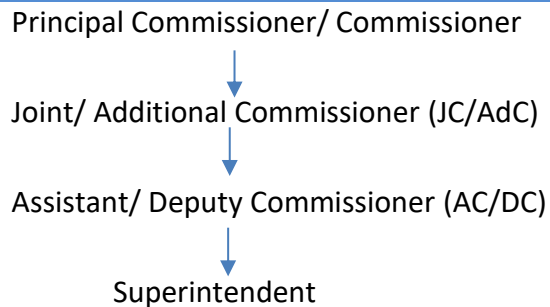
Time limit for ITC-04

| | | |
|---------------------------------|-------------|--|
| If aggregate T/O in PFY > 5 Crs | Half Yearly | April-September = 25 th October October - March = 25 th April |
| Up-to 5 Crs | Yearly | April to March = 25 th April |



Chapter 17 - Assessment & Audit

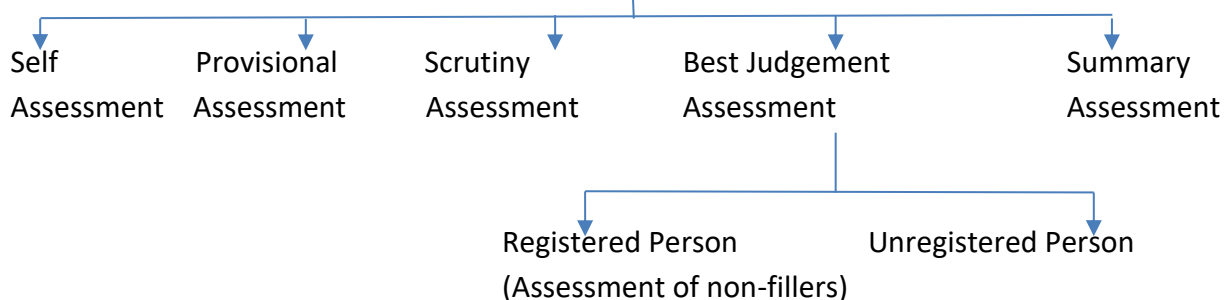
Hierarchy of GST officer



Assessment - Means determination of tax liability

Audit - Examination of records/returns furnished by registered person to verify correctness and assess compliance

Type of assessments under GST



Self Assessment

Registered person self assess and file return u/s 39 (GSTR- 3B)

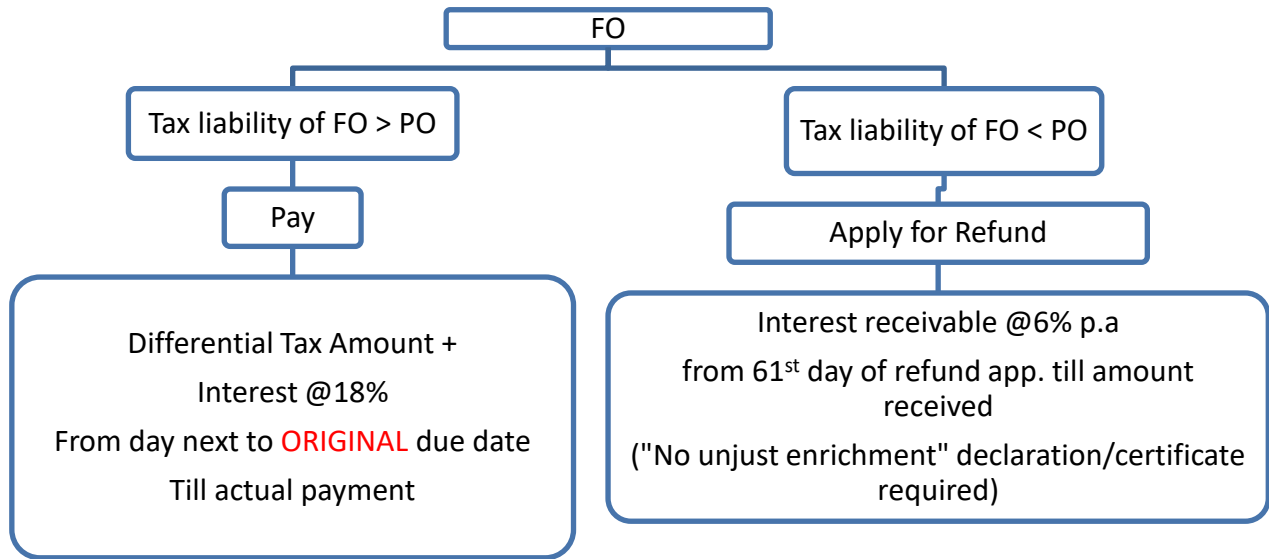
Provisional Assessment

Taxable supplier can apply for provisional assessment, if he unable to determine

1. Value of taxable goods/services; or
 2. Rate of tax applicable
- Officer can allow provisional payment by issue of provisional order (PO) within 90 days, indicating:
 - Value or tax rate for provisional tax payment
 - Bond Amount and security in form of Bank Guarantee (max. 25% of bond amount)



- Pass final order (FO) within 6 months from communication of PO
 - Extension of 6 month by JC/Addl Commissioner
 - Extension of 4 years by Commissioner



- Security can be released once FO passed and payment made, within 7 working days from date of application for release of security.

Scrutiny assessment

- Return of registered person - proper officer may scrutinize/verify
- Discrepancy found - notice to be issued by officer asking explanation within 30 days
- Person may accept and pay tax mentioned in notice and/or furnish explanation
- Explanation acceptable – Scrutiny closed.
- Further action by officer

| If | Any action |
|--|--|
| <ul style="list-style-type: none"> ➤ Explanation not acceptable; or ➤ Person accepted discrepancy but no corrective action taken | <ul style="list-style-type: none"> ➤ Conduct audit u/s 65 or special audit u/s 66 ➤ Undertake inspection, search, seizure u/s 67 ➤ Proceeding u/s 73/74 |

Assessment of non-filers (Best Judgement Assessment)

- Officer send notice to non-filer registered person - for filing return within 15 days
 - ↓ If not filed
 - Officer calculate tax on best judgement, basis available/gathered info and issue assessment order
- Order withdrawn - If valid return furnished



| Within | For 1 st 60 days | From 61 st Day |
|---------------------|-----------------------------|---|
| 60 days | Normal late fee apply | N.A. |
| From 61 to 120 Days | Normal late fee apply | Normal late fee + Additional late fee of (100+100) per day |

Best Judgement Assessment of unregistered person

- Fails to obtain registration or registration got cancelled → but was liable to pay tax
- Proper Officer to assess tax on best judgement and send 15 day's notice
- Order shall be passed considering reply and providing hearing.
- Common Points for both Best Judgement Assessment
 - Demand order can be passed without following SCN proceeding u/s 73/74
 - Order time-limit - 5 years from due date of annual return

Summary Assessment

- To protect interest of revenue, with previous permission of (AdC/JC) when
 - Officer has evidence that taxable person has liability to pay tax, and
 - Delay in order may adversely affect revenue
 Summary Assessment order demanding tax can be passed
- Such order can be withdrawn by AdC/JC
 1. On application by person within 30 days of receipt of order
 2. On his own, if found order erroneous and may follow SCN route of sec 73/74.
- Where taxable person not ascertainable - Person in charge of goods will be deemed taxable person and liable for tax.

Audit

Two types of Audit

| Audit by Tax authorities | Special Audit |
|---|--|
| Sec 65 | Sec 66 |
| Undertook by Commissioner or person authorized by him | Undertook by CA/CMA nominated by Commissioner. Remuneration determined & paid by Comm. |
| At place of business of person or GST office | At place of business of person or CA office |
| 15 WD notice to be given | No notice required |



| | |
|--|--|
| Complete within 3 months from DoC* + 6 Months (Commissioner) | Complete within 90 days + 90 days (Commissioner) |
| No specific reason req. to conduct Audit | This can be initiated only if : At any stage of Scrutiny, Inquiry, Inspection etc. considering nature and complexity of transaction, AC has opinion that : <u>Value of supply not declared correctly, or ITC availed is not in normal limit.</u> |
| <ul style="list-style-type: none"> ➤ On conclusion of audit, person communicated finding and proposed liability ➤ If person discharge liability – no action required ➤ Otherwise, Initiate Proceeding u/s 73/74 | |

Date of commencement (DoC) of Audit

- (i) Date when records/data called for received
 - (ii) Actual Institution of audit at place of taxpayer
- Whichever is later



Chapter 18 – Inspection, Search, Seizure & Arrest

Inspection

Where JC or above can give authorization to officer for inspection, if he has Reason to Believe that

Taxable person

- Suppressed any transaction of supply of Goods/Services
- Suppressed stock in hand
- Claimed excess ITC
- Contravened any provision to evade tax

Transporter or owner/operator of warehouse

- Kept goods which evaded tax
- Kept accounts/goods in manner likely to cause evasion

Reason to believe (RTB) means : More than suspicion but less than evidence in hand

Search

Where **JC or above** has RTB that

- Any goods liable to confiscation
- Doc/books/things useful in proceedings

are secreted,

give authorization or himself do search and seize.

Power of officer during search

- Search and seizure of Goods/docs/books/things
- If not practicable to seize, can be detained
- Break/open door of premise/Almira/box if access denied
- Seal premise if access denied.
- Person can take photocopies however photocopy can be denied if officer feels it may affect investigation

However, release books/docs/ things if not relied upon within 30 days from SCN.



Manner of release of goods/ docs.

| | |
|-------------------|---|
| Provisional basis | On bond + security; or on payment of tax + Int + penalty |
| Actual return | If no SCN issued within 6 months + 6 months (extended) |
| Disposal | Considering Perishable/hazardous nature or storage constraint of goods, sale may be made. |

Basic requirement while conducting search

- Valid search warrant issued
- One lady officer with search team
- Officers shows their identity card
- On search warrant- get sign of person in-charge and 2 witnesses
- Search in presence of 2 witnesses
- Officer offer themselves for personal search before/after search operation
- Panchnama/Mahazar prepared and list of items detained/seized to be attached, one copy to be given to owner.
- Officer's name behind search warrant and return to issuing authority

Safeguard provided in search/seizure

Seized goods/documents

- Person can take photocopies
- Not to retain beyond period necessary for examination
- Return goods, if SCN not issued within 6M (+6M) of seizure
- Perishable/hazardous goods can be disposed (sale) immediately
- Conduct search in accordance with CPC (record of search sent to Commissioner of CGST rather Magistrate)

Power to summon (Sec-70)

- During enquiry, officer may summon any person to appear before him and produce evidence/document
- Summoned person is bound to:
 - Appear before Officer (himself or thru authorized rep.)
 - Tender evidence/ give statement
 - Produce required docs
- Given statement can be modified or withdrawn within reasonable time.
- If not appeared on summon penalty up to Rs. 25000 and prosecution under IPC



Use of statement made in summon in prosecution (Jail) proceedings

Statement can be relied if : Person who made statement

1. Is dead/not found
2. Incapable of giving evidence
3. Kept away by adverse party
4. Presence can't be obtained
5. Person again examined in court, and court allowed it to be as evidence.

Guideline for summon

- To be used as last resort if assessee not co-operating and should not be used for top management
- Language should not be harsh and wording should not cause mental stress
- Prior written permission from AC and above and submit report of summon
- Senior officials e.g. CEO/CFO should not be summoned unless their involvement

Precaution in Summon

- Summon only if appearance is necessary
- Not to summon repeatedly, take statement in minimum appearance
- Respect timing and don't make person wait long hours
- Statement during office hours unless exceptional cases.

Access to business premise (Sec-71)

- By officer on authorization from JC or above.
- For carrying audit, scrutiny etc.
- Can inspect BoA/doc/computers/software etc.
- Person in charge of said place, on demand, provide within 15 WD or extended period
 - Trail balance and audited financial statement
 - Cost audit report
 - Income-tax audit report
 - Other relevant records

Other officers to assist GST officers when required

1. Officers of Police, Railway, Custom
2. Govt. officers engaged in collection of land revenue
3. Village officers
4. Any other notified officers



Chapter 19 - Demand and Recovery

Basic

If officer finds that tax not paid, wrong ITC or wrong refund taken, he issues show cause notice (SCN) and seek reply, if not satisfy with reply issue Demand order.

Demand order called as Adjudication order and officer passing such order is called as adjudication authority.

After order, either pay or file appeal. If not done, force recovery will start.

Time limit

| Time limit | For SCN | Demand (Adjudication) order |
|--|----------------------------------|---|
| Sec – 73 | 2Y and 9M (3M prior to order) | 3Y |
| Sec – 74 | 4Y and 6M (6M prior to order) | 5Y |
| Self-assessed tax not paid | No need to issue | No need to issue (can directly recover) |
| Tax collected not paid – Sec 76 | No time limit | 1Y from SCN |
| Order required to be issued on direction of court etc. | | 2Y from direction |

| | |
|----------------|---|
| From | For wrong refund : Date of erroneous refund For other : Due date of Annual return (31 st Dec of next FY) Exclude - Period of stay |
| Example | Wrong ITC taken in Jan 2024. Order u/s 73 : 30.09.2027, Order u/s 73 : 31.12.2027 |

Sec-74 applies - If there is fraud, willful misstatement or suppression of facts (FMS) else 73.

Suppression means : Non-declaration of required info in return/statement etc. or non-furnishing when asked in writing.

Penalty amount – As % of tax (no penalty on interest)

| If Tax + Interest Paid | Sec 73 | Sec 74 |
|-------------------------|-------------------------------------|--------|
| Before SCN | Nil | 15% |
| Within 30 days of SCN | | 25% |
| Within 30 days of order | Higher of 10% or 10,000/- (CGST) | 50% |
| After that | | 100% |



Unpaid self-assessed tax : Sec 73(11)

| | | |
|---------------|--|--|
| Applicability | Example : Sale reported in GSTR-1 but tax not paid in 3B. | |
| Time-limit | No need to issue SCN, directly recovery can be initiated. | |
| Interest | From next day of due date of payment | |
| Penalty | If paid within 30 days from due date | No penalty |
| | If paid after 30 days from due date (Ex. Delayed filing of 3B) | General penalty u/s 125 may apply. By circular, it has been clarified that as taxpayer already filed return, hence sec 73 will not attract hence NO penalty will apply u/s 73(11) |
| | Paid after SCN u/s 73 | Higher of 10% of tax or 10,000/- (CGST) |

Special provision for : Tax collected but not paid (Sec-76)

| | | |
|---------------|---|---|
| Applicability | Person collected any amount naming tax shall pay amount to govt. even if supply was taxable at nil/lower tax. If not paid → SCN and order will be issued after considering reply | |
| Time-limit | No limit for SCN. Order to be issued within 1 year of SCN | |
| Interest | Paid before issuance of SCN : From next day of due date Paid after SCN : From date of collection from customer | |
| Penalty | If paid within 30 days from due date | No penalty |
| | If paid after 30 days but before SCN u/s 76 | General penalty u/s 125 may apply. By circular, it has been clarified that as taxpayer already filed return, hence sec 73 will not attract hence NO penalty will apply u/s 73(11). |
| | Paid after SCN u/s 76 | 100% of tax amount |

Other points

- If initially SCN issued u/s 74 but fraud not proved, can continue proceeding u/s 73 only if SCN was issued within time limit of 2Y- 9M.
- Opportunity to hearing should granted, if request received in writing or adverse order is to be passed.
- Hearing can be adjourned (max. 3 times)



Tax/ Interest/ Penalty

- Demand in order can-not exceed SCN amount and can-not be on new ground.
- Interest mandatory even not mentioned in order
- If tax modified by court/tribunal - Interest/ penalty change accordingly
- If penalty imposed u/s 73/74 – no other penalty can be levied
- If SCN issued for a period and person commit similar default in subsequent period



Then for subsequent period, detailed SCN not required, can issue “statement” containing details of tax + interest + penalty.

Payment against demand order

- General rule - within 3 month’s from service of order, if failed – recovery proceeding triggers.
- If officer consider it necessary in the interest of revenue, payment may be demanded in less than 3 months.

Payment of tax in installment

- Commissioner may extend time limit of 3 months or allow payment in max. 24 monthly installment with interest
- Default in one installment – whole amount become payable forthwith.

Facility Not Permitted

- For self-assessment tax in return (GSTR-1/3B)
- Person already defaulted in payment (3 months from order passed) hence recovery process initiated.
- Person wasn’t allowed installment payment in preceding F.Y.
- Amount for which instalment sought is < 25000

Recovery of tax

Following methods of recovery tax

1. Deduction from money owed
2. Detaining and selling goods of defaulter
3. Recovery from 3rd person with whom defaulter have credit balance (bank/customer) (Garnishee Proceeding)
4. Sale of movable/immovable property
5. Recovers as arrears of land revenue through District Collector
6. Recovery as fine imposed by magistrate
7. Recovery through execution of decree of civil court
8. Recovery through surety



If short recovery is made then it should be divided between CGST/SGST in proportion to demand due.

Garnishee proceeding

1. If 3rd person did not pay to Govt. and pays to defaulter then, liability will arise on such 3rd person.
2. 3rd person paid to the Govt. → Then he need not to pay amount to defaulter

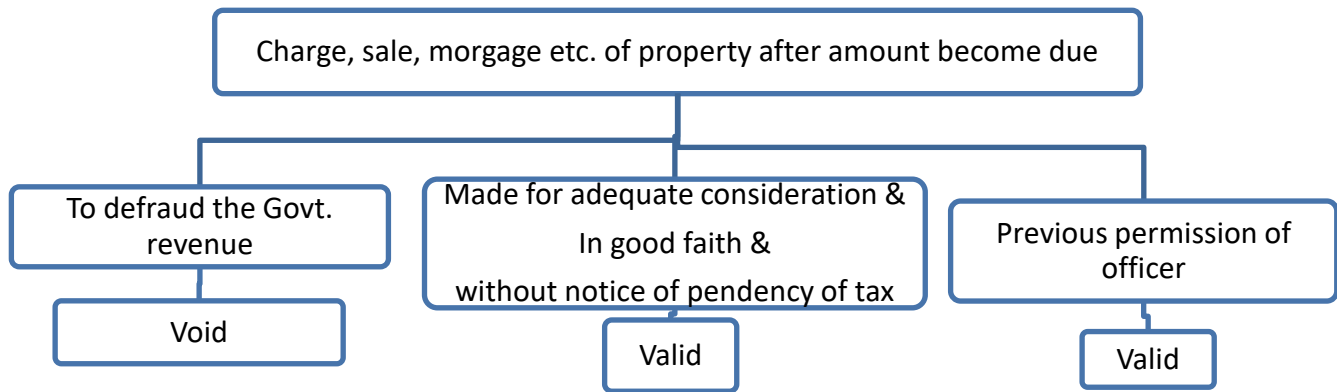
Continuation of recovery

- If demand notice served upon taxpayer and taxpayer/dept. filed any appeal/revision or other proceeding;



| Dues Enhanced | Dues Reduced |
|--|--|
| <ul style="list-style-type: none"> • Serve notice of demand for enhanced dues • For existing demand no need to issue fresh notice, recovery Proceeding to continue | <ul style="list-style-type: none"> • No need to issue fresh notice • Intimate reduction to person and recovery authority • Recovery proceeding to continue for reduced amt. |

Transfer of property after amount become due (Sec- 81)



Provisional attachment (Sec- 83)

- During pending proceeding commissioner by written order provisionally attach property including bank a/c
 - Provisional attachment gets removed On written instructions from Commissioner OR Expiry of 1 year from attachment order
- } Whichever is earlier



Chapter 20 : Liability to pay in certain cases

In these cases, Dues (Tax, Int and penalty) can ALSO be recovered from person other than person to which liability pertains.

| Liability in case of | Person liable |
|--|--|
| Trf. Of business (Sale, gift, lease, licence) | <p><u>For period</u> before transfer – Transferer and transferee both liable <u>jointly and severally (JaS)</u></p> <p><u>For period</u> after transfer – Only transferee</p> <p>Note : Period for which dues pertains is relevant, order date may be before or after</p> |
| Change in constitution of firm/AOP | Liability for period before change: Partner/member before change and after change (JaS) |
| Supply by agent | Principle and Agent (JaS) <u>(when invoice in name of agent)</u> |
| Co. in liquidation | <ul style="list-style-type: none"> • Liquidator to intimate of his appointment to Commissioner within 30 days • Commissioner notify the amount which is due or likely to become due to liquidator – within 3 month's from intimation |
| <u>Private</u> Company (During operation as well as wound up) | <p>Person who was <u>Director</u> during that period to which dues relates (JaS)</p> <p>Except:</p> <ol style="list-style-type: none"> 1. If he proves: non-recovery not attributable to any gross negligence/ misfeasance/ breach of duty 2. Pvt. Co. converted into Public Co. even if dues relates to period when it was Pvt. <p>Note : Director will always liable for personal penalty imposed on such director</p> |
| Partnership firm | <p>All partners and Firm (JaS)</p> <p>Retiring partner shall intimate date of retirement within 1 month to commissioner</p> <ul style="list-style-type: none"> ➤ Intimated within time- liable up to date of retirement ➤ Not intimated within time- liable up to date of intimation |
| Partition/dissolution /business discontinuation of HUF/AOP/Firm | <p>Liability for the <u>period</u> before partition/dissolution – Each partner/member (JaS)</p> <p>Whether dues determine before or after dissolution.</p> |
| Death of person | <u>Business continued</u> – Legal representative/person who carrying business (No limit) |



| | |
|-----------------------------------|--|
| | <u>Business discontinued</u> - Legal representative <u>liable to the extent of estate (property) of deceased</u> |
| Guardian/Trustee | Business by Guardian/ Trustee/ Agent on behalf of minor/ incapacitated person Liability will be of Guardian/ Trustee/ Agent |
| Termination of guardianship/trust | Person on whose behalf business was carried on/ Beneficiary |
| Order of court | Court of Wards, Administrator General, Official Trustee, receiver or manager who is controlling Business/ Estate of person under order of court. |

Amalgamation and merger of A Ltd. and B Ltd. by court

Effective date of amalgamation order (1st Jan) ←-----→ Date of order received (10th Jan)

↓

Both cos will be treated as separate entity till 10th Jan.
Any supply between both companies between 1st and 10th will be taxable.
GST registration Certificate shall be cancelled from 10th Jan

Meaning of Jointly and severally liability

If demand is 10,000/- on firm having 3 partner. Firm as well as each partner will be liable to pay 10,000/- individually. However, total recovery will be made 10,000/- only.

Ensure to write Jointly and severally in exam where-ever applicable.



Chapter 21 :Offences & penalties and Ethical aspects under GST

Penalty amount, if taxable person commits any offences given below

| CGST | SGST | IGST |
|---|---|---|
| Higher of 10,000 or CGST amt. involved | Higher of 10,000 or SGST amt. involved | Higher of 20,000 or IGST amt. involved |

| Class | Offence |
|------------------------------------|---|
| Related to Invoices | <ol style="list-style-type: none"> 1. Supply without/ false Invoice 2. Issue invoice without supply 3. Issue invoice or document using another's GSTIN |
| Related to Payment and ITC | <ol style="list-style-type: none"> 4. Collect tax – and not paid to Govt. within 3 months from due date 5. Collect tax in contravention of Act - and not paid within 3 months from due date 6. Non-Deduction or non-deposit of TDS or TCS 7. Avail or utilize ITC without actual receipt of G/S 8. ISD take/ Distribute ITC in contravention 9. Fraudulently obtain refund 10. Suppression of turnover |
| Related to Records and Information | <ol style="list-style-type: none"> 11. Falsification of Records/ Accounts/ Information to evade tax 12. Fails to maintain Document/ Accounts 13. Fails to furnish or furnish false Information/ Documents 14. Tampering/ destroying any material evidence 15. Preventing officer from discharge of duties |
| Related to registration | <ol style="list-style-type: none"> 16. Liable but failed to register 17. False information while applying for registration |
| Related to Transport | <ol style="list-style-type: none"> 18. Transport taxable goods without prescribed document 19. Supply/ transport/ Store Goods liable to confiscate 20. Dispose/ tamper with goods detained/ seized/ attached |

Penalty under Sec- 122 (2)

| | |
|------------|--|
| Offences | <ul style="list-style-type: none"> • Supply on which tax short/not paid • Wrong refund taken • ITC wrongly availed/utilized |
| Penalty on | Registered person |



| | | | |
|---------------------|---|-------------------------|-------------------------|
| Penalty | If for reason of fraud, willful mis-statement, suppression of facts (FMS) | | |
| | No – (Same as Sec 73) | | |
| | CGST | SGST | IGST |
| | Higher of | Higher of | Higher of |
| | 10,000 or 10% of CGST amt. | 10,000 or 10% SGST amt. | 20,000 or 10% IGST amt. |
| | Yes | | |
| CGST | SGST | IGST | |
| Higher of | Higher of | Higher of | |
| 10,000 or CGST amt. | 10,000 or SGST amt. | 20,000 or IGST amt. | |

Penalty on master-mind/consultant

| | |
|------------|---|
| Offences | <ul style="list-style-type: none"> • Supply without/false Invoice • Issue invoice without supply • Avail/utilize ITC without receipt of G/S • ISD - take/ distribute ITC in contravention |
| Penalty on | Person on whose instruction transaction happened (consultant) Or Person benefitted |
| Penalty | Amount of tax involved |

Small offences

| | | | |
|------------|--|--------------|--------------|
| Offences | <ul style="list-style-type: none"> ➤ <u>Aids/ abets</u> in above 21 offences ➤ Deals with goods he knows/ believe are liable to confiscation ➤ Receive/deals supply he knows/ believe contrary to provision of law ➤ Fails to appear before officer when summon been issued ➤ Fails to issue or account for invoice | | |
| Penalty on | Any person | | |
| Penalty | CGST | SGST | IGST |
| | <u>Up-to</u> 25,000 | Up-to 25,000 | Up-to 50,000 |



Penalty on ECO

| | | | |
|------------|--|---|---|
| Offences | <ul style="list-style-type: none"> Allow supply by URP except permitted URP (who complies conditions) Allow inter-state supply to composition taxpayer Fail to furnish correct info in TCS return | | |
| Penalty on | ECO | | |
| Penalty | CGST | SGST | IGST |
| | Higher of 10,000 or tax involved @ regular tax rate | Higher of 10,000 or tax involved @ regular tax rate | Higher of 20,000 or tax involved @ regular tax rate |

Penalty for Sec-151

| | | |
|----------|---|--|
| Offences | Section – 151 : Officer can order to furnish any info <ul style="list-style-type: none"> Not submitted info without reasonable cause. Submitted false info willfully. | |
| Penalty | CGST | SGST |
| | Up-to 10,000 <u>Additional</u> for continuing offence <u>Lower of</u> Up-to 100/- per day 25,000/- | Up-to 10,000 <u>Additional</u> for continuing offence <u>Lower of</u> Up-to 100/- per day 25,000/- |

General penalty (Sec -125) & residual penalty (Sec – 127)

- If no penalty prescribed for any offence than general penalty up-to 25,000 + 25,000 (C+ S)
- Officer is view that person liable to penalty but same is not covered in Sec 62-64, 73-74 & 129-130, he can impose such penalty.
- Penalty for non-registering the tobacco machine → Rs. 1L + 1L per machine (Amendment)

General discipline relating to penalty (Sec -126)

- No penalty in case
Minor breach of tax amount of up-to Rs. 4,999 + 4,999 (CGST+ SGST) (i.e. less than 5000), of
 - Procedural requirement
 - Omission/mistake in documents easily rectifiable + without fraudulent intent.

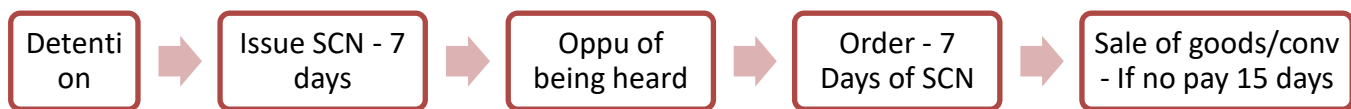


- Penalty shall commensurate with degree and severity of breach
 - Penalty can be levied only after issue of SCN and hearing opportunity
 - Officer to specify nature of breach and provision under which penalty leviable
 - Voluntary disclosure of breach - mitigating factor to quantify penalty
- This section not applicable when **fixed** amount or fixed % penalty given for offence (Ex. Sec. 122)

Sec- 129 Detention and Seizure

| | | | | |
|-------------|--|--|--|--|
| Offences | <ul style="list-style-type: none"> • <u>Person transporting goods/ store goods while in transit in contravention of provisions of E-way bill.</u> • This section applies only when goods in-transit. | | | |
| Consequence | Seizure or detention of a) Goods b) Conveyance c) Documents | | | |
| Penalty on | Owner of goods – For releasing goods and conveyance | | | |
| Penalty | Goods | CGST | SGST | IGST |
| | Taxable | 200% of CGST | 200% of SGST | 200% of IGST |
| | Exempted | <u>Lower of</u> 25000 or 2% of goods value | <u>Lower of</u> 25000 or 2% | <u>Lower of</u> 50000 or 4% |
| Penalty on | IF owner doesn't come and paid by transporter | | | |
| Penalty | For releasing both goods and conveyance | | | |
| | Goods | CGST | SGST | IGST |
| | Taxable | <u>Higher of</u> 200% of CGST 50% of goods value | <u>Higher of</u> 200% of SGST 50% of value | <u>Higher of</u> 200% of IGST 100% of value |
| | Exempted | <u>Lower of</u> 25000 or 5% of goods value | <u>Lower of</u> 25000 or 5% | <u>Lower of</u> 50000 or 10% |
| | For releasing only conveyance <u>Lower of</u> : 1L + 1L (C+S) or above penalty | | | |





Penalty for minor error in E-way bill

| | | | |
|----------|---|------|------|
| Offences | <ul style="list-style-type: none"> Spelling mistake in name – GSTIN correct Error in PIN or address – Locality correct Error up-to 2 digits in Vehicle, invoice or HSN number. First 2 digits of HSN correct | | |
| Penalty | CGST | SGST | IGST |
| | 500 | 500 | 1000 |

Sec- 130 : Confiscation of goods and conveyance

| | | | | | | | |
|------------------------------|--|----------|----------|--------------|---|------------------------|---------------------------------|
| Offences | <ul style="list-style-type: none"> Supply/receive goods in contravention of provision with <u>intent to evade tax</u> Contravention of any provision with intent to evade tax Not account for goods on which tax liability is there Supply goods liable to tax without registration Use conveyance for carriage of goods in contravention of Act unless owner proves same to be without his knowledge | | | | | | |
| Consequence | Confiscation of a) Goods or/and conveyance + b) Penalty : u/s 122 | | | | | | |
| Fine in lieu of confiscation | On goods <table border="1" style="margin-left: 20px;"> <tr> <td></td> <td>C+S or I</td> </tr> <tr> <td>Maximum fine</td> <td>Market value of goods (less) tax on goods</td> </tr> <tr> <td>Minimum fine + penalty</td> <td><u>100% of the tax on goods</u></td> </tr> </table> | | C+S or I | Maximum fine | Market value of goods (less) tax on goods | Minimum fine + penalty | <u>100% of the tax on goods</u> |
| | | C+S or I | | | | | |
| Maximum fine | Market value of goods (less) tax on goods | | | | | | |
| Minimum fine + penalty | <u>100% of the tax on goods</u> | | | | | | |
| | On conveyance 100% of tax on goods If not paid within reasonable time (max 3 months) – Sale of goods/conveyance | | | | | | |

Punishment (JAIL) for certain offences (Sec- 132)

Process : If an offence is liable for persecution (Jail) then there will be 2 processes

- GST Dept. will study documents etc. → give SCN u/s 73/74 with penalties → Issue demand order → Taxpayer to file appeal with appellate authority else recovery process (Normal process applies to all)



2. Simultaneously, GST Dept. files case in the court and submit evidences, then court will take generally 1-5 years time to decide whether guilty or not and decide for jail terms. Further appeal can be filed in higher court.

List of offences liable for prosecution: Any person who commits **OR** cause to commit and retain benefit of below offences

| Class | Offence |
|--|--|
| Related to Invoice | 1. Supply without Invoice 2. Issue invoice without supply |
| Related to Tax/ITC | 3. Takes/ utilize ITC without actual receipt of G/S or invoice. 4. Collect tax not paid to Govt. within 3 months from due date 5. Evade tax or fraudulently obtain refund |
| Related to documents, goods and services | 6. Produce false/fake records/ accounts/ Information to evade tax 7. Supply, transport, deals with goods which he knows/believe are liable for confiscation. 8. Receive, supply, deals with services which he knows/believe are in contravention of law. |
| Attempt or abet (Help) | 9. Attempts to commit, or abet commission of all above offences |

| | If tax evaded/ wrong ITC/ excess refund (C+S+I) | Imprisonment period |
|----------------|--|---------------------------|
| First time | >5 crore | 6M to 5Y and fine |
| | >2 crore ≤ 5 crore | 6M to 3Y and fine |
| | Only if : Issue invoice without supply & >1 crore ≤ 2 crore | 6M to 1Y and fine |
| | Produce false/fake records/ accounts/ info to evade tax – Any amount | 6M OR fine or both |
| Repeat Offence | Any amount | 6M to 5Y and fine |

In absence of special and adequate reasons to the contrary recorded by court, min. 6M imprisonment.

Arrest (Sec 69)

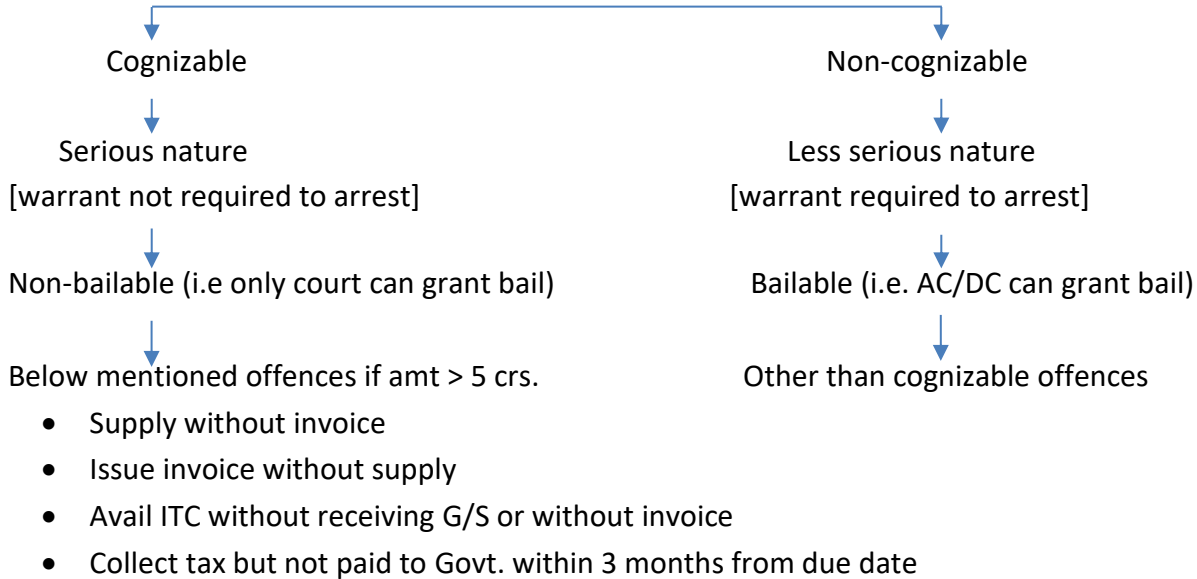
Commissioner can authorize officer to arrest a person if both two conditions satisfy:

| Condition 1 | Condition 2 |
|---|--------------------|
| I. Person committed following offences a) Supply without Invoice | II. Monetary limit |



| | |
|--|--|
| b) Issue invoice without Supply c) ITC availed without receiving G/S or without Invoice d) Collected tax not paid to govt. within 3 months from due date | ➤ First time offender - if tax evasion amount > 2 crore ➤ Repeat offender case - no limit |
|--|--|

Cognizable and non-cognizable offences



Note : Arrest and prosecution are 2 different things. Person arrested either get bail or remain in jail, meanwhile court case hearing will continue simultaneously to decide whether such person is guilty or not.

Safeguard for arrest

- If arrested for cognizable offence, he should be produced before magistrate within 24 hours.
- If arrested for non-cognizable - AC/DC can grant bail.
- All arrest as per CPC

Compounding of offence by Commissioner

Any offence can be compounded before or after filing of prosecution case in court on payment of compounding fees to Govt.

Compounding means - Saving from prosecution on payment of compounding fees (Paise de ke Jail se bachna)

Following offences can-not be compounded

- Person already been compounded once earlier in respect of any offence u/s 132
- Person committed/abated offence of issuing invoice without supply
- Already convicted for offence by court (i.e court decision already came)



Compounding fees: As % of tax/ITC involved

| Nature of offence | Amount of Tax/ITC involved | |
|---|----------------------------|--------------------------|
| | > 5 Crores | >2 Crs. ≤ 5 Crs. |
| Supply without Invoice ITC availed without receiving G/S or without Invoice Collected tax not paid to govt. within 3 months from due date Evade tax or fraudulently obtain refund | Min. – 50% Max. – 75% | Min. – 40% Max. – 60% |
| Produce false/fake records/ accounts/ Information to evade tax Supply, transport, deals with goods which he knows/believe are liable for confiscation. Receive, supply, deals with services which he knows/believe are in contravention of law. | 25% | 25% |
| <u>Attempt to commit or abet</u> the offence except offence of invoice without supply. | 25% | 25% |

- If offence falls in more than one category then compounding amount will be amount determined for offence for which higher % prescribed.
- Payment of tax, interest and penalty is separately payable.
- Compounding can be withdrawn if person concealed details or given false evidence.

Offences by companies, firm etc.

Offence committed by company, Firm, LLP, HUF, Trust, punishment (Jail) will be given to

- 1) Such company, firm etc.
- 2) Person incharge/responsible for conduct of business at the time of offence by co./firm
- 3) Director /manager/officer, if it proves that offence committed
 - i) With consent/connivance of such D/M/O, or
 - ii) Attributable to negligence of such D/M/O
- 4) Partner, Karta or Managing Trustee

Saving from punishment: If above people prove that:

- i) Offence was committed without his knowledge; or
- ii) He exercised all due diligence to prevent offence



Ethical aspects under GST

Ethics can be defined as normal principal that governs person's behavior, ethical distinguish between right & wrong. CAs are bound to ethical guidelines issued by ICA known as "Code of ethics" which encourages to meet fundamental principles ie.

- (i) Integrity
- (ii) Objectivity
- (iii) Confidentiality
- (iv) Professional competence
- (v) Professional behavior

CA needs to follow ethical conduct while discharging his duties else will be guilty of professional misconduct as follows:

Clause-7 of Part I of 2nd Schedule

If not exercise due diligence or is grossly negligent in conduct of professional duties.

Clause-8 of Part-I of 2nd Schedule

If fails to obtain sufficient information necessary to express opinion sufficient to negate expression of opinion or its exceptions

Certification by CAs in GST

- 1) Certificate for transfer of liability : In Case of sale, merger, amalgamation etc. of business, unutilized ITC can be transferred thru Form ITC-02, only if CA certified that business was transferred along with liabilities viz. creditors.
- 2) Certificate for no unjust enrichment
If Refund claim > 2,00,000, taxpayer to take cert. from CA/CMA that there is no unjust enrichment
- 3) Certificate for availing ITC on input/CG: At the time of
 - Obtaining registration/ voluntary registration
 - Converting to regular taxpayer from composition
 - Exempt Supply become taxable SupplyIf claim is for > 2,00,000 [C+S+I], Form ITC-01 to be certified by practicing CA/CMA.
- 4) Certificate for correct reversal of ITC at the time of
 - Cancellation of registration
 - Switch from regular to composition Scheme
 - Taxable supply become exempt supply



If purchase tax invoices not available for input/CG, reversal should be based on prevailing market price Certified by CA/CMA

Common Points for above 4 Certificates

CA is required to examine BoA and other relevant document/records and to provide reasonable assurance that

- Transfer of business done with Provision for transfer of liabilities
- In refund of tax : Incident has not passed to other person
- Amount declared in form GST ITC-01 is accurately drawn
- Amount of ITC reversed is correct based on the prevailing market price.

Special audit u/s 66

Points to keep in consideration by CA

- CA must be unbiased / impartial / free from influence/ free from conflict of Interest
- Findings should be based on facts/evidence
- Must understand scope & objective of Special audit
- Refrain from engaging in activity/relationship that affects objectivity and independence
- Disclose conflict of interest when arises.
- Audit fees for Special audit u/s 66 paid by department, CA shall not charge by taxpayer else liable for general penalty of Rs. 25k+25k

Case studies given in study material

| Sec | Offence | Tax + Penalty |
|----------|---|------------------------------------|
| 73 | Tax not/short paid, wrong ITC availed (non-fraud) | Tax + 10% penalty |
| 74 | Tax not/short paid, wrong ITC availed (fraud) | Tax + 100% penalty |
| 122 (ii) | Invoice without supply | Only penalty of 10K or 100% of tax |
| 122(iiv) | ITC without goods/services | |
| 122(1A) | Any person retain benefit of above crime and on whose instance such crime conducted | 100% penalty |



| | | |
|--------|---|-------------|
| 122(3) | Aids/assist in crime | Up-to 25000 |
| 75(13) | If penalty imposed u/s 73/74, no penalty under any other section for same offence | |

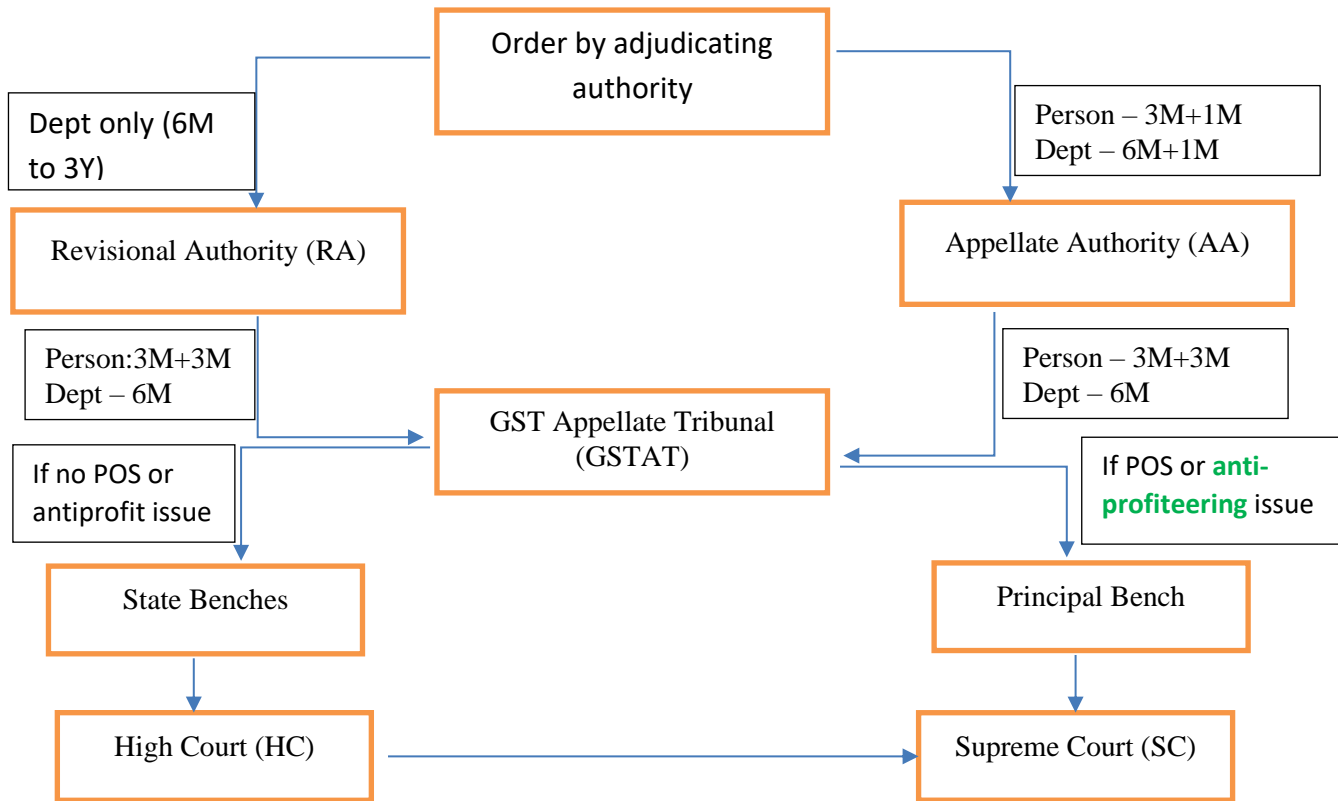
| <u>Case</u> | <u>Penalty</u> |
|---|---|
| A issued invoice without supply to B | <ul style="list-style-type: none"> ➤ No Supply → No tax → No penalty u/s 73/74 ➤ Penalty for invoice without supply u/s 122(1)(ii) |
| B took ITC and issued invoice to C <u>without</u> supply of G/S | <ul style="list-style-type: none"> ➤ No Supply → No Tax → No penalty u/s 73/74 ➤ 100% penalty for wrong ITC u/s 122(1)(iiv) ➤ 100% penalty for invoice without supply u/s 122(1)(ii) |
| C took ITC and supply invoice to D <u>with</u> supply of G/S. | <ul style="list-style-type: none"> ➤ Reversal of ITC & 100% penalty u/s 74 for wrong ITC. ➤ No penalty u/s 122 due to provision of 75(13). |

Also, Imprisonment as per Section 132



Chapter 22 - Appeal & Revision

Flow of Appeal process:



Definition of adjudicating authority

Means any authority, appointed or authorised to pass any order or decision

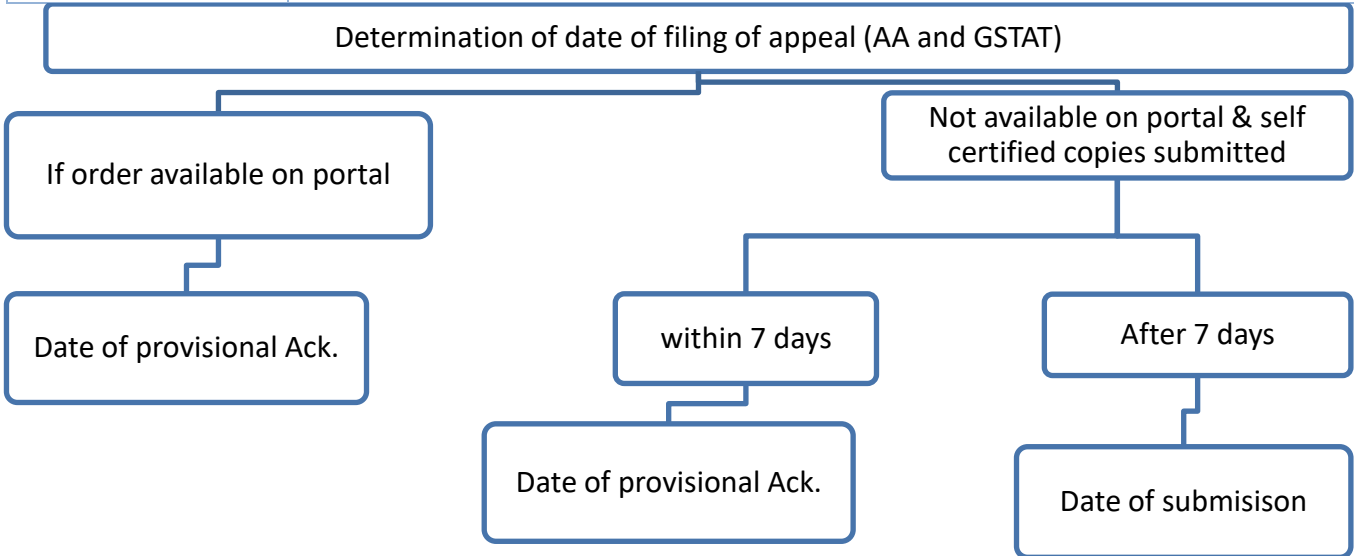
Does not include - CBIC, RA, AA, GSTAT, AAR, and AAAR.

Appeal to Appellate Authority (AA)

| | By Taxpayer | By Department Called as "Review Application" |
|---------------------------|---|--|
| Appealable order | <u>Order</u> of adjudicating Auth. | Order of adjudicating Auth. |
| Reason | Taxpayer feels that demand is wrong | Commissioner wants to validate the legality and propriety of order |
| Time limit | <u>3 months</u> from <u>communication</u> of order <u>1 month</u> condonation on sufficient reason | <u>6 Months</u> <u>1 Month condonation</u> |
| Electronic application | In APL-01 – Provisional ack. will be issued | In APL-03 |
| Pre-deposit | Refer below | Not required |
| <u>Manual application</u> | <u>Allowed only if</u> | |



| | |
|-----------|---|
| | a) Commissioner has so notified, or b) Can-not be filed electronically due to order not uploaded on portal |
| Final Ack | In APL-02 |




Appeal process

| | |
|------------|---|
| Duties | Follow principle of natural justice <ul style="list-style-type: none"> ➤ Hear the applicant ➤ Allowing adjournment (Max. 3) ➤ Admit additional ground only if reasonable |
| Order | a) Confirm, modify, annul order b) Increase the penalty or reduce ITC/refund – After hearing c) Raise a new demand of tax, ITC reduction – By SCN, only within time limit of Sec. 73/74. Can-not refer the case back to adjudicating auth. |
| Time limit | Advisory time limit – 1 Year (exclude stay period) |

Revision by RA

| | |
|------------------------|---|
| Meaning | Revision by RA of order passed by adjudicating authority |
| RA will review records | a) On his own b) On certain information received c) On request of SGST commissioner |
| When | On reading the records, if RA feels that order a) Is erroneous and prejudicial (loss) to Govt And |



| | |
|---------------------------|---|
| | b) Order is illegal or improper or material facts ignored (Facts available at the time of order or later fact) c) Observation of CAG |
| Time limit | After 6 months and before 3 years from Order Exclude : Period for which stay granted by court etc. |
| Revisional Order | Enhancing, modifying, annulling the original order |
| Revision not possible for | <ul style="list-style-type: none"> • 6 month's not expired or 3 years expired • Order already revised earlier • Order sought to revise is itself revision order • Order subjected to appeal before AA/ GSTAT/ HC/ SC However, point not subjected to appeal can be taken for revision • 1 year from date of order of appeal • 3 year from date of original order <div style="text-align: right;">  </div> |

Appeal to Appellate Tribunal (GSTAT)

| | |
|--|--|
| Who | <u>Taxpayer or dept. against order of AA/RA or anti-profiteering authority (amendment)</u> |
| Time limit | <u>Taxpayer</u> <u>3 Months</u> from date of <u>communication</u> of order Delay in <u>3 Month condoned</u> on sufficient reason <u>Dept</u> - 6 Months (no condonation) |
| Tribunal can refuse to admit appeal if | a) Tax or ITC involved b) Fine, fee, penalty Does not exceed 50,000/- |
| Cross objection | Respondent can file memorandum of cross-objections in 45 + 45 (Extn) days |
| Order | Confirm, modify, annual the order of AA/RA Refer the case back to AA, RA or Adj. auth. with direction. |
| Rectification of error | Only for <u>error apparent</u> on face of the record after giving hearing to affected party. Within 3 months |
| Withdrawal of appeal (Same for GSTAT & AA) (Amendment) | Before final acknowledgement → No need of approval to withdraw After final acknowledgement → Approval of GSTAT/AA required Withdrawal not allowed after order i.e. decision of the case. |

Hearing by single member of GSTAT

Hearing by single member (judge) if all 4 satisfied, else 2 judges.

- a) Amount of dispute ≤ 50L



- b) No question of law
- c) Prior approval of president
- d) Any other prescribed condition

Where 2 members heard the case and have different view on any point that such point to be referred to one more member and then decide based on majority.

Mandatory pre-deposit for filing appeal

Appeal before **AA** - Pre-deposit amount – Sum of (1+2)

- 1) 100% of Tax + int + penalty **accepted**
- 2)

| CGST | SGST | IGST |
|---|---|---|
| <u>Lower of</u> 10% of <u>TAX in dispute</u> <u>or</u> 25 Crores | <u>Lower of</u> 10% of <u>TAX in dispute</u> <u>or</u> 25 Crores | <u>Lower of</u> 10% of <u>TAX in dispute</u> <u>or</u> 50 Crores |

If demand under all 3 heads under one order: Max pre-deposit – 50 Crores

Demand relates to Sec. 129 (In-transit detention) : Pre-deposit is 25% of penalty levied.

Appeal before **Tribunal** - Pre-deposit amount - Sum of (1+2)

- 1) 100% of Tax + Int + Penalty **accepted**
- 2)

| CGST | SGST | IGST |
|---|---|--|
| <u>Lower of</u> 20% of <u>TAX in dispute</u> <u>or</u> 50 Crores | <u>Lower of</u> 20% of <u>TAX in dispute</u> <u>or</u> 50 Crores | <u>Lower of</u> 20% of <u>TAX in dispute</u> <u>or</u> 100 Crores |

Note : Above amount is in addition to amount already deposited with AA

On payment of pre-deposit, balance demand get stayed.

Interest on refund of pre-deposit - @9% p.a.

From Date of **PAYMENT OF PRE-DEPOSIT**
To Date of refund received



Production of additional evidences

Generally, evidences before AA/Tribunal not allowed to produce other than produced before adjudicating authority.

Exception: (Allowed if,)

- Adjudicating authority/AA refused to admit evidence, which should have been admitted
- Appellant prevented by sufficient cause from producing evidence which was called upon or relevant to ground of appeal.
- Made order without sufficient opportunity to appellant to produce relevant evidence

Conditions :

- i) After recording the reason in writing
- ii) Reasonable opportunity of cross examination/ rebuttal provided to adjudicating auth.

Authorized representative

A person can appear before officer/AA/ Tribunal through following authorized representative

- (i) Relative
- (ii) Regular employee
- (iii) CA/CS/ CMA/ Advocate
- (iv) GST Practitioners
- (v) IDT Gazettes officer > 2 years exp. (only after 1 year of retirement/resignation)

Disqualification for being authorized representative

- (i) Dismissed/ removed from Govt. Office
- (ii) Convicted of offence in proceeding under IDT laws.
- (iii) Guilty of misconduct
- (iv) Insolvent person during insolvency

Appeal to High Court

- Who – Dept or taxpayer aggrieved by order of **State Bench** of Tribunal
- Condition - If substantial interpretation/question of law involved
- Within 180 days from order (may condone delay)
- CPC will apply
- Will be heard by at-least 2 judges.
- Full payment of demand confirmed by Tribunal is to be made unless stayed by HC.



Appeal to Supreme Court

Who : Person aggrieved by order of HC or Principle bench of Tribunal

No appeal policy to reduce litigation

Purpose: To reduce litigation, by not filing appeal by dept. in non-complex and small amount matters.

- CBIC fixed limits as follows:

(Amendment)

| Forum | CGST + SGST + IGST + Cess (Only tax amount to take) | Interest + penalty + fee (when no dispute of TAX amount) |
|---------------|---|--|
| GSTAT | 20 lacs | 20 lacs |
| High Court | 100 lacs | 100 lacs |
| Supreme Court | 200 lacs | 200 lacs |

- Limit not applicable
 - iii) if provisions, rules, notification have been held “*ultra vires*” or
 - iv) *issue relating to valuation, classification, refund, POS which is recurring in nature or involves interpretation.*
- Non-filing of appeal due to such limit
 - i) Not preclude to file appeal in other matter
 - ii) Taxpayer can't contend that officer agreed with decision by not filing the appeal

Non- appealable decision/ orders (Sec-121)

- Order of transfer of proceeding from one officer to another
- Order of seizure/ retention of BoA/ register/ document
- Order of sanctioning prosecution
- Order u/s 80 (payment of tax in installment)



Chapter 23 : Advancing Ruling

Authority of advance ruling (AAR)

Appellate authority of advance ruling (AAAR)

Advance ruling:

I installed centralised AC in my coaching center, whether ITC eligible?

If I have doubt, then I can go to “AAR” to get the answer in advance.

If AAR say - Yes : I will take, in future during audit, officer can't deny.

If AAR say – No : I can appeal to AAAR : if AAAR allows - I can take; if don't allow - can't take.

Hence providing certainty and reducing future litigation.

Advance ruling means :

- Decision provided by AAR or AAAR to an applicant on questions, in relation to supply being undertaken or proposed to undertaken by applicant
- Applicant may be registered or not registered

| <u>Question for which Advance Ruling can be sought</u> | <u>Ruling can't be sought on</u> |
|---|--|
| <ul style="list-style-type: none">➤ Registration required/ not required➤ Whether transaction is supply or not➤ Goods/service is liable to tax or not➤ Classification of goods and services➤ Time and value of supply➤ ITC allowed or not➤ Applicability of notification | <ul style="list-style-type: none">➤ Question already pending in proceeding➤ Question already decided in proceeding➤ Determination of place of supply |

Composition of AAR and AAAR

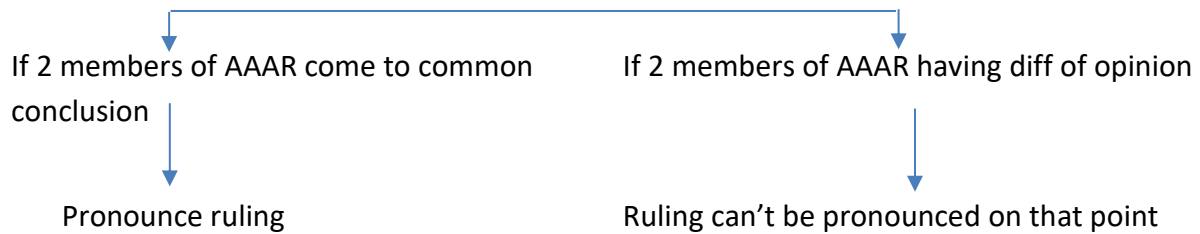
- AAR/AAAR constituted under State/ UT Act, shall deemed to be AAR/AAAR under CGST Act.
- Govt. shall appoint officer not below the rank of Joint Commissioner as member of AAR
- Ruling applicable only within the concerned State to which AAR relates (Not all India)

Process for advance ruling

- Applicant make application on GST Portal with fee of 5000+5000
- AAR forward copy to concerned officer and call for relevant records.
- AAR will examine application, record and hear applicant and will pass order either admitting or rejecting the application.



- Rejection should be by speaking order after providing hearing
- If admitted, pronounce ruling within 90 days of application
- Before ruling, Hearing should be provided to both parties
- If difference of opinion between 2 members of AAR refer **such point** to 2 members of AAAR



Process of AAAR

- Taxpayer/ dept. aggrieved by AAR Ruling can file appeal to AAAR
- within 30 days + 30 days (condonation) from communication of ruling (Fee 10k+10k)
- Pass order within 90 days – may confirm/ modify
- Difference of opinion – Ruling can't be pronounced

Applicability of Ruling

- Ruling applicable only on such applicant (Mr. A) and jurisdictional officer for such applicant
 - Ruling issued for Mr. A is not binding on Mr. B and officer of Mr. B
- Ruling applicable forever unless there is change in law/ fact/ circumstance based on which ruling made

Ruling void in following cases

- If AAR/AAAR find that ruling obtained by fraud/ suppression of facts/ misrepresentation,
- It may by order, declare such ruling void-ab-initio after hearing application.
- Period between Ruling and void date to be excluded from time limit of SCN and order u/s 73/74.



Chapter 24 : Miscellaneous Provision

Disclosure of information by public servant

- Particulars given in statement, return, account and records, record of evidence shall not be disclosed.
- Except in below cases
 - For prosecution proceeding
 - To CG/SG for purpose of carrying out object of this Act
 - For furnishing info to court where Govt. is a party
 - To officer for purpose of audit or refund
 - To officer of CG/SG for the purpose enabling Govt. of levy or realise any tax.
 - For inquiry into a charge of misconduct by any professional (CA, CS, CMA).

Consent based sharing of information

Registered person may provide consent to common portal (GSTN portal) to share information furnished in

- a) Registration form REG-01
- b) Form 3B, Annual return
- c) Supply reported in GSTR1, E-invoice, EWB

To following system :

- a) Account Aggregator
- b) Public tech platform for Frictionless credit

Use : To enable Bank, vendor etc. to automatically verify turnover etc. details while granting loan/credit to such person.

Publication of info (Sec 159)

- If commissioner consider necessary/ expedient in public interest to publish name and other particulars of proceeding it may cause to do so.
- However, no publication **related to penalty** if:
 - Time for appeal not expired (3+1 months)
 - Appeal filed but not disposed off yet

Assessment etc. not become invalid even if

Some mistake, defect, omission is there, however such proceedings are in conformity with intent, purpose of Act.



- Service of notice, order etc. can't be invalid
 - if person has acted on it, or
 - it has not been questioned in the earliest proceeding commenced based on such notice, order.

Rectification (Sec-161)

| | |
|------------|---|
| Who | Any authority may rectify its <u>mistake apparent on face of</u> <ul style="list-style-type: none"> ➤ Order/ decision/ certificate ➤ Notice ➤ Any other document Note : Decision on debatable point is not mistake apparent from face |
| When | <ul style="list-style-type: none"> ➤ Suo- Moto ➤ Brought to notice by officer ➤ Brought to notice by affected person within 3 months |
| Time limit | <ul style="list-style-type: none"> ➤ Within 6 months from order date ➤ However, no time limit if purely clerical, arithmetical error from accidental slip/ omission |
| Precaution | Principles of natural justice to be followed if rectification adversely affect. |

Service of notice (Sec-169)

Mode of service

- Giving/ tendering directly to
 - Taxable person
 - Manager/authorised rep
 - Advocate/ tax practitioner
 - Regular employee
 - Family member
- Registered/ Speed Post/ Courier
- E-mail
- Display on common portal
- Publish in Newspaper
- Affix at place of business or residence or notice board of dept.

Rounding off

Consolidated payment to Govt. should round off to nearest rupee.

| | | |
|------------|-----------|------------|
| 31.05 = 31 | 31.5 = 32 | 31.49 = 31 |
|------------|-----------|------------|

Note : Each invoice not to round off.



Issuance of circular/ rules

CBIC can issue circular for uniformity in implementation of Act (When diff people have diff interpretation)

Circulars binding on dept. but not on assessee.

If circular contrary to law, law will prevail.

Rules can prescribe penalty of max. 10,000/- for any breach.

Anti-profiteering measures (Sec- 171)

Sec 171 : Reduction in GST rates/ benefit of ITC shall be passed on to consumer by reduction in price.

(Inclusive GST of 18%)

GST Rate reduced to 12%

Movie ticket price -----> 300 -----> New ticket price?

To ensure compliance : Principle bench of GSTAT to examine the compliance (Amendment)

Function of GSTAT

- Determine whether benefit passed onto buyer or not
- Identify who did not passed benefit
- Order
 - Reduction in price
 - Return to recipient, benefit not passed earlier along with interest @18% p.a.
 - Imposing penalty
 - Cancellation of registration
- Furnish quarterly performance reports

Penalty – 10% of profiteered amount, if not deposited within 30 days of order.

Cross empowerment of officers (Sec 6)

- Officer appointed under SGST Act authorized to act as officer for CGST Act & vice-versa.
- Officer of CGST act can issue SCN, order etc. both under CGST and SGST under intimation to jurisdictional SGST officer & vice-versa.
- Proceeding for rectification/ appeal/ revision of order passed by CGST Officer shall not lie before an SGST Officer & vice-versa.
- Where officer of SGST has initiated proceeding/inquiry on a matter, CGST officer can-not initiate inquiry on said matter & vice-versa.

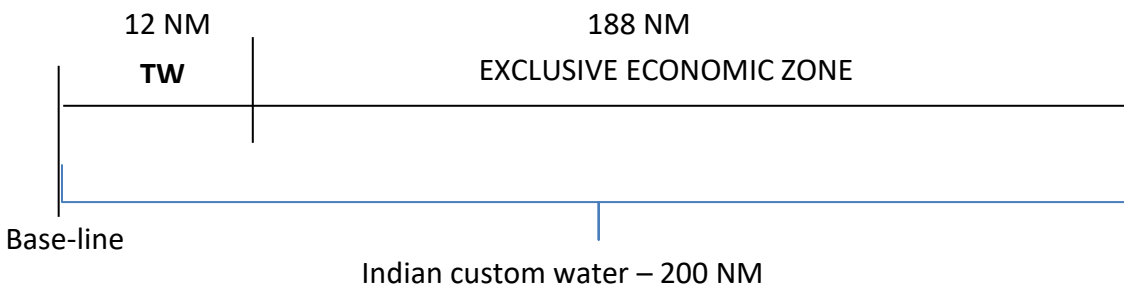


Chapter 1 : Levy and Exemptions from custom duty

Basic

Custom duty applicable on

- Import:- Bringing **goods** into India from place outside India
- Export:- Taking **goods** out of India to place outside India
At the rate specified in Custom Tarriff Act
- India:- India Includes territorial water (TW) of India :12 Nautical Mile (NM) from base-line
- Exclusive economic zone (EEZ) : 188 NM after TW
- Indian custom water: 200 NM from base-line i.e. TW + EEZ



- Import **starts** as soon as goods enter TW (12NM)
 - But **complete** only when goods become part of mass goods of India
 - **Taxable event** happens when goods enter custom barriers & **Bill of Entry for home consumption filed**
 - In case goods **kept in warehouse**, taxable event happens when goods been **taken out** from warehouse.
- **Importance of Indian Custom water (200NM)**
 - In person commit offence under custom law e.g. smuggling, importing prohibited goods.
 - Legal action such as arrest and confiscation can be done in Indian custom water

Accidental goods coming into India

- Import defined as : **Bringing** goods into India from outside India
- If following goods coming in India by floating or otherwise, then considered as import and liable to applicable duty unless officer satisfy that they are entitled to be duty free.
 1. **Derelict** : Cargo/vessel left in sea with no recovery hopes



2. **Wreck** : Destroyed ship's part or cargo came on shore with tides
3. **Jetsam** : **Goods** thrown from vessel to save it from sinking. Such **goods** sunk
4. **Flotsam** : thrown goods **remained floating** in sea

Exemption from Custom Duty

- Who : By CG, in public interest
- **General exemption** : Through **notification** in official gazette (absolute or conditional)
- Noti. issued, unless otherwise provided, come into force on the **date of its issue by CG**
(Issued on 2nd Nov ✓, published on 4th Nov ☒)
(However, recent judgement in M/s. Ruchi Soya held publication is essential and noti. effective from date of publication)
- If exemption granted subject to condition, it will be valid up to 31st March falling immediately after 2 years except in certain cases
- **Special Exemption** : Through **Special order** in each case under exceptional circumstances
- An explanation inserted in notification or order within 1 year will be valid from date of noti/order.
- No collection : If Custom duty ≤ 100

Re-importation of goods

If **same** goods re-imported after exportation earlier, concessional duty payable as follows:

Permanent importation

| Scenario | Duty to be paid on re-import |
|---|--|
| A. Goods exported earlier under:- (i) Claim of duty drawback/RoDTEP/RoSCTL (ii) Claim of IGST Refund (iii) Bond / LUT without IGST Payment (iv) Duty exemption / Advance authorization (AA) /EPCG | Amount of Incentive availed while exporting + Duty not paid while payable on export In case of (iv) : Applicable IGST + Cess on import |
| B. Goods exported (sent) for repair abroad (Condition : Ownership of goods should not have changed) | Basic Custom duty + SWS + IGST + Cess on Fair cost of repair including cost of material used in repair (irrespective of cost actually incurred or not, due to warranty etc.) + Insurance & freight both sides |
| C. Re-imported goods exported ➤ by 100% EOU, FTZ ➤ from public / Private warehouse | No exemption : Full import duty payable |



| | |
|---|--------------------|
| ➤ are tobacco & petroleum product | |
| D. Re-manufacturing/re-processing done on goods | |
| E. Other than above | No duty to be paid |
| F. Goods sent for exhibition/approval basis and returned within 6 months (To Related/unrelated) | |

➤ Time limit for re-import

- (i) Exported under DEEC/DFIA/DEPB/AA/EPCG
- (ii) other cases

1 year + 1 year (Extn.)

5 years + 2 years (Extn.)

(For Bhutan 7+3 yrs for machinery & equipment)

Temporary importation

| | |
|---|---|
| Goods manufactured in India & re-imported for | No duty to be paid - If imported within |
| <ul style="list-style-type: none"> • Reprocessing • Refining • Remaking } or Similar Process | 1 year |
| repair or reconditioning other than specified Goods | From Nepal/Bhutan - 10 years Other countries – 3 years |

• **Further Conditions to satisfy.**

- Must re-export within 6M + 6M from importations except goods lost during process in point B
- AC/DC satisfied with identity of goods (Goods should be same)
- While importing, importer shall execute bond

Denaturing / mutilation of goods

• **If goods used for multipurpose and duty leviable depends on use of goods**

- Denaturing Process makes goods unfit for other use & goods can be used for one purpose only, accordingly duty levied.
- Ex. Alcohol can be used for medical or human consumption purpose, if importer **wants to pay lower duty** applicable on medical Purpose, custom officer mix chemical in it so to make unfit for human consumption, called **denaturing**.



Custom (Import of goods at concessional duty or for specified end use) Rules

Example : If in above example of Alcohol, denaturing not possible then given process to be followed to ensure that goods been used for medical purpose only.

1. Rules apply when exemption notification requires to follow these rules, or
2. Importer intends to avail benefit which is dependent on “use of imported goods”

I. Summary process of import @concessional duty

- Importer provide online information for goods to be imported
 - Custom portal provide IIN (Unique no. for such claim)
 - Submission of bond + security
 - Provide IIN & bond details while filing BOE
 - Officer will allow concession
- If failed to comply → Recovery by revoking the bond

II. Details in prior information of import on portal

1. Name and address of importer and job worker
2. Nature & description of goods imported
3. Manufacturing process undertaken and FG produced
4. Nature of output service rendered using these goods
5. Details of applicable notification on such import
6. Premise details
7. Port of Import

I. Importer to maintain following records

- Quantity & value of goods imported,
- Quantity of goods received in warehouse, consumed, sent for Job worker, received back, closing stock
- In case of short receipt of goods in warehouse, intimate on portal
- Provide details when asked by AC/DC
- Monthly statement by 10th of next month

II. Procedure for allowing imported goods for job work

Importer

- Goods can be sent to Job worker with invoice and EWB for processing for max. up to 6 months
- Maintain proper record
- Prove uses of goods as per declaration given on portal else recovery of duty + penalty



Job worker shall:-

- Maintain A/c of receipt of goods, process undertaken and waste generated
- Provide such details before Jurisdictional customs officer when required
- After Completing Job work sent back goods to importer/another job-worker

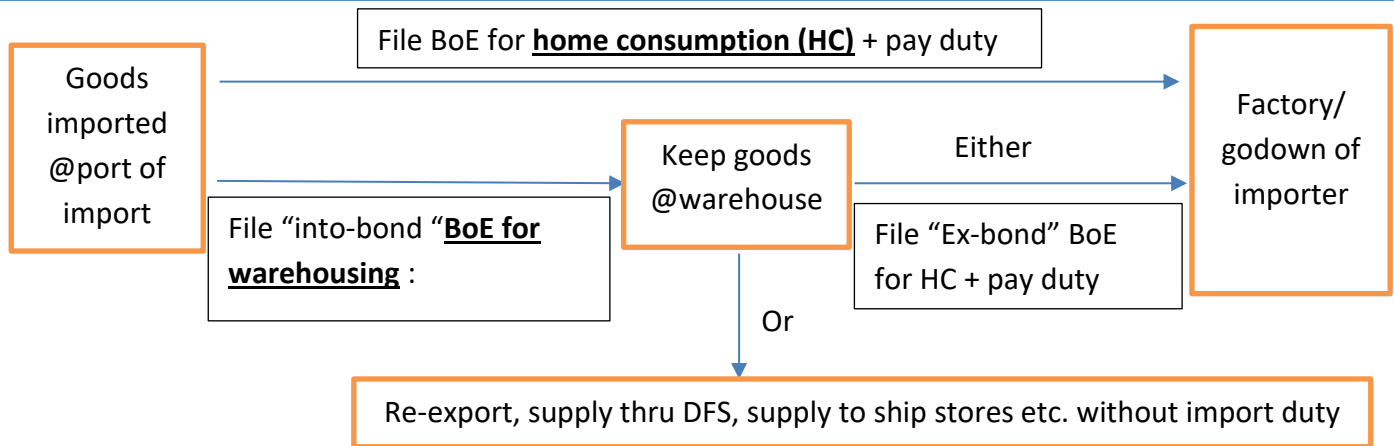
III. Unutilised or defective goods

1. Re-export such goods at value not less than import value, or
2. Clear for home-consumption on payment of duty + int. (Now, can use for any purpose)
3. Capital Goods can also be cleared after use for specified purpose on payment of duty

Amount = duty leviable without exemption **on depreciated value** - already paid

| Use period From : Date of <u>put to use</u> (not date of import) To : Date of clearance | Rate |
|---|-------|
| for every quarter or part in 1 st year | @4 % |
| for every quarter or part in 2 nd and 3 rd year | @3% |
| for every quarter or part in 4 th & 5 th year | @2.5% |
| and thereafter for every quarter | @2 % |

Brief process of clearing of goods from port/airport



| | 0 | 1 | 2 | 3 | 4 |
|--------------------------|-----------------------------|----------------|-------------------|------------------------|------------------|
| Stages of goods movement | Removed from Vendor factory | Goods unloaded | Custom inspection | Order for HC/warehouse | Actual clearance |
| | | Pilfered | | | |
| | | Lost/destroyed | | | |
| | | Relinquished | | | |



Duty on Pilfered, lost, destroyed goods (Sec 13 & 23)

| Goods pilfered (theft in small qty./petty theft) | Goods lost/destroyed |
|---|---|
| <p>After unloading and <u>before order</u> for home clearance/<u>deposit in warehouse (1-3)</u> (Means pilferage at port is only covered)</p> | <p><u>Any time before actual clearance for home consumption (0-4)</u> (Loss in warehouse is also covered here)</p> |
| <p>If pilferage noticed before pay → No need to pay If noticed after pay → remitted (refund) to importer back In both cases → Custodian of port will pay duty</p> | <p>If noticed before pay → No need to pay If noticed after pay → remitted (refund) to importer back Custodian not to pay</p> |
| <p>Importer liable to pay duty, where</p> <ul style="list-style-type: none"> Goods pilfered before unloading Goods pilfered after order passed but before actual clearance. Goods found later on | |
| <p>Following evidence of pilferage should exist</p> <ol style="list-style-type: none"> i) Evidence of tampering with package ii) Blank space for missing article iii) Full article (not part) should miss. | <p>Shown to the satisfaction of AC/DC</p> |

Normal loss due to volatile nature like evaporation of petroleum in warehouse – No duty payment on such **notified goods**. (Sec -70)

Remission of duty on relinquishment of title of goods - Sec-23(2)

Relinquish means giving possession / control to custom dept.

- Sometimes goods imported are not taken delivery by importer due to:
Goods not as per specification, damaged, deteriorate etc.
- Importer may relinquish title of goods by endorsing document of title in favor of Commissioner
 - **Before order for clearance for home consumption/warehousing (0-3)**
 - For warehoused goods - before order for clearance of goods from warehouse.
 - Then, duty shall not be required to pay
- Relinquishment not allowed if offence appears to be committed under custom/other law, related to these goods



Abatement of duty on damaged /deteriorated goods (Sec-22 & 70)

Shown to satisfaction of AC/DC , that Goods damaged / deteriorated

| | |
|--|---|
| Damaged or deteriorated : ✓ before or during unloading (0-1) | Due to any reason |
| Damaged : ✓ After unloading but before custom examination (1-2) ✓ In warehouse before actual clearance (3-4) | due to accident and not due to willful act, negligence, default of importer/employee/agent. |

$$\text{Duty on Damaged / Deteriorated goods} = \frac{\text{Value of damaged / deteriorated goods}}{\text{Value of goods before damaged/deterioration}} \times \text{Duty on goods before damage / deterioration}$$

Sale from DTA to SEZ not chargeable to export duty

- Export means taking goods out of India
- DTA & SEZ both are in India, hence not attract export duty
- No section of SEZ act provide for export duty
Hence no export duty levied on sale from DTA to SEZ

Custom Station means : Place where imported goods comes i.e. custom port + airport + international courier terminal + foreign post office + land custom station.

Custom Area means : Place where goods kept before clearance i.e. Custom Station + licenced warehouse

Important judgements

1. A person not claimed exemption at initial state, he is not prohibited to claim it at later stage.
2. Scope of exemption can-not be enlarged by giving extended meaning
3. If words of statue/notification is clear, no need to refer interpretation.
4. Burden to prove eligibility of exemption is on claimant.
5. When 2 noti. Applicable, assessee can opt more beneficial noti.



Chapter 2 : Types of Duty

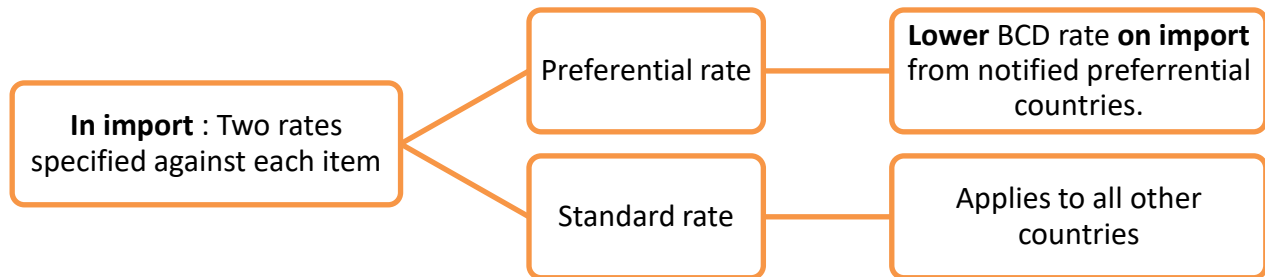
Basic summary of applicable duties/taxes on import/export of goods.

| Name of duty | Applicability |
|--|--|
| Basic Custom Duty (BCD) | Apply on all imports from all countries at product wise rate Apply on export only on few products |
| IGST and Compensation cess | Apply on all imports @applicable GST rate on said goods in India |
| Protective duties, safeguard, CVD, ADD | CG notify on specific product/countries when import price is lower than usual |

Basic Custom Duty (BCD) (Sec-12)

Charging section : The duties of custom shall be levied

- on import or export of goods, as per rates specified in **Custom Tariff Act (CTA)**



- Condition to fulfil for availing preferential rate**
 - at time of importation, make specific claim for it
 - Importer to declare that goods **manufactured or produced** in preferential countries
 - area notified as preferential area under Custom Tariff Act
 - origin of goods determined in accordance with rules

Duty on export : Normally duties are not levied on export, however some items are chargeable to export duty to discourage the export of such limited items.

Protective duties of custom (Removed from May'25)

Safeguard measure/duty (Sec 8A)

| | |
|------|--|
| When | <ul style="list-style-type: none"> ➤ Articles imported into India in increased quantity <li style="text-align: center;">+ ➤ Increased import is causing serious injury to domestic industry |
|------|--|



| Duration | For 4 years extended up-to 10 years | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|----------------------------|---|---------------------|----------|--------------------|----------|--------------------|---|----|----|----|----|---|------|-----|------|----|---|------|-----|------|----|---|---|----|----|----|---|---|----|----|----|-------------------------|------|--|------|--|
| Exemption | <p>1. Articles originating from developing countries if</p> <ul style="list-style-type: none"> ➤ Import of that goods from that country \leq 3% of total import of such good ➤ If more than 1 developing country each less than 3% but aggregate \leq 9% of total Import of such goods in India <table border="1" style="width: 100%; border-collapse: collapse; text-align: center;"> <thead> <tr> <th style="background-color: #e1eef6;">Import from country</th> <th style="background-color: #e1eef6;">Import %</th> <th style="background-color: #e1eef6;">Duty <u>exempt</u></th> <th style="background-color: #e1eef6;">Import %</th> <th style="background-color: #e1eef6;">Duty <u>exempt</u></th> </tr> </thead> <tbody> <tr> <td>A</td> <td>4%</td> <td>No</td> <td>4%</td> <td>No</td> </tr> <tr> <td>B</td> <td>2.5%</td> <td>Yes</td> <td>2.5%</td> <td>No</td> </tr> <tr> <td>C</td> <td>2.8%</td> <td>Yes</td> <td>2.8%</td> <td>No</td> </tr> <tr> <td>D</td> <td>0</td> <td>NA</td> <td>2%</td> <td>No</td> </tr> <tr> <td>E</td> <td>0</td> <td>NA</td> <td>2%</td> <td>No</td> </tr> <tr> <td>Total of < 3% countries</td> <td>5.3%</td> <td></td> <td>9.3%</td> <td></td> </tr> </tbody> </table> <p>2) Import by 100% EOU or SEZ is exempt. However, taxable if:</p> <ul style="list-style-type: none"> a) specifically mention that duty will apply to them b) imported/manufactured goods sold in DTA (i.e. within India) | Import from country | Import % | Duty <u>exempt</u> | Import % | Duty <u>exempt</u> | A | 4% | No | 4% | No | B | 2.5% | Yes | 2.5% | No | C | 2.8% | Yes | 2.8% | No | D | 0 | NA | 2% | No | E | 0 | NA | 2% | No | Total of < 3% countries | 5.3% | | 9.3% | |
| Import from country | Import % | Duty <u>exempt</u> | Import % | Duty <u>exempt</u> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| A | 4% | No | 4% | No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| B | 2.5% | Yes | 2.5% | No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| C | 2.8% | Yes | 2.8% | No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| D | 0 | NA | 2% | No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| E | 0 | NA | 2% | No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Total of < 3% countries | 5.3% | | 9.3% | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Provisional safeguard duty | <p>Max. for 200 days</p> <p>Duty collected will be refunded, if finally duty not been imposed.</p> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Approval in parliament | Any modification by parliament will be prospective. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

Countervailing duty (CVD) on subsidized articles (Sec-9)

- **CG can imposed “countervailing duty” on import of goods if:**
 - Any country, directly or indirectly pays subsidy on manufacture, exportation or transportation of goods.
 - Such goods imported in India whether from producing country or through another country.
 - Article may be is same condition or condition may have been changed by another country supplier
- Subsidy includes low interest rate loan, grant, tax benefits, price support by Govt. or Govt body or private body supported by Govt.
- CVD shall not exceed subsidy amount.
- ❖ Subsidy will reduce cost for exporter & can enter India at reduced Price & affect domestic industry, hence this duty.
- **CVD not to be levied, unless it is determined that**



- i) Subsidy depends on export performance.
- ii) Subsidy relates to use of domestic RM over imported RM
- iii) Subsidy given to limited persons engaged in production/export of article

Anti-dumping Duty (ADD) (Sec-9A)

- Sometime outside exporter reduces their price to dump their products into India to cause injury to domestic industry of India
- In such case ADD can be levied only if "like articles" being produced in India
- ADD will be lower of :- **Margin of dumping** or **Injury margin**

Example :

Alibaba in China sell goods @ Rs. 1000 to China customer, selling price of such goods in India is Rs. 970/-
A Ltd. imported such goods @ Rs. 800 and landed value is Rs. 820/-

| | | |
|--------------|---|-------------------|
| A | Normal value Means : Selling price within exporting country If same not available: take Price charged from 3 rd country, or Cost of production + admin/selling cost + profit | 1000 |
| B | (Less) Export price If export price is not available/unreliable : take Price at which goods sold by importer to independent buyer | 800 |
| (A-B) | Margin of dumping | 200 |
| D | Fair selling price (FSP) in India (Cost + profit) | 970 |
| E | (Less) landed value (Assessable value + BCD) | 820 |
| (D-E) | Injury margin | 150 |
| | ADD (Lower of 200 and 150) | <u>150</u> |

- ❖ If importer proves that ADD collected > actual margin of dumping
 - CG to reduce rate of ADD
 - Importer entitle to **refund** for such excess duty
- ❖ Date of commencement will be date of publication of notification imposing ADD/provisional, in Gazette.

Common points for CVD and ADD

- ❖ **Duties not applicable**, if Import by 100% EOU or SEZ. However, duty apply if:
 - a) specifically mention that duty will apply to them, or
 - b) imported/manufactured goods sold in DTA (i.e. within India)
- ❖ CG may extend duties to other article say Y or other country say Hongkong, if importer **circumventing (by-passing)** duties levied on article X of China. Circumvention may be by following ways
 - By altering description, name, composition of article X



- By importing in unassembled or disassembled form
- By changing country of origin or export
- Other manner to make duty ineffective

❖ **Absorption of duty**

- After levying duties, foreign vendor decreased the export price even though there is no reduction in cost of production, or there is no change in resale price in India
- Hence, duties become ineffective
- Govt. may modify or increase such duty to counter such effect of absorption

❖ **Duration of duty**

- 5 yrs + extension up-to 5 yrs
- Temporary Revocation - Max 1 year at a time

❖ CG can impose **provisional** CVD/ADD, and will refund the excess duty if final duty < provisional.

❖ Duties can be levied **retrospectively** by CG, if:

| CVD | ADD |
|--|--|
| Massive import in short period caused injury to domestic industry, and | History of dumping which caused injury OR importer was/should have aware that exporter is dumping which could cause injury |
| Retrospective levy is must to avoid recurrence of such injury. | Injury caused by massive dumping in short span can be remediated by retrospective levy. |
| <u>Retrospective</u> can-not be beyond <u>90 days</u> from date of notification. | |

In following situation CVD & ADD can't be levied

- Both ADD & CVD can't be levied together on an article
- Can't be levied just because such articles are exempt or duties/tax being refunded in exporting country.
- Import from **WTO member or country with most favored nation agreement**, unless proved that import cause /threat material injury to domestic industry
- Provisional duty can't imposed on import from **specified countries** unless Preliminary finding of subsidy or dumping causing injury to domestic market and Determination has been made that provisional duty is necessary

Surcharge/Cess

- Social welfare surcharge (SWS) @ 10% of (BCD + protective duty) (Apply on all imports, not on export)
Always calculate for import even if not given in question



- Agriculture Infrastructure & Development Cess (AIDC) leviable on assessable value determined u/s 14 (value on which BCD charged)
 - AIDC applicable on only some notified goods e.g. apple, kabuli chana, gold, silver etc.

IGST u/s 3(7) & GST compensation cess u/s 3(9)

- IGST and GST compensation cess is applicable on import of goods to be paid by importer along with custom duties.
- IGST and cess rate will be same as applicable on goods in India.
- Cess applies to only few notified luxury and sin goods like pan masala

Assessable value for levying IGST & GST cess

- Case 1 : Importer Mr. A filed BoE for home consumption
- Case 2 : If importer Mr. A kept goods in custom warehouse and sold to Mr. B and B sold to C within warehouse. Now C filing BoE for home consumption and paying taxes.

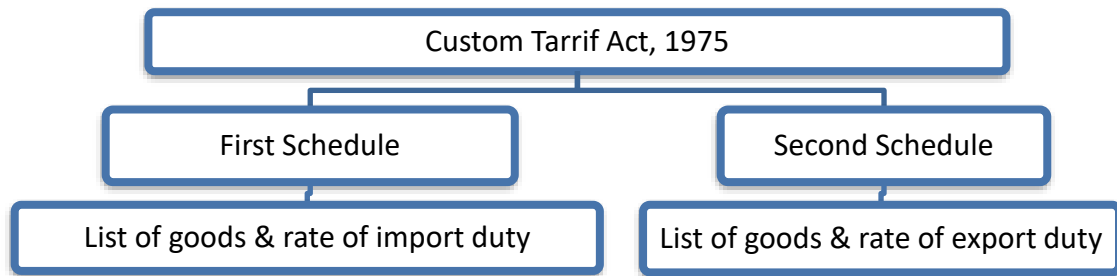
| | Nature | Case 1 | Case 2 |
|-----------------------|--|-----------------|-----------------|
| (I) | Assessable value for custom (AV) | 1,00,000 | 1,00,000 |
| (II) | Basic custom Duty @10% on AV | 10,000 | 10,000 |
| (III) | Social welfare surcharge @10% of BCD | 1000 | 1000 |
| (IV) | Safeguard duty/CVD/ADD @5% on AV (if applicable) | 5000 | 5000 |
| Total | Assessable value for GST : Total (I + II + III) | 1,16,000 | 1,16,000 |
| Sale price | Transaction value (price) of last transaction in warehouse i.e. charged by B from C for e.g. | N.A. | 1,20,000 |
| Higher | Take higher of above 2 | 1,16,000 | 1,20,000 |
| (IV) | IGST @ 18% on higher value | 20,880 | 21,600 |
| (V) | GST cess (if applicable) @12% on higher | 13,920 | 14,400 |
| (II+III+IV +V) | Total duty + IGST + GST cess (Round off) | 50,800 | 52,000 |

Note : above rates are assumed rates.

Chapter 3 – Classification of imported and export goods

Different good are chargeable to different rate of custom duty as per 2 schedules of Custom Tariff Act.





Specimen of First schedule

SECTION I
LIVE ANIMALS; ANIMAL PRODUCTS

NOTES:

- Any reference in this Section to a particular genus or species of an animal, except where the context otherwise requires, includes a reference to the young of that genus or species.
- Except where the context otherwise requires, throughout this Schedule, any reference to "dried" products also covers products which have been dehydrated, evaporated or freeze-dried.

CHAPTER 1
Live animals

NOTE:

This Chapter covers all live animals except :

- fish and crustaceans, molluscs and other aquatic invertebrates, of heading 0301, 0306 , 0307 or 0308;
- cultures of micro-organisms and other products of heading 3002; and
- animals of heading 9508.

| Tariff Item (1) | Description of goods (2) | Unit (3) | Rate of duty | |
|--------------------|--|-------------|-----------------|---------------------------|
| | | | Standard (4) | Preferential Areas (5) |
| 0101 | LIVE HORSES, ASSES, MULES AND HINNIES | | | |
| | - <i>Horses:</i> | | | |
| 0101 21 00 | --- <i>Pure-bred breeding animals:</i> | u | 30% | - |
| 0101 29 | --- <i>Other:</i> | | | |
| 0101 29 10 | --- Horses for polo | | 30% | - |
| 0101 29 90 | --- Other | | 30% | - |
| 0101 30 | - <i>Asses</i> | | | |
| 0101 30 10 | --- <i>Pure-bred breeding animals:</i> | u | 30% | - |
| 0101 30 20 | --- <i>livestock</i> | u | 30% | - |
| 0101 30 90 | --- Other | u | 30% | - |
| 0101 90 | - <i>Other:</i> | | | |
| 0101 90 30 | --- Mules and hinnies as livestock | u | 30% | - |
| 0101 90 90 | --- Other | u | 30% | - |
| 0102 | LIVE BOVINE ANIMALS | | | |
| | - <i>Cattle:</i> | | | |



- Custom tariff is based on international Harmonized system of nomenclature (HSN)
- **Section notes** : To interpret respective sections & applicable on items in respective sections



- **Chapter notes** : To interpret respective chapters & applicable on items in respective chapters
- Coverage/scope of heading depends on section/chapter notes. These notes have over-riding effect on heading.

Rules of interpretation

- The purpose of their inclusion of rules in CTA is
 - a) to standardize the manner in which the product nomenclature in the schedule is to be interpreted
 - b) Give statutory force to these rules
- Rules to be applied in sequence.

Rule 1

- **Title** of section, chapter and sub-chapter are for ease of reference only and not having legal force.
- Classification shall be done based on heading, related section and chapter notes & Rule 2-6
- Rules need not to be referred, if classification possible based on heading, sub-heading, section notes & chapter notes

Rule-2 (a) - Classification of incomplete/unfinished goods

- If “heading” refers to a finished/complete article, the incomplete, unfinished, unassembled, dis-assembled (IUUD) form of that article shall also be classified under the same heading, provided the IUUD goods have the **essential characteristics** of the finished goods.

Ex: Car without seats classified as Car

- Minor adjustment required in IUUD is ok, but if require major process then not considered having essential characteristic hence will not fall under 2(a)

Rule-2(b)

- Reference in heading to material/substance includes mixture having such material/substance
Ex. : Coffee mixed with chicory will classified under coffee.
- Reference to goods containing a particular material/substance would include a reference to goods **consisting wholly or partly** of such material or substance.
- If goods have more than 1 material / substance - classify as per Rule-3

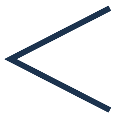
Rule-3 - If goods classifiable under 2 or more headings

Classify as below

Rule-3(a) - Specific over General

- Classify in heading having more specific description over general



Ex: Shaving Machine  8509 – Electronic appliance with motor
8510 - Shaver with electric motor ✓

Rule-3(b) - Essential Character Principal

- Mixture/composite goods should be classified on the basis of that material or substance **that gives it, its essential character**. This applies only for retail sale products.

Ex : Pencil with eraser at back → Pencil ✓

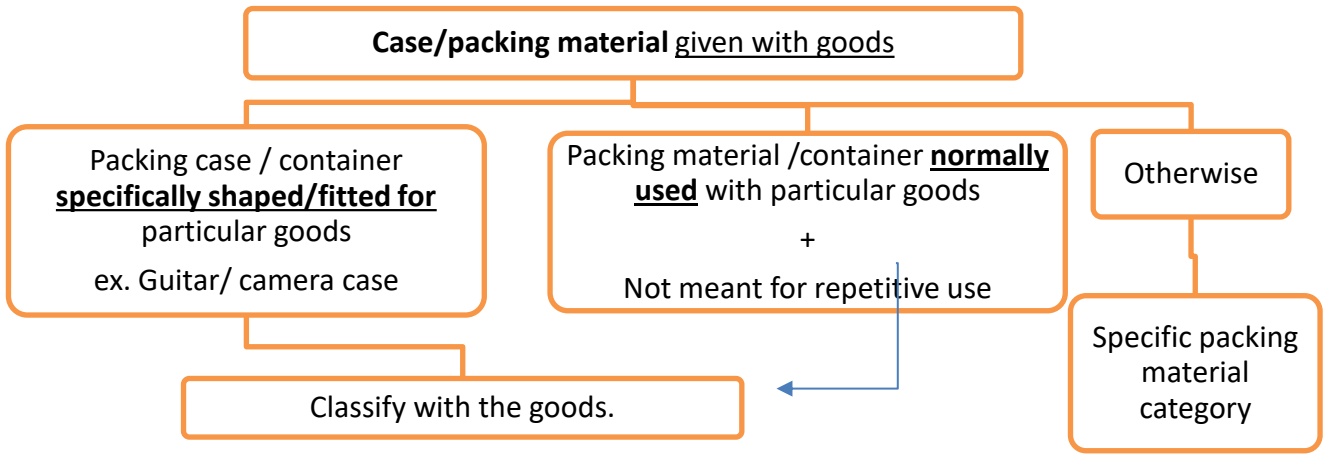
Rule-3(c) - Latter the Better

- If Can't be classified by rule 3(a) & rule 3(b), classify under heading occurring in last in numerical order among heading in which goods can be classified. (8232, 8935, 8114 → 8935 ✓)

Rule-4 - Akin rule

- If goods can-not be classified by above rules
- Classify under heading in which most akin (similar) goods are classified.

Rules -5



Container gives the whole essential character e.g. gold case : Classify considering separate goods.

| Type of parts | Classification |
|---------------------------------------|--------------------------------|
| Parts suitable for particular machine | Classify under machine |
| General purpose parts | Classify in respective heading |
| Separate heading given for parts | Classify in parts heading |



Rule- 6

Sub-heading can be compared with another sub-heading within same heading

Project Imports

- Usually in a project, different types of items having different rate of duty, it is difficult to classify each separately, hence to simplifying such case, one consolidated rate of custom duty made applicable to all items in project.
 - However, Exemption will apply item-wise.
- Applies for initial set-up or substantial expansion
- Spare part / consumable/ raw material also allowed up to 10% of total import
- **Applies to :** Industrial plants, irrigation projects, power projects, mining/mineral exploration Projects

Goods with multiple articles

If a goods with a single price consist of **multiple articles** → highest tax rate applicable on any article will apply on full value.

Exception : If goods contain **parts/accessories** in ordinary course without any separate charge, rate of main supply will apply.

If articles liable to tax based on quantity, respective rate will apply.

Judgements

- In exemption notification, if item is mentioned without tariff heading, then exemption would be available even though for purpose of classification it may be otherwise.
- Without operating system (OS) laptop can't work hence laptop preloaded with OS classified as laptop. OS can't classify separately.

Classification based on use of the goods (Market parlance theory)

- Antiseptic cleaning solution used by doctors → Medicament not washing tools
- Dry skin cream generally prescribed by doctor → Medicament not cosmetic
- Soft Serve of Mc Donald → Ice-cream not edible Preparation

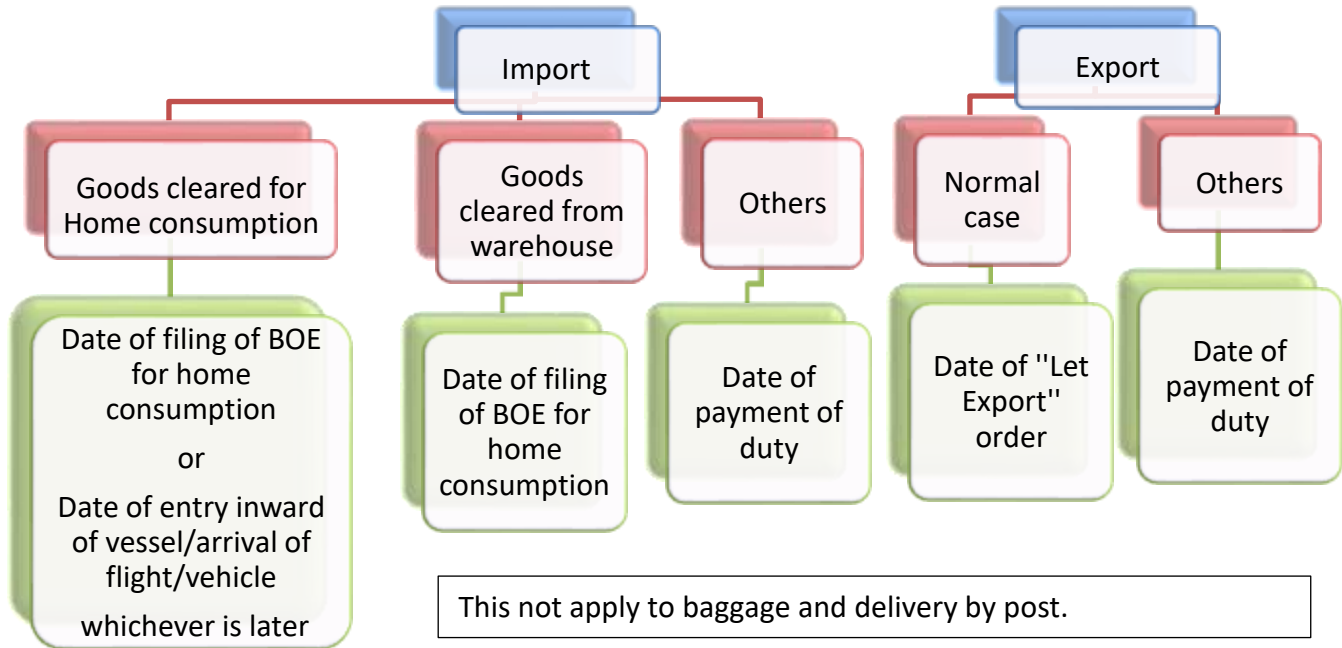
General explanatory note – 1 (Relevance of number of dashes (-, --, ---, ----))

- Single dash "-" before article description denotes that the said article/group of article is sub-classification of the article/group covered by the said heading.
- Two dashes "--" denotes that that the said article is sub-classification of the immediately preceding article which has "-".
- " ---" or "----" denotes that the said article is a sub-classification of the immediately preceding description of the article which has "-" or "--"



Chapter 4 : Valuation of goods

Rate of duty & tariff value shall be on date of (Sec-15/16)



Rate of exchange (use only rates notified by CBIC)

Import

- Date on which **first BOE filed** for warehousing or home consumption

Export

- Date on which Shipping bill / Bill of Export filed

Custom valuation (import) rules, 2007

If value can't be determined by rule 3, then refer rule 4 and so on i.e. sequentially.

| | |
|---------|--|
| Rule-3 | Determining method of valuation |
| Rule- 4 | Transaction value of identical goods |
| Rule-5 | Transaction value of similar Goods |
| Rule-6 | If not determined as per rule 3,4,5 |
| Rule -7 | Deductive value |
| Rule- 8 | Computed value |
| Rule- 9 | Residual method |
| Rule-10 | Cost & service to include in valuation |



Related person

1. Officers/Directors
2. Legally recognised partners
3. Employer & employee
4. ~~Sole agent/sole distributor~~ (Related in GST but not in custom)
5. Members of same family
6. A Ltd. **control** B (A & B are related)
7. A Ltd. (i) **controls**, or (ii) own $\geq 5\%$ voting shares, of B and C (B & C are related)
8. B & C together **control** A Ltd. (B & C are related)

Control generally means > 51% equity holding

At point no. 7, it is $\geq 25\%$ in GST provision, all else are same.

Rule 3

Assessable value = Transaction value + addition of rule 10(1) and 10(2)

If following conditions satisfied

- a) No restriction on buyer regarding use of goods except
 - i) imposed by Indian law/authorities, or
 - ii) limit of geographic area, or
 - iii) restriction doesn't affect the value
- b) Foreign vendor not entitle for any proceeds from sale value except given in 10(1)
- c) If seller/buyer are related than prove that
 - i) relationship doesn't affect the price
 - ii) declared value is approximately equal to identical/similar goods with unrelated buyer

Transaction value (Sec 14), means

Price **actually paid or payable** of goods (final re-negotiated price)

Less : discount provided before goods reached to Indian port

where:-

- Price is sole consideration &
- Seller and buyer are not related
- ✓ at place of importation (i.e. Indian port/airport) [in case of import]
- ✓ at place of exportation (i.e. Indian port/airport) [in case of export]

Note : If A imported and sold the goods to B in high sea and B filed BoE, price between A and B is take as transaction value

Cost/services to include in valuation : Rule-10(1)

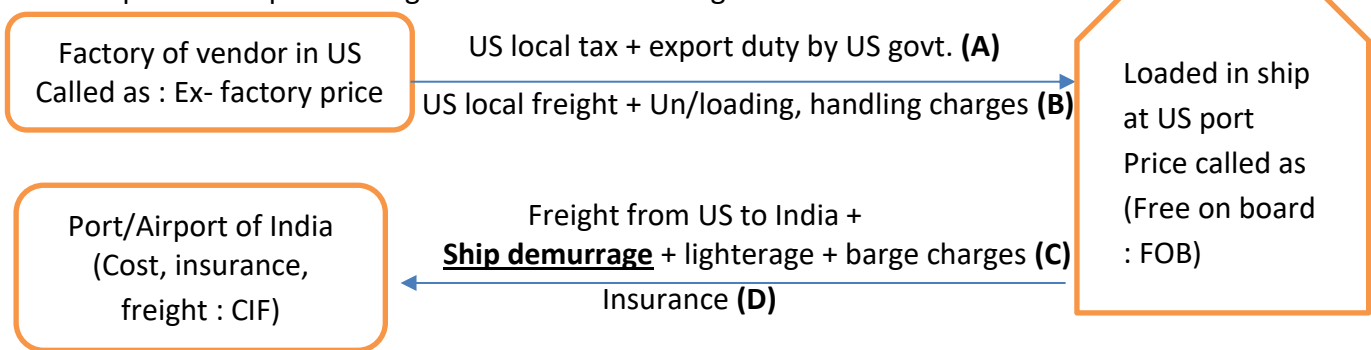
Following to be added : Only when same is not already included in price charged by supplier **((Rule 10(1))**



1. Following expenses when **incurred** by buyer
 - i) Commission & brokerage whether in INR or forex - except buying commission
[Canalizing agent is not a buying agent]
 - ii) Cost of containers – if not returnable
 - iii) Cost of packing material + labour
2. Material, component, parts, tools, dies etc. provided by buyer
 - Free – add full value
 - At concessional rate – add difference value
3. Engineering, development, art work, design, sketches **only if undertaken out of India**
4. Royalty, licence fees, any other payment made by buyer as “**condition of the sale**” whether process undertaken before or post-import. (If nothing mentioned, assume payment is under “condition of sale”)
5. Amount paid to vendor out of resale amount of imported goods
6. Payment made by buyer to 3rd party to fulfil seller's obligation

Concept : various pricing terms (inco terms)

Based on up-to which point foreign vendor incurred the given costs



After goods reached at port of India, further charges not to be included in valuation viz.

- Unloading/handling charges at Indian port
- Cost of trans-shipment (Means sending from one port to another port/ICD/CFS etc.)
- Port/airport/container demurrage charges (Charges for using property for more than agreed days)

Calculation of assessable value and tax

| | Desc | Amount |
|--------------|--|-----------|
| | FOB = (Ex-factory price + A + B) OR CIF - C - D OR FOB amount directly given in Question | XX |
| Add | Addition as per rule 10(1) | XX |
| Total | Custom FOB value | XX |



| | | |
|--------------------|--|---|
| Add | Amount of C is ascertainable (Air, sea or land) and In case of AIR transport : 20% of custom FOB > B+C | Take C |
| Add | C not ascertainable OR In case of air transport : 20% of custom FOB < B+C | 20% of custom FOB* Reduce amount of B, as same is already got included in FOB. |
| Add | Insurance amount ascertainable | Take actual |
| Add | Insurance not ascertainable | 1.125% of custom FOB** |
| Total | CIF value | |
| (I) | Assessable value (AV) (Round off to CIF) | |
| (II) | Basic Custom Duty (BCD) @rate on AV | |
| (III) | Social welfare surcharge @10% of BCD | |
| (IV) | Safeguard + CVD + ADD | |
| Total | Total (I + II + III + IV) | |
| (V) | IGST @rate on "Total" | |
| (II+III +IV+ V) | Total duty + GST (Round off) | |

If custom FOB can-not be calculated, then it is allowed to take

*20% of (custom FOB + insurance)

**1.125% of (custom FOB + C)

Example

| | |
|--|------------|
| Price of imported goods ex-factory | \$ 10,000 |
| Transport charge from factory to port of shipment | \$500 |
| Handling and loading charge at export airport | \$750 |
| Unloading & handling at import airport | \$1000 |
| Transport cost from export airport to import airport | \$4000 |
| Insurance cost not ascertainable | |
| Commission paid (not buying commission) | Rs. 50,000 |
| Exchange rate@ 100₹ / \$ | |
| Custom duty @20% and IGST @18% | |

| | Desc | Amount |
|-------|----------------------------|-----------|
| | (Ex-factory price + A + B) | \$10,000 |
| Add | Local freight | \$500 |
| Add | Handling/loading charges | \$750 |
| Total | FOB | \$11,250 |
| | FOB in INR | 11,25,000 |



| | | |
|--------------------|---|------------------|
| Add | Commission | 50,000 |
| Total | Custom FOB value | 11,75,000 |
| Add | In case of air transport : 20% of custom FOB < B+C (WN 1) | 2,35,000 |
| Reduce | amount of local freight/loading $\$(500+750)*100$ | (1,25,000) |
| Add | Insurance not ascertainable (1.125% of 11,75,000) | 13,219 |
| Total | CIF value | 12,98,219 |
| (I) | Assessable value (AV) (Round off to CIF) | 12,98,219 |
| (II) | Basic Custom Duty (BCD) @rate on AV | 2,59,644 |
| (III) | Social welfare surcharge @10% of BCD | 25,964 |
| Total | Total (I + II + III + IV) | 15,83,827 |
| (V) | IGST @rate on "Total" | 2,85,089 |
| (II+III +IV+ V) | Total duty + GST (Round off) | 5,70,697 |

All transport + loading + unloading u/r 10(2)

$$\text{Actual} = [4000 + 500 + 750] = 5250\$ \times 100 = 525000$$

OR

$$\begin{aligned} 20\% \text{ of } [11,75,000] &= 2,35,000 \\ \text{Lower} &= 2,35,000/- \end{aligned}$$

Rule -4/5 - Transaction value of identical/similar goods

- Assessable value = Transaction value of identical/similar goods **imported in India** at **same** commercial level & substantially same qty
- Or
- Transaction value of identical/ similar goods at **different** commercial level or different quantity \pm adjustment to take account of difference.
- Add : Freight & insurance cost on identical/similar goods transaction \pm adjustment due to difference in distance/mode.
 - More than one transaction value, **lowest** shall be taken.

| Identical goods | Similar goods |
|--|--|
| Identical in characteristic, quality and reputation | Not alike in all respects, have like characteristics and component material and capable to perform same function |
| Manufactured in same country by same/ different manufacturer | |



If drawings / design etc. supplied from India on free of charge or concessional rate, not regarded as identical/similar goods.

Rule-6

- If not able to determine value using rule 3-5, value shall be determined as per rule 7 and 8 sequentially
- However, with approval of P.O. rule 8 can be applied earlier

Rule-7 - Deductive value method

| | |
|--|-----------------------|
| Price at which imported or identical or similar goods sold in <u>greatest aggregate quantity*</u> to unrelated buyers in India at same time or up-to 90 days after import | 62*import qty. |
| LESS : | |
| Commission, general/marketing exp. and profit in India | (xxx) |
| Transport, insurance and associated cost within India | (xxx) |
| Custom duty, GST, other taxes | (xxx) |
| Value addition due to further Processing [If Imported goods sold after further Processing] | (xxx) |
| Assessable Value | xxx |

*Sale made to various Indian customers at different prices (Take price of highest quantity)
200 qty @ 60, **220 qty. @ 62**, 120 qty. @ 65, 150 qty. @ 58, 100 qty. @ 70.

Rule-8 - Computed value (cost Based)

| | |
|--|------------|
| Cost/value of material, fabrication, other processing cost in producing imported good | xxx |
| Add: Profit, selling and general expenses [made usually in same kind of goods from same country] | xxx |
| Add : Transportation, un/loading, handling, insurance cost as per rule 10(2) | xxx |
| Assessable value | xxx |

Rule-9 Residual Value

Determine value using reasonable means consistent with general provisions and basis available data.

However, such value should not exceed price of such or like goods at same time/place of importation to unrelated buyer of India.

- However, value should not be determined in this rule on basis of
 - Selling price of goods produced in India
 - Price of goods in exporting country or export price to other country
 - Method which provides to take highest of two alternative values
 - Cost of production (CoP computation basis identical/similar goods allowed)



- Minimum custom values
- Arbitrary or fictitious value

Rule-12 : Rejection of declared value

- P.O. has power to raise doubt about truth & accuracy of value declared on following grounds :
 - Significantly higher value was assessed for other identical/similar goods of similar quantities
 - Abnormal discount or abnormal reduction from ordinary price
 - Non declaration/misdeclaration of product details
 - Fraudulent or manipulated documents

In such case, transaction value will get rejected and valuation will be done as per Rule 4 to 9.

Customs (Assistance in Value declaration of identified goods) Rules (CAVR)

- 1) CBIC can specify certain goods for which importer is required to fill additional details in BoE and fulfill additional obligations.
- 2) Officer to perform additional checks to ensure correct value declared, if doubt he can reject the valuation

Rules will not apply to :

- 1) Imports not liable to duty or liable to duty at fixed tariff rate
- 2) Import under FTA license (AA, EPCG) or for re-export
- 3) Import where related party investigation finalized.
- 4) Project imports
- 5) Import by Govt/PSU

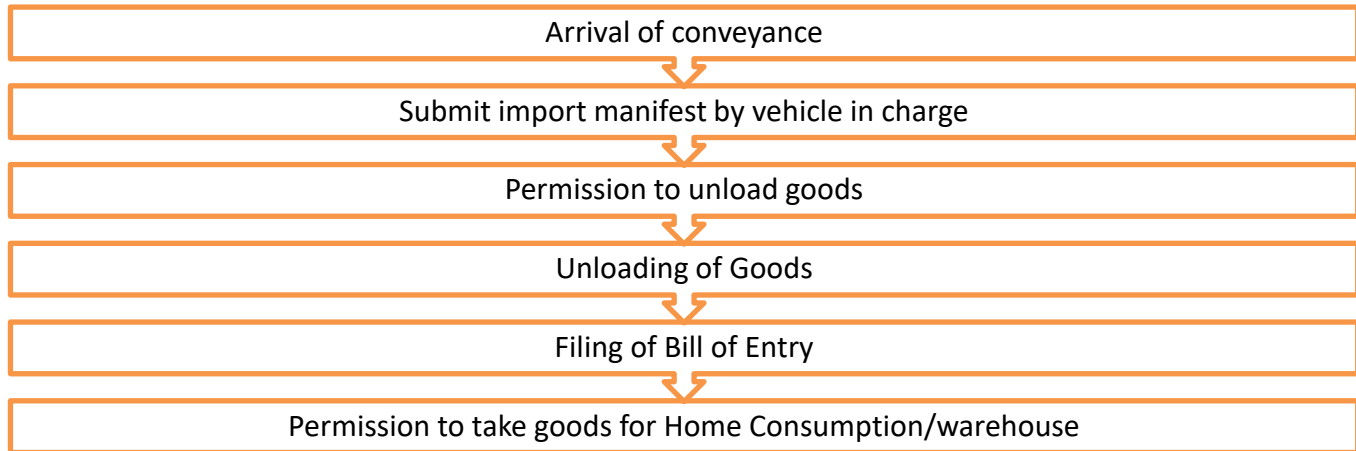
Export Valuation Rules (Follow in sequence)

| Rule | Method/applicability | Valuation |
|------|---|--|
| 3 | Seller and buyer a) Unrelated b) Related, however relationship has not influenced price | Transaction value (Price payable by foreign customer) Costs up-to loading at export port is included i.e. FOB price charged from customer. |
| 4 | Comparison | Transaction value of goods of like kind/quality after adjusting difference due to date, quantity, quality, freight etc. |
| 5 | Computed value | Cost of Production, manufacture or processing of Goods + Design or brand charges + profit |



Chapter 5 : Importation and Exportation (covers : baggage rules)

IMPORT PROCEDURE (AT GLANCE)



Arrival of vessel/aircraft in India (Sec-29)

Vessel or aircraft entering India shall not land at any place other than customs port or customs airport (so that custom duty can be collected)

Except:-

Landing due to accident, weather, other unavoidable cause, however in such case person in charge has obligation to:

- Report arrival/landing to nearest custom officer or police station & comply with directions
- Should not allow unloading of goods/ passengers/crew unless required for health & safety

Filing arrival manifest or import manifest or import report (Sec-30)

| | |
|-------------------------|---|
| What it is | Person in-charge of vessel/flight - to file document called "arrival manifest" or "Import manifest" to port officer before arrival vehicle – "import report" within 12 hours of arrival |
| What details it contain | <ul style="list-style-type: none"> ➤ Goods brought to India for unloading at that port / other port ➤ Goods loaded from India for export carried in conveyance |
| Belated | Accepted but if no valid reason then penalty up-to 50,000/- |
| Amendment | Allowed if error without fraudulent intent |
| Effect | Can't unload goods which are not mentioned in manifest without permission of officer |



Unloading and custody

| | |
|----------------|--|
| Sec – 31 | Goods shall not be unloaded from vessel unless “Entry inward” granted by officer. No need of entry inward for a) Aircraft/vehicle (Air and land route) b) Accompany baggage, mail bags, perishable/hazardous goods. |
| Sec-34 | Loading/ unloaded allowed only under supervision of custom officer Exception : CBIC may allow by notification or officer may allow by special permission |
| Boat Note | Sometimes big vessel can't come to port due to less water or other reasons hence small boats called as barge or lighterage bring goods/cargo from vessel to port. Document called “ Boat note ” is required for that. |
| Additional fee | No loading/unloading on Sunday, holidays and after working hours unless prescribed fee paid |
| Checking | Officer may board and stay in conveyance for required period |
| Custodian | Goods after arrival of ship till clearance for home consumption/ warehousing remains in custody of custodian approved by Commissioner. He is to maintain record and not allow removal without following procedure |

Passenger & crew arrival manifest (Sec-30A)

| | |
|-------------------------|---|
| What it is | Person in-charge of vessel/flight to file - before arrival vehicle by land - within 12 hours of arrival |
| What details it contain | Name and details of passenger |

Bill of Entry (BoE) (Sec 46)

- Every importer to file a document called Bill of Entry (BoE) to officer with import invoice for assessment of custom duty + IGST for **each** import.
- **Can not file before 30 days of expected arrival but last date to file is 1 day before actual arrival of conveyance.**
- If details not available for filing BoE, goods can be **temporary** kept in custom warehouse, called as **“warehousing without warehousing”**. Warehousing provisions **not apply** on it.

3 types of (BoEs)

| Action | BoE type |
|----------------------------------|-------------------------------------|
| Take goods to own factory/godown | BoE for “Home consumption” |
| Store in custom warehouse | BoE for warehousing (Into bond BoE) |



| | |
|---|---|
| Take from warehouse to own factory/godown | BoE for “Home consumption” from warehouse (Ex-bond BoE) |
|---|---|

Time limit for payment of duty

| | |
|---|---|
| In case of self – assessment | On date of presentation (filing) of BoE for home consumption |
| In case of assessment, re-assessment, provisional assessment | Within 1 working day (i.e. excluding holidays) from return of BoE by officer to importer |
| Where deferred payment permitted for AEO (Tier 2 and 3) & Authorised public undertaking | From due date as specified in rules |

Due date of deferred payment (clear first pay later)

| For BoE returned | Due Date |
|---|--------------------------------|
| From 1 st day to 15 th of any month | 16 th of that month |
| From 16 th day to last day of any month | 1 st of next month |
| 16 th to 31 st March | 31 st March |

- **If due date is holiday, then next working day will be due date**
- **Deferred payment allow: Pay duty of BoE on due date AND pay differential duty+int. on reassessment within 1 working day.**
- Default more than once in 3 consecutive months, facility get withdrawn. Facility get re-stored once duty+int. paid.
- Facility not allowed if goods not declared in BoE

Assessment (Sec-17)

- Means quantification of custom duties payable
- Importer by filing BoE and exporter **by filing “shipping bill” shall self-assess duty**
- Officer may verify on sample basis
- If found Self-assessment not correct, officer may re-assess duty
- If re-assessment increases duty which not agreed by taxpayer, officer to pass speaking order within 15 days of re-assessments

Faceless assessment

System will identify BoEs which needs scrutiny and task of such scrutiny will be assigned to officer sitting at other port. Key objectives:

- Assessment by unknown officer will reduce physical interface/corruption
- Speed by better utilization of officers
- Uniformity
- Promoting sector/functional specialization by assign specific sector to officer.



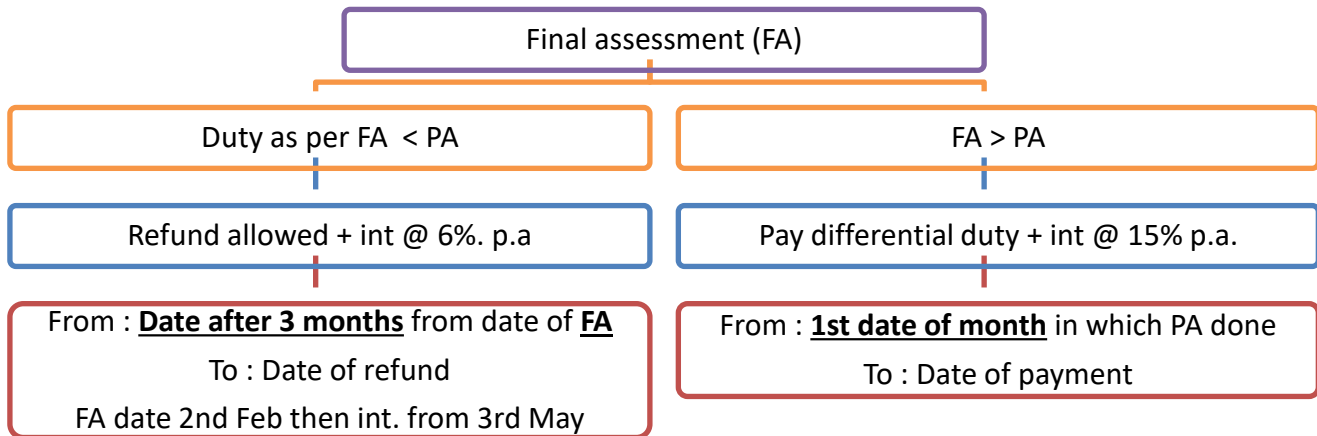
Provisional Assessment (Sec-18)

- Provisional assessment (PA) allowed in following cases
 - Importer/exporter unable to make self-assessment
 - Officer feels that chemical or other test of goods is required.
 - Necessary doc & Info. provided **but** officer wants to make further enquiry
 - Necessary doc & Info. not provided **AND** officer wants to make further enquiry
- Pre-requisite : Taxpayer to pay provisional duty + execute bond + furnish security and clear the goods

Final Assessment of PA

Officer to finalize assessment in 2 months [+3 month's extension by commissioner] from

- intimation of submission of all required doc/Info.
- chemical test or other test report
- enquiry, investigation, verification report



Separate calculation for each BoE.

Refund is subject to proof that burden of tax not passed to other (i.e. no unjust enrichment)

Order for clearance of goods (i.e. allowing goods to leave port)

Once Custom officer satisfied that

- Goods not prohibited goods, and
 - duty has been paid
- make order for clearance of goods for home consumption

Audit

- Officer may conduct audit even after clearance of goods
- Auditee includes importer, exporter as well as custodian, licensee of warehouse, person clearing, forwarding, storing, selling or purchasing such goods.
- Salient features
 1. Auditee to preserve records for 5 years
 2. Audit conducted at auditee premise with 15 day's intimation in advance



3. Auditee may accept finding & pay duty + int. + penalty
 4. Officer can avail assistance of experts viz. CA, CMA, IT etc with permission of commissioner
 5. Penalty for contravention Rs. 50,000
- Two types of audits
 - 1) Transaction Based Audit (TBA) : Particular transaction is audited. It may be converted to PBA.
 - 2) Premise Based Audit (PBA) : Cover import/export within a period and check commercial record, FS and contracts to verify correctness of BoEs/Shipping bills.

Payment through electronic cash ledger (Sec-51A)

Old system : Login to net banking every-time and pay duty when every time BoE filed.

Cash ledger system : Deposit amount in wallet of custom dept in advance and use it for duty, int etc. payment. Easy!!

Apply to all except following (exemption)

- Goods imported/exported from custom station where custom automated system not in place
- Duty on accompanied baggage
- For payment **other than** duty, IGST, cess and interest/penalty, fee under Custom Act.
- ~~Goods imported/exported at International courier terminal~~ (Exemption removed on it)

Ledger for duty credit (credit ledger)

Old system : Get physical copy of advance licence etc. as export benefit and submit it while import as payment of custom duty.

Credit ledger system : Such benefits, remission will credited in credit ledger electronically and can be used for payment of duties or can be transferred to other person.

Disposal (sale) of goods not cleared (Sec-48)

- Custodian can sell off the imported goods through auction with approval of custom dept & notice to importer if:
 - Goods not cleared for home consumption or warehousing within 30 day or extended period
 - **Ownership relinquished** by importer u/s 23
- Custodian to file consolidated (buyer wise) BoE and pay duty.
- Animals/ foodstuff/ hazardous goods could be sold before 30 days with approval of officer.

Storage of goods in public warehouse pending clearance

- BoE has been filed but goods can't be cleared for HC or for deposit in WH, within reasonable time.
- AC/DC on application allow to store goods in **public** warehouse for 30 days + 30 days extn.
- Warehousing provision do not apply on such temporary storage, hence not to file Bond.



Procedure of export (Sec- 50 & 51)

- Exporter to file electronically shipping bill (for vessel/air) or Bill of Export (for land) and pay export duty (if applicable)
- **Custom officer will order for shipment known as “Let Export” order after satisfying that**
 - Goods not prohibited
 - Duty has been paid
- If Goods mentioned in shipping bill not exported, furnish information to officer within 7 days of departure

Requirement for loading of export goods (Sec-39/40)

For loading of goods in conveyance required following

- Entry outward granted (only for vessel)
- Shipping bill / Bill of export approved by officer
- “Let export” order
- Boat note (if applicable)
- For baggage and mail, only after permission of export by officer

Filing of Departure manifest, Export Manifest, Export report (Sec-41)

- To be filed before departure from port/airport by person in charge or person notified by CG
- Contain details of vessel, goods on boat, store, equipment, crew, Passenger etc.
- Delayed filing allowed, however if no sufficient reason penalty up-to Rs. 50,000/-
- Amendment allowed if error without fraudulent intent
- Prepared basis bill of lading (ship), air-consignment note (air) or lorry receipt (road) issued by conveyance to exporter.

No conveyance to leave without written order (Sec-42)

Such order passed by custom officer only after

- Person in charge answered all questions put by custom officer
- Provision of Sec-41 complied with
- Shipping bill, Bill of export or any other required documents given to officer
- All charges or penalties been paid or secured by deposit/guarantee.
- Goods loaded in contravention have been unloaded or person in charge given undertaking to bring the goods back to India.



Import/export by post or courier - Relevant date for rate of duty and tariff value

For import

Date on which postal authority or courier agent, present list of goods to officer for assessment
or
Date of arrival of **vessel (only for post)**
whichever is later

For export

Date on which **goods delivered** by exporter to postal authority or courier agency

Special provisions related to “Stores”

Store means goods like food, drinks, medicine, life boat for use in vessel/ aircraft and includes fuel, spare parts and equipment.

- 1) Goods imported meant for supply as “Stores” on foreign going vessel can be warehoused without assessing amount of duty.
- 2) Stores may be transferred from one vessel to another without duty (Transshipment)
- 3) No duty on imported goods consumed on vessel which will go outside India. However, duty would levy if vessel not going back outside India.
- 4) Imported stores supplied to foreign going vessel or Indian Navy ship considered export and entitle to 100% drawback (not 98%)
- 5) Indigenous goods, supplied as store for foreign going vessel/aircraft may be exported free of duty

Baggage

- Means luggage, which comes with passenger called as “accompanied baggage” or comes separately before or after passenger comes called as “unaccompanied baggage”, but not include motor vehicle.
- Owner of Baggage has to **make declaration** of its materials to officer of customs called Baggage declaration form.
- Rate of duty & tariff value will be as on date of filing baggage declaration form. Current rate is
 $BCD\ 35\%$
 $BCD + SWS = 35\% + 10\% \text{ of } 35\% = 38.5\%$
- **Rate of duty is 100% on**
 - a. fire arms
 - b. Cartridges > 50 quantity
 - c. Cigarette > 100, cigars > 25, tobacco > 125gms
 - d. Goods imported **through courier**

Passenger Baggage Rules



General duty-free baggage allowance (Rule 3, 4, 5)

| Class of passenger | Passenger coming from? | Articles allowed free of duty |
|--|--|---|
| <ul style="list-style-type: none"> ➤ Indian resident or ➤ Foreigner residing in India or ➤ Tourist of Indian origin | Any country other than Nepal, Bhutan & Myanmar | a. Used personal effects & travel Souvenirs + b. Goods up-to 50,000 in person/ accompanied baggage (excluding Annexure- I) |
| Tourist of foreign origin | | a. Used personal effect & travel souvenir + b. Goods up-to 15,000 in person/ accompanied baggage (excluding Annexure- I) |
| <ul style="list-style-type: none"> ➤ Indian resident or ➤ Foreigner residing in India or ➤ Tourist | Nepal, Bhutan and Myanmar | a. Used personal effect & travel souvenir + b. Goods up-to 15,000 in person/ accompanied baggage (excluding Annexure- I) |
| | | If arriving by land route - Only personal effects allowed |
| Infant (2 yrs) in all above cases | Any | Only personal effects allowed |
| Person age \geq 18 years | Any | One laptop (Note – Desktop/PC will cover above not here) |
| <u>Person returning India after residing abroad for >1 year</u> | Any | Additional jewellery: <ul style="list-style-type: none"> ➤ Male – 20 gms with a value cap of Rs. 50,000 ➤ Female - 40 gms with a value cap of Rs. 1L |

- Allowance can't be pooled (clubbed) for 2 or more persons.
Mr. A & his wife coming from USA brings a music system worth Rs. 60,000/- in such case duty free only 50,000 & tax to be paid on 10,000.
However if brings 2 music system worth 30,000/- each then duty free allowed
- Ex. Female resided abroad > 1 year. Jewellery of 1L + 50,000 (in accompanied baggage) = 1.5L allowed
- a. **Tourist** means person not normally resident in India, enter India for stay \leq 6 month for legal non-immigrant purpose
- b. Personal effect does not include Jewelry

Example

Mr. Bush came India on travel visa with goods.

| | |
|------------------|-------|
| Travel Souvenir | 85000 |
| Personal effects | 70000 |



| | |
|---|----------|
| Personal computer | 45000 |
| Other articles carried in person | 1,50,000 |
| 120 sticks of cigarette | 12,000 |
| Fire arm with 100 cartridge of Rs. 500 each | 1,00,000 |
| 2 new laptops of 60,000 each | 1,20,000 |
| Jewellery 25 gms. | 75,000 |

Calculate custom duty, if effective rate is 38.5% including SWS

Answer

| Computation of customs duty payable | Amt |
|---|----------|
| Travel souvenir | Nil |
| Personal effects | Nil |
| Personal computer | 45000 |
| Articles carried on in person | 1,50,000 |
| Cigarettes [100 sticks can be accommodated in General Free Allowance (GFA)] | 10,000 |
| Fire arms cartridge (50 cartridges can be accommodated in GFA) | 25,000 |
| Laptop (1 laptop exempt) | 60,000 |
| Jewellery (No additional exemption applicable in this case) | 75,000 |
| Baggage than can be accommodated in GFA | 3,65,000 |
| Less: GFA | 15,000 |
| Baggage on which duty is payable | 3,50,000 |
| Duty payable @ 38.50% (including 10% Social welfare surcharge) | 1,34,750 |

| Items charged @100% custom duty | |
|---------------------------------|---------------|
| Cigarettes above 100 | 2,000 |
| Fire arm | 50,000 |
| Cartridges above 50 | 25,000 |
| Total | 77,000 |
| Custom duty @100% | 77,000 |



Transfer of residence (Additional allowance) (Rule-6)

Person engaged in profession abroad or transferring his residence to India allowed duty free import of **personal and household goods**, other than article in Annex-I & II but includes article in Annex-III of value given in table.

(This is in addition to general allowance u/r 3 & 4)

| Duration of stay abroad | Value | Conditions |
|-----------------------------|--------------|--|
| 3 months – 6 months | Up-to 60,000 | Indian Passenger |
| 6 month - 1 year | Up-to 1 Lac | Indian Passenger |
| ≥1 year (Out of past 2 yrs) | Up-to 2 Lacs | 1. Indian Passenger 2. Not availed such concession in last 3 yrs |
| ≥ 2 years | Up-to 5 Lacs | 1. Minimum 2 yrs stay abroad before arrival Relaxation : shortfall up-to 2 months may condone by AC/DC, if due to a) terminal leave/vacation or b) other special circumstances 2. Total stay in India ≤ 6 month in last 2 yrs - Commissioner may condone excess stay 3. Not availed such concession in last 3 yrs |

Rule-7 - Import and export of currency to govern by FEMA.

Un-accompanied baggage (Rule- 8)

These rules apply to un-accompanied baggage also, only when person came in India say on 5th July, and

- Baggage came not before 2 months i.e. 5th May [AC/DC can allowed up-to 1 yr)
- & not after 1 month i.e. by 5th Aug. (or up to extended period)

Note: Benefit of 50,000/15,000 given in Rule 3 and 4 not available to un-accompanied baggage.

Crew baggage (Rule- 9)

- Above rules shall apply on crew member of foreign going conveyance when they finally paid off on termination.
- In regular -time, can bring items like chocolate, cheese, cosmetics or petty gift up to Rs. 1500 for self/family use.



ANNEXURE-I (Do remember)

- 1 Firearms.
- 2 Cartridges of fire arms > 50.
- 3 Cigarettes > 100 sticks or cigars > 25 or tobacco > 125 gms.
- 4 Alcoholic liquor or wines in excess of 2 litres.
- 5 Gold or silver in any form other than ornaments.
- 6 Flat Panel (LCD/LED/Plasma) television.

ANNEXURE-II (May read a bit)

- 1 Colour Television
- 2 Video Home Theatre System
- 3 Dish Washer
- 4 Domestic Refrigerators of capacity above 300 liters or its equivalent.
- 5 Deep Freezer.
- 6 Video camera or the combination of such Video camera following goods, namely:-
 - (a) Television receiver;
 - (b) sound recording or reproducing apparatus;
 - (c) video reproducing apparatus.
- 7 Cinematographic films of $\geq 35\text{mm}$
- 8 Gold or Silver, in any form, other than ornaments.

ANNEXURE III (No need to remember)

- 1 Video Cassette Recorder or Video Cassette Player or Video Television Receiver or Video Cassette Disk Player.
- 2 Digital Video Disc player.
- 3 Music System.
- 4 Air-Conditioner.
- 5 Microwave Oven.
- 6 Word Processing Machine.
- 7 Fax Machine.
- 8 Portable Photocopying Machine.
- 9 Washing Machine.
- 10 Electrical or Liquefied Petroleum Gas Cooking Range
- 11 Personal Computer (Desktop Computer)
- 12 Laptop Computer (Note book Computer)
- 13 Domestic Refrigerators of capacity up to 300 liters or its equivalent.

Temporary detention of baggage (Sec-80)

- Where baggage contain article



- which is prohibited, or
- allowed but passenger not want to pay duty

custom officer can detain (keep) such goods at request of passenger and will be returned to him while leaving India

- If not able to collect while leaving India may be returned
 - through another passenger
 - cargo consigned in his name
- Benefit of this provision apply, only if passenger truly declare the said goods.

Transit & Transshipment

One vessel/aircraft containing goods intended to be unloaded at multiple ports of India/outside India.

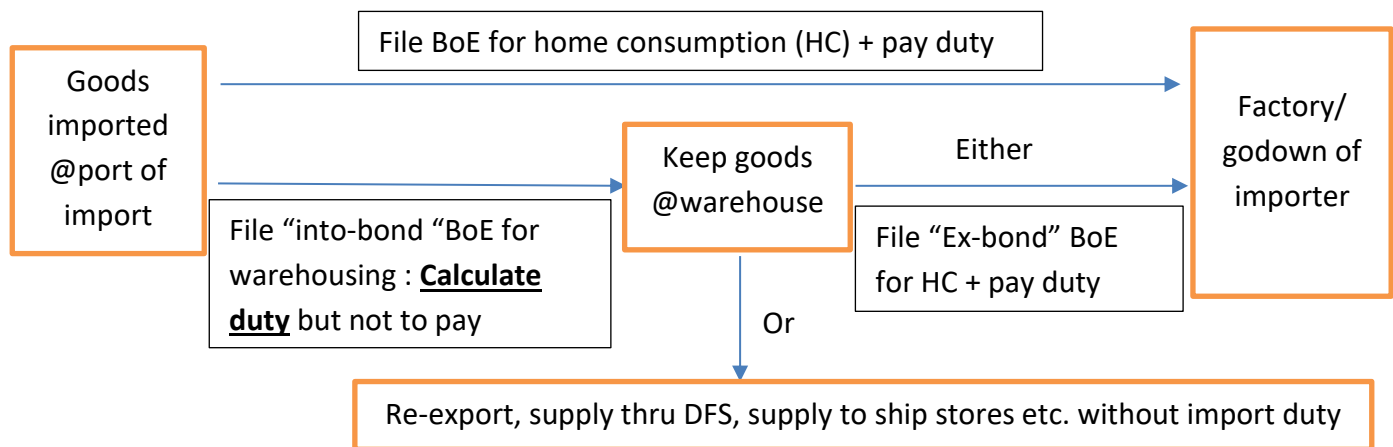
- If same vessel will go to another port, it will be called as transit of goods
- If goods unloaded and then transport thru another vessel, it will be called as transshipment of goods.

| Transit | Transshipment |
|--|---|
| Dealt by Sec .53 | Dealt by Sec-54 |
| Continuity of records | No continuity of records as change of conveyance |
| Mention goods as transit goods in arrival/import manifest | Separate “bill of transshipment” to be filed and Mention goods as transshipment goods in arrival/import manifest |
| Subject to compliance, custom officer may allow goods & conveyance to transit without duty Payment on that port. | |
| These provisions not apply on Baggage, import by post and stores | |



Chapter 6 : Warehousing

Brief process



3 types of warehouse

| 1. Public warehouse | 2. Private warehouse | 3. Special warehouse |
|----------------------------|---------------------------------------|---|
| Record based control | Record based control | Remain under physical control thru custom lock |
| Goods kept by any importer | Kept by licencee importer only | Only notified goods can be stored e.g. gold, silver |
| | | Licence non-transferrable and valid till cancellation |

Cancellation of warehouse licence

- If licensee contravene the provisions/conditions
- Pending inquiry, licence may be suspended. During suspense can't made deposit.
- On cancellation, within 7 days all goods to be shifted to other warehouse or removed for HC.

Warehousing bond

- Importer depositing goods in warehouse to submit bond for 3 times of duty involved.
- Two types of bonds
 - a) Consignment bond – For each consignment
 - b) General bond – For all imports during a specified period. Bond amt depends on past and expected imports

Period for which goods can remain in warehouse (warehousing period)

- Where manufacturing permitted in the warehouse – Unlimited time till clearance/consumption without any interest



- Other cases – 1 year from **date of order of removal** from port/airport. Extension 1 yr at a time.
 - However, interest @15% p.a. on duty is chargeable from 91st day **from date of order of removal from port/airport TO actual payment.**
 - No interest if no duty payable for e.g. re-exporting from warehousing.
- If goods not removed within permitted/extended time, goods shall be **deemed to be removed** on expiry of Permitted / extended period
 - **Rate of custom duty** in such case will be rate applicable on last day of permissible/extended time period
 - **Exchange Rate:** CBIC notified rate on date of filing of **in-to bond BOE (1st BoE)**.

| | in-to bond BoE | Order for warehousing | Permitted period | Actual clearing |
|------------------|----------------------|-----------------------|--------------------------------------|----------------------|
| Date | 14 th May | 21 st May | 4 months (till 21 st Sep) | 14 th Oct |
| Rate of exchange | 65.2 ✓ | 66 | 67 | 68 |
| BCD rate | 15% | 16% | 10% ✓ | 20% |

Assessable value = \$1,00,000 : IGST is exempt

Answer :

| Duty | Interest |
|--|--|
| BCD = \$1,00,000 * 65.2 * 10% = 6,52,000/- | Step 1 : 90 days from 21 st May = 19 th Aug |
| SWS = 10% 65,200/- | Step 2 : Count days after 19 th Aug to 14 th Oct = 56 days |
| Total 7,17,200/- | Int : 7,17,000*56/365*15% = |

Owner right to deal with warehoused goods

- Inspection
- Sorting
- Show goods for sale
- Ensure goods not damaged or deteriorate

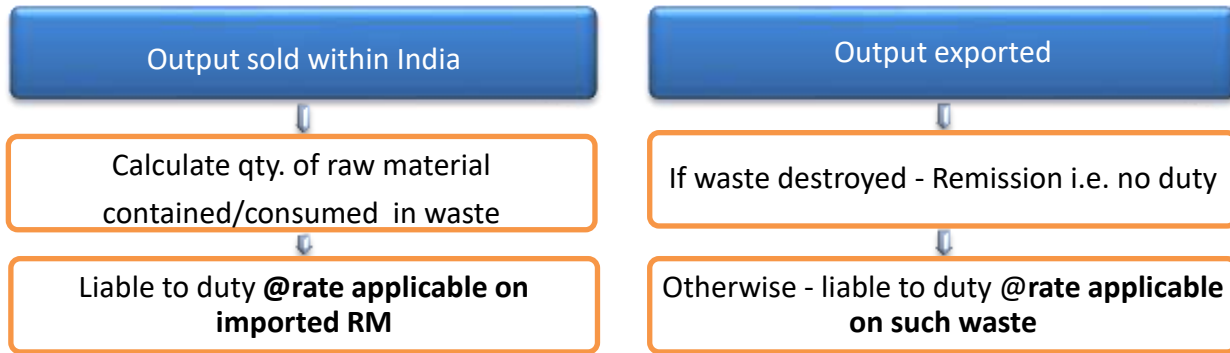
Manufacturing operations on warehoused goods (Sec 65 & 66) – MOOWR scheme

Importer can perform manufacturing operations on warehoused goods in

Private/Special warehouse & after that



Custom duty on waste generated in manufacturing



Example

Rubber imported & manufactured tyre in warehouse

| | |
|------------------------------|----------|
| Rubber imported and used | 1500 kg. |
| Other domestic products used | 210 kg |
| Tyre produced | 100 Nos. |
| Weight per tyre | 16.5 kg. |
| Tyre exported | 75 |
| Tyre sold in India | 25 |

Answer

| | |
|--|--|
| Calculation of wastage = 1710 kg – (100 × 16.5 kg) = 60 kg | |
| Waste Related to exported tyre = $60 \text{ kg} \times \frac{75}{100} = 45 \text{ kg}$ | Waste related to domestic sale = $60 \text{ kg} \times \frac{25}{100} = 15 \text{ kg}$ |
| Rubber content: $45 \text{ kg} \times \frac{1500}{1710} = 39.5 \text{ kg}$ | Rubber content = $15 \text{ kg} \times \frac{1500}{1710} = 13.2 \text{ kg}$ |
| Import duty gets remitted if waste of 45 kg. destroyed | Duty Payable on 13.2 kg @ duty rate applicable on rubber |

Improper removal of goods from warehouse

Sec-71 : Goods can be removed only by following process of HC, export, removal to another warehouse or other way provided in custom Act.

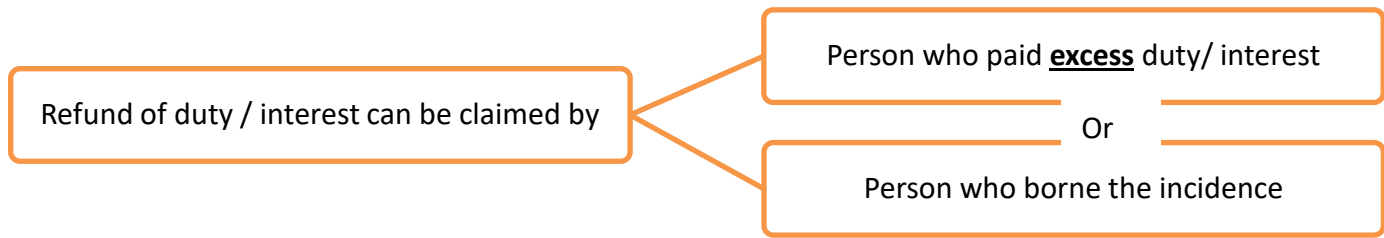
Owner of warehoused goods is required to pay duty immediately, if

- Goods removed in contravention of sec-71 i.e.
- Goods not removed within permitted time period of warehousing
- Goods not cleared for HC or export or not accounted for to satisfaction of officer

Warehouse owner also liable to pay duty, int., penalty if goods removed in contravention of sec-71.



Chapter 7 : Refund



Application of Refund shall be made within 1 year from Relevant Date

| Scenario | Relevant Date |
|--|---|
| Refund filed by importer or exporter | Date of payment of duty/interest |
| Refund filed by person from whom duty collected (i.e. purchaser) | Date of purchase of goods |
| Exemption by special order | Date of such order |
| Refund due to judgement /decree /order /direction | Date of such judgement/decree/order |
| Provisional Payment of duty | Date of adjustment of duty after final Assessment |

- However, time limit of 1 year not applicable in case duty/interest paid “under protest”
- No refund if amount is up-to Rs. 99/- (less than 100) (Tip : In GST it is 999/- CGST and 999/- SGST)
- With refund application submit following
 - Documentary evidence to establish that duty / interest collected from or paid by him
 - evidence that incidence of duty not passed

Refund of export duty, if

| | |
|--|---|
| i) Goods returned by customer, or ii) Goods re-imported within 1 year | Application can be filed within 6 months from clearance |
|--|---|

Refund of import duty (Sec -26A)

- If imported goods found **defective** or **not as per specification**
- Importer may **export** OR **destroy** OR **relinquish** i.e. handover goods to custom, within 30 days of clearance + 3 months extrn.
- Refund application time limit (called as relevant date)
 - within 6 months of “Let export order” or date of destroy/relinquish.
- Following conditions should satisfy
 - Goods not worked upon, repaired or used
 - AC/DC satisfy that goods are imported goods



- Importer doesn't claim drawback
- No offence been committed with respect to such goods.
- Goods are not perishable and not expired products.

Unjust Enrichment (UE)

- Custom duty is an indirect tax, **generally**, such tax ultimately recovered from consumer with the price.
- When person who applies for refund is not the person who borne the burden, refund will not be given to applicant but paid into fund called “Consumer welfare fund” (CWF)
- However, in following situations, refund amount paid to applicant
 - Importer or exporter has not passed duty incidence to another person (Burden to prove is on applicant)
 - Buyer (who filing refund) not passed incidence of duty and interest
 - Import by **individual** for personal use
 - Refund of export duty on return of goods
 - Amount of drawback u/s 74/75
 - Duty/ interest borne by CG notified applicant
 - If excess duty paid by importer **before order for H.C.** evident from self/re-assessed BoE.

Judgements on refund

- Doctrine of UE apply even when payment made under protest.
- It can't be concluded that burden not passed to buyer, even when same sale price before & after taxes, as price depends on various factors.
- UE applies to capital goods used in manufacture, if cost of it included in FG sold.
- Self-assesement/ final-asement done or demand confirmed, and payment made. In such case,
 - Appeal is required to be filed against demand/assessment to take refund.
 - Refund app. can-not substitute the appeal.

Interest on delayed refund



Interest only on duty amount, no int. on deposits for project import, security for provisional release.



Comparison between GST and custom (all refunds including due to final assessment)

| | Custom | GST |
|---|--|---|
| Order passed by AA/Tribunal/Court/ finalization of provisional assessment | From next day after completion of 3 months from order date/ final assessment date | From 61st day of REFUND APPLICATION filing date |
| Other cases | From next day after completion of 3 months from Refund APPLICATION filing date | |
| Refund of pre-deposit paid while filing appeal | NA | From date of pre-deposit made |
| Till | Actual refund receipt date in bank account | |
| Rate – When order by adjudication/AA/court/ pre-deposit refund | 6% | 9% |
| Rate other cases | | 6% |

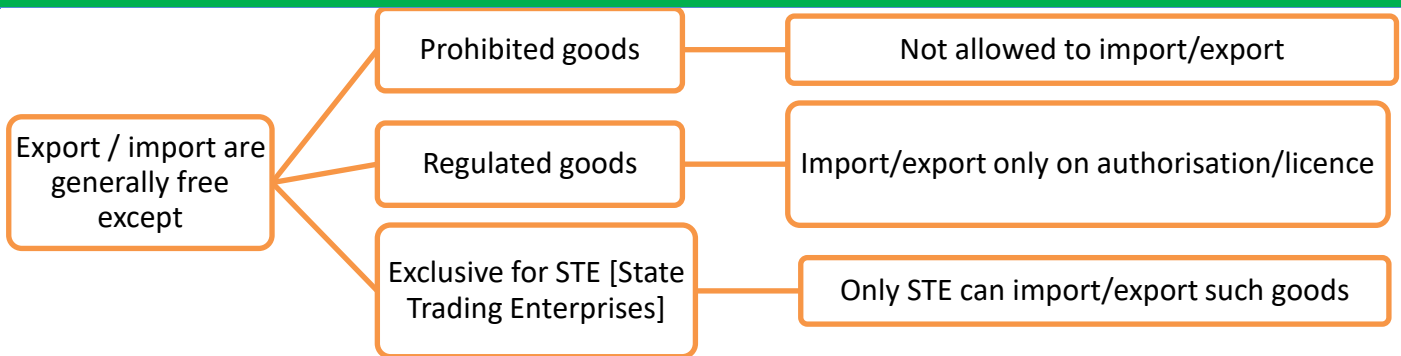


Chapter 8: Foreign Trade Policy (FTP)

Administration of FTP

- CG issues FTP with powers from Foreign Trade (Development & Regulation) Act 1992
- Formulated and supervised by Director General Foreign Trade (DGFT)
- DGFT decision final & binding for in respect of interpretation of FTP, classification etc.
- DGFT can grant exemption, relaxation in public interest.
- DGFT issues import/export authorization and grant 10 digits Import Export code (IEC)
It is the same number as applicant's PAN.

Type of goods



Authorised Economic Operator (AEO)

Custom dept grants AEO status to entity doing import/export if it is compliant with supply chain security standard. Benefits to AEO :

- 1) Reduced examination and faster clearance
- 2) Deferred payment of duty
- 3) Direct port entry/delivery
- 4) Greater facilitation & self-certification

Towns of Export Excellence (TEE)

- Towns exporting goods of specified amount granted TEE recognition.
- Targeted support, infra development and privileges provided to them,
- for export competitiveness and tap new market.

Developing districts as export hubs

- Dist. Export Promotion Committee (DEPC) created to provide support for export promotion and remove bottlenecks.
- Dist. Export Action Plan (DEAP) may be prepared for each dist.
- 2-3 high potential products from each district may be identified and implement plan for export growth



“Status Holder” certificate

Exporter having IEC code eligible to be recognized as “Status Holder” based on export performance in current and **ALL 3 preceding** financial years.

| Status category | Export Performance [In USD million] | Notes |
|-----------------|-------------------------------------|---|
| 1 Star | 3 | a) For 1 Star status, units in Northeastern States, J&K, Ladakh and MSME, ISO/BIS certified units given double weightage b) FOB value is to be taken c) For deemed export, convert INR amount to USD using exchange rate on 1 st April of that FY. d) Re-export and export under AA also included |
| 2 Star | 15 | |
| 3 Star | 50 | |
| 4 Star | 200 | |
| 5 Star | 800 | |

- Benefits / Privilege to “Status Holder” unit.
 - 2 star & above eligible to setup export warehouses
 - Authorization & custom clearance on self-declaration basis
 - Fixation of Input-Output norms within 60 days
 - Exemption from furnishing BG for FTP schemes
 - 2 Star and above eligible to setup export warehouses
 - Preferential treatment and priority in handling consignments.

SCOMET : Special chemical, organism, material, equipment and technology

It is a list of items which having dual use i.e. in industry and weapon production.

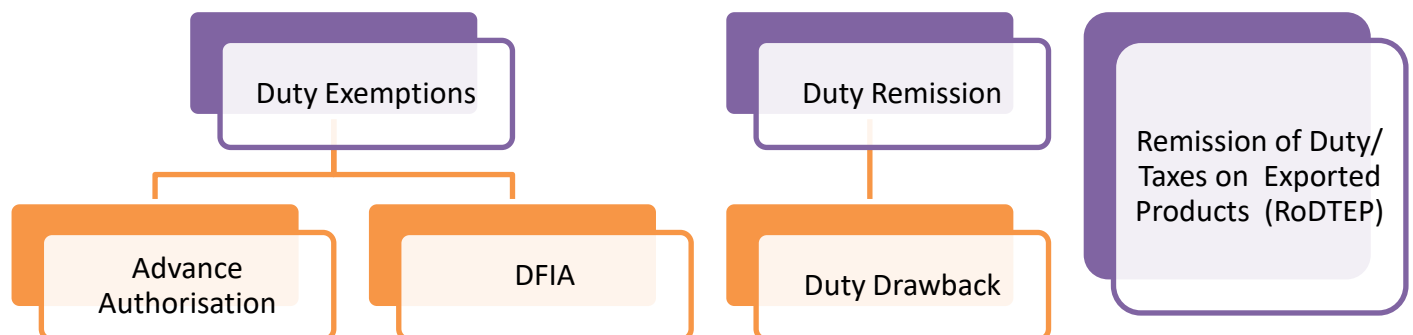
These goods are either prohibited or permitted thru authorization unless specific exempted

Denied Entity List (DEL)

- For non-compliance an entity may be placed in DEL. Grant/renewal of licence/authorization etc. blocked
- Removed by DEL if complete export obligation, pay penalty/demand, submit doc as required.

Various Duty Exemption & Remission Schemes

Benefits/concession on import of goods for export of FG.



- A person may opt duty drawback for part of inputs & duty exemption for part of inputs

Advance Authorization (AA)

- Facility of **duty-free import** of goods used in manufacture of physical/ deemed export/ “Stores”
 - Import within 12 month + 12 months extn. from issue of AA
 - “Export Obligation” (EO) → Export FG within 90 days from clearance of Import consignment
 - Minimum value addition = $15\% = \frac{A-B}{B} \times 100$
 - A = FOB value of export/DE
 - B = CIF value of input under AA/DBK
- + notional value of input provided free by supplier
- Following goods can be imported
 - a. inputs used in manufacture of export Product
 - b. Oil, fuel, catalyst etc.
 - c. Spares meant for supply with export (Allowed up-to 10% of CIF value of AA)
 - Following duties are exempted – BCD, ACD, CVD, ADD, safeguard duty, IGST, GST cess.
 - **Applicable Conditions**
 - a. Pre-import condition - first import & use input in production
 - b. “Actual User Condition” applicable i.e. AA and imported material can-not be transferred/sale

Advance authorisation for annual requirement

- Available for inputs notified in Standard Input Output Norms (SION) not on adhoc norms
- Exporter having export Performance in at-least 2 preceding F.Y.
- Entitlement of CIF value of import = Higher of
 - 300% of FOB value of export/deemed export in previous F.Y.,
 - Rs. 1 crore

Duty Free Import Authorisation (DFIA) scheme

- Facility to import input used in manufacture of export products without payment of duty
 - Tyre not allowed to import under DFIA
 - Only BCD exempted
 - No DFIA can be issued for inputs, where SION prescribe “Actual user” or “pre-import condition”
 - DFIA will be issued on post export basis
 - No Actual User condition, Hence DFIA transferable.
 - Minimum value addition = 20%
 - Valid for 12 Months from issuance.

Duty Drawback (DBK)

Custom duty paid on inputs, refunded to exporter. No refund of GST.

Allowed for manufactured goods or same goods re-export.



RoDTEP

- Scheme applicable to refund such taxes/ duties paid on input, transport etc. which otherwise not exempted/refunded in other schemes.
- **Transferrable** E-Scrips given to exporter as benefit.
- Scrip can be used to pay BCD
- If sale proceed not realized within FEMA, return benefit.
- Following exports not eligible for benefit:
 - a. Re-export of same goods
 - b. Export subject to export duty or minimum export price
 - c. Goods restricted/prohibited
 - d. Deemed Export/ supply to SEZ
 - e. Export from non-EDI port

Export Promotion Capital Goods (EPCG) scheme

- Permit import of Capital Goods at **Zero custom duty** or procure domestic CG without paying duty
Zero IGST & Cess only for physical Export
- Scheme **available to** manufacturer/merchant exporter and **service provider**
- **Eligible CG**
 - a. CG including in CKD/ SKD condition
 - b. Spare, moulds, dies, Jigs, fixtures, Catalysts
 - c. Computer system and software
- Validity : Import within **24 months** from issue of authorization
- Actual user condition till completion of export obligation
- Export obligation (EO) to be completed in 6 years = Average EO + Specific EO
Average EO = 6 years (x) Average export of previous 3 years of same product
Specific EO = Imported CG = 6 times of duty/tax benefit
Domestic CG = 4.5 times of notional duty/tax benefit

Incentive : If achieved 75% of total Specific EO + “Average EO till applicable date” within 3 years, rest EO waived

EOU/EHTP/STP/BTP scheme

- Units undertaking to export whole production of goods and services. (trading units not covered)
- May import without paying BCD, IGST & cess
- Procure from DTA on payment of GST, however refund allowed under Deemed export provisions.
- Actual user condition applicable
- Unit shall be **positive** net foreign exchange earner (calculated in block of 5 years)
- Transfer from EOU/EHTP/BTP/STP to another EOU/EHTP/BTP/STP allowed on payment of GST.
- Unit may exit from scheme on payment of applicable tax & penalty if obligations not met.



Deemed Export (DE)

| DE means supply of <u>goods</u> by Mr. X | Benefits to Mr. X on such supply. |
|--|---|
| 1) To AA, DFIA, EPCG holders or EOU etc. units 2) To mega power, nuclear power project 3) To UN or international organization or projects financed by them 4) Supply to project where BCD free import allowed | a) Mr. X will get AA/DFIA licence b) Duty drawback c) Refund of excise duty d) Refund of GST to Mr. X or buyer |

Miscellaneous

| | |
|-------------------------|--|
| Samples | Import of “Restricted” items allowed without authorization. Defense item, seeds, bees and new drugs requires authorization. Duty free import up-to 3 lacs allowed to exporter Export : No limit |
| Gift | Import of gift thru post/courier prohibited except Rakhi and life-saving medicine. However, can be imported on payment of applicable import duties. Export up-to 5L in a FY allowed. |
| Prototype | Can be imported without authorization, if Importer is “actual user” (not for sale to other) He is producer or licenced researcher to research goods for which prototype required. |
| Waste/scrap | It should not contain hazardous, toxic waste, arms, cartridge etc. |
| Supporting manufacturer | Person who manufacture goods or parts/component for exporter. For export benefits, his name should also be mentioned in export docs. |
| Currency | Export contract may be in INR or foreign currency. Realization in forex only, In specified case, INR is allowed. |
| Non-realisation | Liable to return all benefits and penalty. No action if RBI write off. |
| Origin of goods | Self-certification allowed for “approved exporter” |
| Merchant trading | Shipment from one country to another country or within same country without touching Indian port allowed. |



Index of additional topics applicable for CMA final

| Chapter No as per CMA study mat | Chapter | Start page |
|---------------------------------|--|------------|
| | PART – I GST | |
| 12 | GST Annual return and GST audit return | 2 |
| 17 | Walkthrough of GSTN portal (www.GST.gov.in) | 2 |
| | PART - II Custom and FTP | |
| 20 | Manufacture in Bond (additional content) | 3 |
| 21 | Duty Drawback | 4 |
| 25 | Trade Facilitation measure | 7 |
| 27 | Special Economic Zone (SEZ) | 8 |

Chapters/topic applicable for CA but not for CMA

| Chapter | Chapter | Start page | Applicable for CMA? |
|---------|--|------------|--|
| | PART - I GST | | |
| 8. | Registration | 84 | Full chapter not applicable |
| 9. | Tax invoice, Credit Notes & Debit Notes | 95 | Full chapter not applicable |
| 20. | Liability to pay in certain cases | 152 | Full chapter not applicable |
| | PART - II Custom and FTP | | |
| 2. | Type of Duty | 8 | Below 4 topics applicable, all else not applicable |
| | Basic Custom Duty (BCD) (Sec-12) | 8 | |
| | Surcharge/Cess | 12 | |
| | IGST u/s 3(7) & GST cess | 12 | |
| | Assessable value for levying IGST | 12 | |
| 3. | Classification | 13 | Full chapter not applicable |

All other chapters of CA are applicable for CMA

Chapter 12 : GST Annual return and GST audit return

Key points of annual return (GSTR-9)

1. All GSTR1 and 3B should have been filed for year before filing annual return in form GSTR-9
2. Additional liability to be declared in annual return which can be paid only thru CASH LEDGER
3. Unclaimed ITC can't be claimed in annual return
4. Registration cancelled during the year is also required to file annual return for part of the year
5. Person opted out from composition require to file both GSTR-9 and GSTR-4

Format of GSTR-9

| | |
|----------|---|
| Part I | Basic info. |
| Part II | Outward (B2B, B2C, Export, SEZ, advance, DN/CN, exempted)& inward RCM supplies |
| Part III | ITC : (Domestic, RCM, Import of goods, import of service) (Divide into input, services, CG) Various reversal |
| Part IV | Tax paid details : Payable and paid through cash and ITC separately for C/S/I/Cess |
| Part V | Basic info. : Supply/tax reduced/declared through amendments, previous FY ITC reversed/availed. |
| Part VI | Refund details, HSN wise inward and outward supply |

Format of GSTR-9C (Reconciliation statement)

| | |
|----------|---|
| PART A | Reconciliation statement : Between Financial statement (FS) and GSTR9 |
| Part I | Basic details : GSTIN, FY, Name |
| Part II | Reco of turnover |
| Part III | Reco of tax paid |
| Part IV | Reco of ITC |
| Part V | Basic info. : Supply/tax reduced/declared through amendments, previous FY ITC reversed/availed. |
| PART B | Self certification : Declaration of truth signed by taxpayer |

Chapter 17 : Walkthrough of GSTN portal (www.GST.gov.in)

GST compliance is completely online and being done through GSTN portal.

Services provided in GSTN portal

1. Filing various transition forms
2. Application for GST registration
3. Filing GST returns and making payment
4. Filing refund

5. Application for GST practitioner
6. Availing/opting out composition

Advantage of GSTN portal

1. Compliant ticket can be raised by user
2. Progress and resolution comment can be checked through ticket number
3. While raising ticket, based on subject, portal provide the FAQ/user manual for self-help.
4. Provide all self-help information hence no need of communication with help-desk.

Chapter 20 : Manufacture in bond

All other topics of this chapter are covered in Custom Chapter 6 (Warehousing) of CA final book. Below are additional topics.

Conditions for transport of goods from one bonded warehouse to another

- Fill the form provided in Warehoused Goods (Removal) Regulations Act.
- Original warehouse licensee to put lock on load compartment of truck/conveyance except where Commissioner allows transport without lock.
- Recipient warehouse will allow unloading only when lock is intact.
- Report difference in quantity to bond officer.
- Recipient will acknowledge the goods receive and such acknowledgement to be submitted to sending warehouse.

Owner of warehouse to maintain following records

- Record of receipt, handling, storing and removal of goods as per Annex. B.
- Record of activity, operation or action taken in relation to warehoused goods.
- Record of drawal of samples.
- Keep copies of BoE, transport documents, Shipping bills/Bill of export, Form of transfer to other warehouse.
- Keep records for 5 years from date of removal.
- File monthly returns within 10 days.

Chapter 21: Duty Drawback (DDB)

Basic

- On export or **deemed export** of goods, exporter is eligible to **take refund** of custom duties paid on imported raw material, that is called as Duty Drawback (DDB)

DDB on re-export of same goods (Sec-74)

- Example : Steel imported and same steel is being exported. Custom duty paid on import.
- Goods should be capable of being easily identifiable as the same goods which were imported and officer satisfy the same goods being exported.
- Goods exported after ensuring that no prohibition or restriction on such export
- Exported within 2 years from payment of import duty.
- No DDB allowed on Used apparel, Tea Chest, Exposed cinema film, Unexposed photo film/paper/plate, X-ray film.
- DDB rate on re-export of goods imported for **business purpose**

| | Period between Goods place under custom control for export - Good cleared on import | % of import duty to be paid as DDB |
|--------------------------------|---|------------------------------------|
| Goods not used | Anytime within 2 years | 98% |
| Goods used or any testing done | Up-to 3 Months | 95% |
| | Up-to 6 months | 85% |
| | Up-to 9 months | 75% |
| | Up-to 12 months | 70% |
| | Up-to 15 months | 65% |
| | Up-to 18 months | 60% |
| | Above 18 months | NIL |

- DDB rates on re-export of goods imported for **personal use** (motor car etc.)

| | For every quarter or part | Rate of DDB to be reduced per quarter |
|----------------------|---------------------------|---------------------------------------|
| Goods not used | Re-export immediately | 2% (i.e. 98% refund) |
| Goods used or tested | In 1 st year | @4 % |
| | In 2 nd year | @3% |
| | In 3 rd year | @2.5% |
| | In 4 th year | @2 % |

For DDB of car/goods used for more than 2 years, CBIC approval is required.

Example : Laptop purchased on 15/08/2023, re-exported on 05/09/2024. Import duty : 10,000/-

Answer : Used for 12 months and 20 days.

Business use : $10,000 * 65\% = 6500/-$

Personal use : Total 5 quarters ($4Q * 4\% + 1Q * 3\%$) = 19%

$10,000 * (100-19)\% = 8100/-$

Drawback on imported material used in manufacture of exported goods (Sec-75)

- DDB payable based on rate determined by Govt.
- No time limit for export

Types of Duty Drawback

All industry rate (AIR)

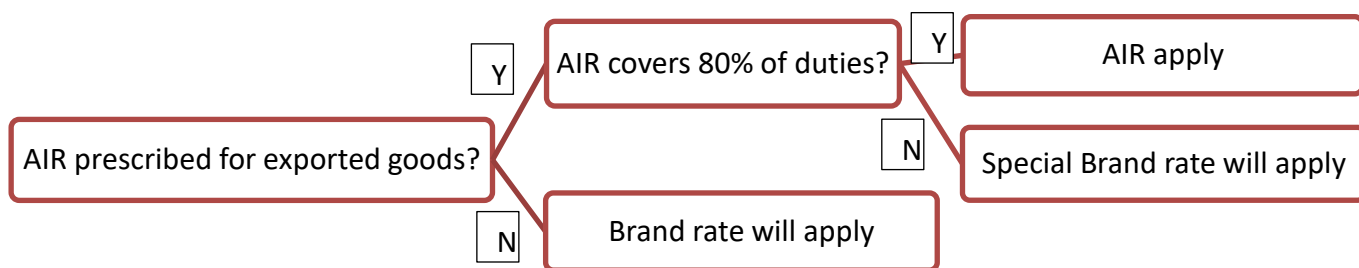
- Rate of drawback is determined by Govt based on various facts, such rate is called as “All Industry Rate”.
- Such rate fixed annually on 1st June.
- Factors to decide **product wise** All industry rate
 - Average qty. and value of raw material required for particular finished goods.
 - Average qty. and value of imported or excisable raw material required for particular finished goods.
 - Average amount on duties paid on material used for manufacture of intermediate product (which is being used in manufacture of FG).
 - Average amount of duties paid on material wasted, in packing material or in input services

Brand rate (Rule 6)

- On application of exporter Brand rate is fixed for those products for which AIR is not announced.
- Exporter to submit prescribed data within **3 months** of relevant date for Brand Rate determination.
- Exporter can apply for provisional amount of DDB pending brand rate finalization after filing Bond + surety/security.

Special Brand Rate (Rule 7)

- Special Brand Rate applies when “All Industry rate” do not cover 80% of drawback amount due (i.e. actual duties paid on inputs)
- Value of export should be higher than import.
- Once DDB refund claimed filed basis AIR, exporter can't request for Special Brand Rate.



Time limit for claiming DDB and for application for Brand/Special Brand Rate

- Within 3 months **from order of export**
- 3 months extn by AC/DC on payment of lower of 1% of FOB or Rs. 1000
- Further 6 months extn by Commissioner on payment of lower of 2% of FOB or Rs. 2000

Recovery

- Recovery of DDB if export proceed not realized withing FEMA period
- No recovery if
 - Such amount is compensated by ECGC corporation, and
 - RBI write- off requirement of realization, and
 - Exporter produce certificate from Foreign Mission of India.
- Where after recovery, sale proceed realized within RBI time limit, DDB again repaid.

Negative list of DDB (No DDB)

- If market price of goods exported is less than DDB amount. = No DDB
- If market price is higher than DDB then maximum DDB = 1/3rd of market value of export goods.
- If export FOB value is less than import value
- If DEPB or other export incentives been taken.
- If sales proceeds not received with RBI limit.
- Export to Nepal or Bhutan if realization not in USD, GBP or Pound.
- No DDB if DDB rate is up-to 1% **AND** amount of DDB is up-to 500/- (Any one is higher, DDB allowed)
- No DDB if amount is up-to Rs. 49/-
- If export vessel sunk **WITHIN** territorial water – No DDB because no export.
- If export vessel crosses territorial water however returned back due to engine failure and sunk – DDB allowed as it crossed territorial water.

Interest

| | | |
|-----------------------|----------|---|
| Delayed refund of DDB | @6% p.a. | FROM : expiry of 1 month from date of refund application TO : Date of refund |
|-----------------------|----------|---|

| | | |
|-----------------------------|-----------|---|
| | | Application date : 15 th July, Int. from : 16 st Aug |
| Recovery of excess DDB paid | @15% p.a. | FROM : Date of payment TO : Date of recovery Note : Include date of payment also Eg. Refund receive 15 th Sep, returned on 20 th Sep : Int. for 6 days |

Chapter 25 : Trade facilitation measures

Major trade facilitation majors taken

1. Facility of deferred payment
2. Relaxation in insurance, bond, BG.
3. Introduced “record based control” in warehouses instead of physical control
4. Indian custom single window project
5. Reduction in mandatory documents in import and export
6. 24x7 custom clearance without merchant overtime charges
7. Reducing printouts in custom clearance

Relaxation in Insurance cover/Bond/BG

- Requirement of insurance cover to be taken by Custom Cargo Service provider for goods in custom area has reduced to 10 days.
- Requirement of submitting a bond for imported goods stored in custom area has been reduced to 10 days. Consequently Bank Guarantee amount got reduced hence saving in transaction cost.

Indian Customs Single Window Project

- Introduced SWIFT (Single Window Interface for Facilitating Trade) for ease of business.
- Importer electronically submit custom clearance document at single point and permissions from other dept. viz. Drug controller, Textile committee etc. obtained online without separate application.
- Benefits :
 - Enhances transparency
 - Reduce duplicity and cost
 - Optimum utilization of manpower
- 24x7 custom clearance for all BoEs and shipping bills at 19 ports and 17 Airports without any merchant overtime charges.

Chapter 27: Special Economic Zone (SEZ)

Incentives to SEZ

- Duty free import or domestic procurement
- Income tax exemption on export income (100% of 5 years + 50% for next 10 years)
- Exemption from Minimum Alternate Tax (MAT)
- Supply to SEZ is Zero rated supply under GST
- No import licence required.
- No need for separate documents for custom clearance and FTP benefits.

Benefits of SEZ

- Duty free import or domestic procurement
- No licence/sanction required to import capital goods, RM, consumables etc.
- Duty free goods can be used for 5 years after approval.
- FG, by-products, waste/scrap can be sold within India subject to payment of custom duties/GST.

Objectives of SEZ Act

- To boost export
- To generate employment
- To boost domestic and foreign investment
- To develop infrastructure

SEZ approval mechanism

- Through single window, developer of SEZ submit proposal to State Govt.
- SG forward proposal to Board of Approval (BoA) with recommendation within 45 days.
- Developer can also directly submit application to BoA
- BoA takes decision based on consensus of its 19 members.
- After BoA approval, CG notifies area of SEZ. Various units can establish inside SEZ area.

SEZ rules provide for

- Simplified procedure to develop, operate and maintain SEZ and set up units in it.
- Simplified compliance procedure and documentation with self-certification
- Single window clearance to set up SEZ and units and matters relating to CG/SG
- Different minimum land requirement for different class of SEZ

Difference between SEZ and EOU

| SEZ | EOU |
|--|--|
| Supply to SEZ, called as Zero Rated (export) Supply | Supply to EOU called as Deemed export |
| Supply from DTA (Non SEZ area) to SEZ will be without payment of GST | GST applicable at normal rate |
| No refund arise to SEZ, as not GST on purchase | Supplier or receiver can claim the refund of GST |
| Export/import custom clearance within SEZ itself | For EOU, fast track clearance scheme applies |
| SEZ unit can be set up in designated sites | Can be set up any where in India without |
| Purchase by DTA unit from SEZ – DTA unit will pay custom + IGST | Purchase by Non EOU from EOU – EOU will pay GST |