Highlites of GST Draft Bill – June, 2016

Levy and Collection of Central/State Goods and Services Tax (Section 7)

- There shall be levied a tax called the Central/State Goods and Services Tax (CGST/SGST) **on all intra-State supplies of goods and/or services** at the rate specified in the Schedule . . . to this Act and collected in such manner as may be prescribed.

Composition Levy (Section 8)

- A registered taxable person, whose aggregate turnover in a financial year **does not exceed [fifty lakh of rupees]**, to pay, in lieu of the tax payable by him, an amount calculated at such rate as may be prescribed, but not less than one percent of the turnover during the year.

Taxable person (Section 9)

- Provided further that a person who is required to be registered under paragraph 1 of Schedule III of this Act shall not be considered as a taxable person until his **aggregate turnover in a financial year exceeds [Rs 10 lakh]** [Rs 5 lakh for NE States including Sikkim.]

- Provided that an agriculturist shall not be considered as a taxable person.

- The Central Government, a State Government or any local authority shall be regarded as a taxable person

Time of supply of goods (Section 12)

- The liability to pay CGST / SGST on the goods shall arise at **the time of supply** as determined in terms of the provisions of this section.

Time of supply of services (Section 13)

- The liability to pay CGST/SGST on services shall arise at the time of supply, as determined in terms of the provisions of this section.

Value of taxable supply (Section 15)

- **The value** of a supply of goods and/or services shall be **the transaction value**, that is the price actually paid or payable for the said supply of goods and/or services where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply.

- The transaction value under shall **include**:

1. Any amount that the supplier is liable to pay in relation to such supply but which has been **incurred by the recipient** of the supply and not included in the price actually paid or payable for the goods and/or services.
2. the value, apportioned as appropriate, of such goods and/or services as are supplied directly or indirectly by the recipient of the supply **free of charge or at reduced cost** for use in connection with the supply of goods and/or services being valued
3. **royalties and licence fees** related to the supply of goods and/or services
4. **any taxes**, duties, fees and charges levied under any statute **other than** the SGST Act or the CGST Act or the IGST Act;
5. **incidental expenses**, such as, commission and packing, charged by the supplier to the recipient of a supply, including any amount charged for anything done by the supplier in respect of the supply of goods and/or services at the time of, or before delivery of the goods or, as the case may be, supply of the services;
6. **subsidies** provided in any form or manner, linked to the supply;
7. **any reimbursable expenditure** or cost incurred by or on behalf of the supplier and charged in relation to the supply of goods and/or services;
8. **any discount** or incentive that may be allowed **after the supply** has been effected:

- The transaction value shall **not include**

  - **any discount** allowed **before or at the time of supply** provided such discount is allowed in the course of normal trade practice and has been duly recorded in the invoice issued in respect of the supply.

Manner of taking input tax credit (Section 16)

- Every registered taxable person shall, subject to such conditions and restrictions as may be prescribed and within the time and manner specified in section 35, be entitled to take credit of input tax admissible to him and the said amount shall be credited to the electronic credit ledger of such person.

- A taxable person **shall not be entitled to take input tax credit** under sub-section (2), (2A) or sub-section (3)in respect of any supply of goods and / or services to him **after the expiry of 1 year from the date of issue of tax invoice** relating to such supply.

Taking input tax credit in respect of inputs sent for job work (Section 16A)

(1) The "principal" referred to in section 43 A shall, subject to such conditions and restrictions as may be prescribed, be entitled to take credit of input tax **on inputs** sent to a job-worker for job-work if the said inputs, after completion of job-work, are received back by him **within 180 days** of their being sent out.

(2) The "principal" shall, subject to such conditions and restrictions as may be prescribed, be entitled to take credit of input tax **on capital goods** sent to a job-worker for job-work if the said capital goods, after completion of job-work, are received back by him **within two years** of their being sent out.

Registration (Section 19)

1) Every person who is liable to be registered under Schedule III of this Act shall apply for registration **in every such State** in which he is so liable **within thirty days** from the date on which he becomes liable to registration, in such manner and subject to such conditions as may be prescribed:

    a. Provided that if the person, other than an Input Service Distributor, **is registered under an earlier law, it shall not be necessary for him to apply for fresh registration** under this section and he shall follow the procedure as may be prescribed in this behalf.

2) a person having multiple business verticals in a State may **obtain a separate registration for each business vertical**, subject to such conditions as may be prescribed.

3) A person, though not liable to be registered under Schedule III, may get himself registered **voluntarily,**

4) Every person shall have a **Permanent Account Number**.

Special provisions relating to casual taxable person and non-resident taxable person(Section 19A)

(1) The certificate of registration issued to a casual taxable person or a non-resident taxable person shall be valid for a period of **90 days** from the effective date of registration.

Credit / Debit Note :

- A credit note/debit note may issue to the recipient containing such particulars as may be prescribed **on or before the 13th September following the end of the financial year** in which such supply was made, or the date of filing of the relevant annual return, whichever is earlier.

Furnishing details of outward supplies (Section 25)

- Every registered taxable person, other than an input service distributor and a person paying tax under the provisions of section 8 or section 37, shall furnish, **electronically**, in such form and manner as may be prescribed, the details of outward supplies of goods and/or services effected, during a tax period **on or before the 10th day of the month succeeding the said tax period.**

Furnishing details of inward supplies (Section 26)

- Every registered taxable person shall furnish**, electronically**, the details of inward supplies of taxable goods and/or services, including inward supplies of services on which the tax is payable on reverse charge basis under this Act and inward supplies of goods and/or services taxable under the IGST Act, and credit or debit notes received in respect of such supplies during a tax period **on or before the 15th day of the month succeeding the tax period.**

- Provided that no rectification of error or omission in respect of the details furnished shall be allowed after filing of the return under section 27 for the month of September following the end of the financial year to which such details pertain, or filing of the relevant annual return, whichever is earlier.

Returns (Section 27)

- Every registered taxable person shall, **for every calendar month** or part thereof, furnish, in such form and in such manner as may be prescribed, **a return, electronically**, of inward and outward supplies of goods and/or services, input tax credit availed, tax payable, tax paid and other particulars as may be prescribed **within 20 days after the end of such month.**

- Provided that a registered taxable person paying tax under the provisions of Composition levy of this Act shall furnish **Quarterly Return**, electronically, in such form and in such manner as may be prescribed, **within 18 days after the end of such quarter.**

- Every registered **taxable person required to deduct tax at source** shall furnish a **return**, **electronically**, in such form and in such manner as may be prescribed, for the month in which such deductions have been made along with the payment of tax so deducted, **within 10 days after the end of such month.**

- Provided that **no such rectification** of any omission or incorrect particulars shall be allowed **after the due date for filing of return for the month of September or second quarter, as the case may be, following the end of the financial year, or the actual date of filing of relevant annual return, whichever is earlier.**

Annual return (Section 30)

- Every registered taxable person, other than an input service distributor, a deductor under section 37, a casual taxable person and a non-resident taxable person, shall furnish an annual return for every financial year electronically **on or before the 31st day of December following the end of such financial year.**

TAX

- Every registered taxable person, who is required to furnish a return shall pay to the credit of the appropriate Government the tax due as per such return **not later than the last date on which he is required to furnish such return.**

Levy of late fee (Section 33)

- Who fails to furnish the details of outward or inward supplies required under section 25 or section 26, as the case may be, or monthly/quarterly returns by the due date :-
  - **a late fee** of **Rs. 100 for every day** during which such failure continues subject to **a maximum of Rs. 5000.**

- Any registered taxable person who fails to furnish the **annual return** by the due date shall be liable to
  - a late fee of **Rs. 100 for every day** during which such failure continues subject to **a maximum of an amount calculated at a 25% of his aggregate turnover.**

Payment of tax, interest, penalty and other amounts (Section 35)

- Every deposit made towards tax, interest, penalty, fee or any other amount by a taxable person by internet banking or by using credit/debit cards or National Electronic Fund Transfer or Real Time Gross Settlement or by any other mode, subject to such conditions and restrictions as may be prescribed in this behalf, shall be credited to the electronic cash ledger of such person to be maintained in the manner as may be prescribed.

Set Off Procedure

1. The amount of input tax credit on account of IGST shall first be utilized towards payment of IGST and the amount remaining, if any, may be utilized towards the payment of CGST and SGST, in that order.

2. The amount of input tax credit on account of CGST shall first be utilized towards payment of CGST and the amount remaining, if any, may be utilized towards the payment of IGST.

   - The input tax credit on account of CGST shall not be utilized towards payment of SGST.

3. The amount of input tax credit on account of SGST shall first be utilized towards payment of SGST and the amount remaining, if any, may be utilized towards the payment of IGST.

   - The input tax credit on account of SGST shall not be utilized towards payment of CGST.

Interest on delayed payment of tax(Section 36)

- Interest rate to be notified by council.

Tax deduction at source (Section 37)

- Deduct tax **at the rate of 1% from the payment made or credited** to the supplier of taxable goods and/or services, notified by the Central or a State Government on the recommendations of the Council, **where the total value of such supply, under a contract, exceeds rupees 10 lakh. [**value of supply shall be taken as the amount excluding the tax indicated in the invoice.]

- The amount deducted as tax under this section shall be **paid to the credit of the appropriate Government** by the deductor **within 10 days after the end of the month** in which such deduction is made, in the manner prescribed.

- If any deductor **fails to furnish to the deductee the certificate**, after deducting the tax at source, **within 5 days** of crediting the amount so deducted to the appropriate Government, **the deductor** shall be liable to pay, by way of **a late fee**, a sum of **Rs. 100 per day** from the day after the expiry of the five day period until the failure is rectified but shall **not exceed Rs. 5000/-**.

Refund of tax(Section 38)

- Any person claiming refund **of any tax and interest**, if any, paid on such tax or any other amount paid by him, may **make an application** in that regard to the proper officer of IGST/CGST/SGST **before the expiry of 2 years** from the relevant date in such form and in such manner as may be prescribed.

- A taxable person may claim refund **of any unutilized input tax credit** at the end of any tax period.
  - Provided that **no refund of unutilized input tax credit shall be allowed in cases other than exports or** in cases where the credit has accumulated on account of **rate of tax on inputs being higher than the rate of tax on outputs.**

  - Provided further that no refund of unutilized input tax credit shall be allowed in cases where the goods exported out of India are subjected to export duty.

  - Provided that where the amount **claimed as refund is less than 5 lakh rupees**, it **shall not be necessary for the applicant to furnish any documentary and other evidences** and instead, he may file **a declaration**.

  - If any tax refundable under section 38 to any applicant **is not refunded within 3 months** from the date of receipt of interest **at such rate** as may be specified in the notification on the recommendation of the Council shall be payable in respect of such refund **from the date immediately after the expiry of the due date for sanction of refund under section 38 till the date of refund of such tax.**

Accounts and other records(Section 42)

- Every registered taxable person whose turnover during a financial year exceeds the prescribed limit shall get his **accounts audited by a chartered accountant or a cost accountant**.

Period of retention of accounts(Section 43)

- Every registered taxable person required to keep and maintain books of account or other records under sub-section (1) of section 42 shall retain them until the expiry of **60 months** [5 years] **from the last date of filing of Annual Return** for the year pertaining to such accounts and record.

: ELECTRONIC COMMERCE :

Collection of tax at source (Section 43C)

- **At the time of credit of any amount to the account of the supplier of goods and/or services or at the time of payment of any amount in cash or by any other mode, whichever is earlier,** collect an amount, out of the amount payable or paid to the supplier, representing consideration towards the supply of goods and /or services made through it, calculated at such rate as may be notified.

- The amount collected as TCS shall be paid to the credit of the appropriate Government **by the operator within ten days after the end of the month** in which such collection is made, in the manner prescribed.

- **Every operator** shall, **furnish a statement, electronically**, of all amounts collected under sub-section (1), towards outward supplies of goods and/or services effected through it, **during a calendar month**, in such form and manner as may be prescribed, **within** 10 days **after the end of such calendar month**.