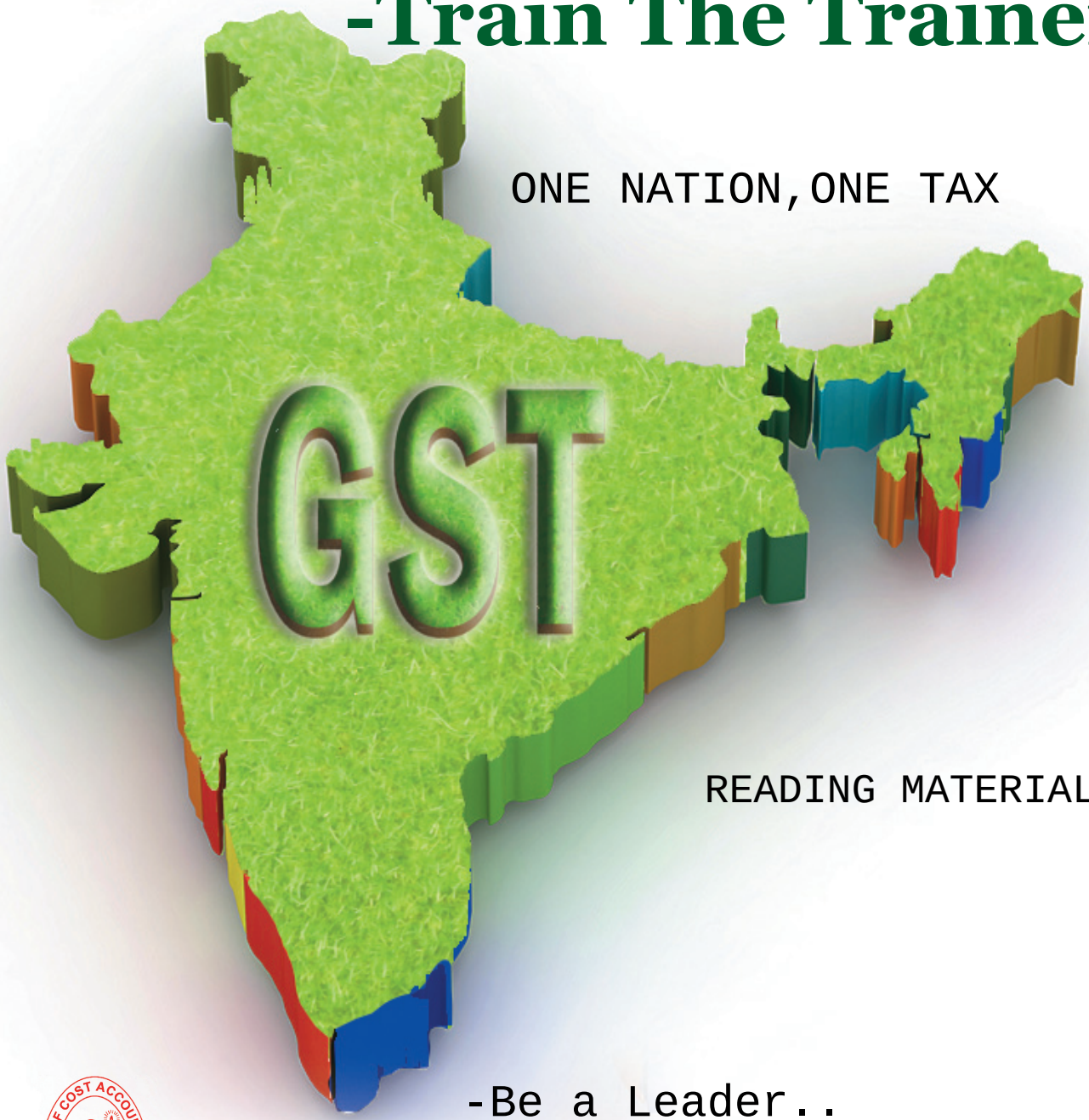
Model GST Law in India -Train The Trainers



ONE NATION,ONE TAX

READING MATERIAL

-Be a Leader..

"Make India -a Tax-compliant Economy"

THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

(Statutory body under an Act of Parliament)

www.icmai.in

CMA Ashok B Nawal
Chairman – Taxation Committee
The Institute of Cost Accountants of India

PREFACE

Dear Colleagues,

It is my great pleasure and privilege to place before you the Training Material titled "Train the Trainers - on Model GST Law, 2016", based on the Draft GST Law issued in June 2016 and the Business Process Reports issued by the Sub-Committees/ Task Forces formed for GST.

Goods and Services Tax (GST) in India is the biggest tax reform in the country post-independence. As Professionals we have a great role to play for its seamless implementation. The task of roll-out and application of GST Law is very easy to be spoken but challenging to get executed and implemented. Yet, we have the utmost desire and capability to extend all possible professional expertise to make this happen from the targeted appointed date. GST Law in India is to bring in tax-simplification by subsuming various other indirect tax laws, namely, Central Excise Act, Service Tax , VAT Laws, Central Sales Tax Act and many others. The incidence for levy of tax is going to change based on 'place of supply' as GST is a 'destination based consumption tax'. This form of destination-based consumption type of GST in India, would reduce tax costs, mitigate cascading effect of taxes, promote exports, attract foreign investors to make in India besides having a positive effect on the domestic industries. GST within a reasonable time period post-implementation would also bring about an environment of 'ease of doing business in India'.

The objective of conducting 'Train the Trainers Program' is to make a uniform dissemination of knowledge and thought-process of the Institute on GST in India. Friends, the GST Law is a virgin law and we have to enrich ourselves technically, which is required for our sustainable professional growth in future. Opportunities are galore - starting from implementation of GST with your stakeholders, reworking the business process flows for identification of tax-reduction activities, business process re-engineering, activity based cost management, framing system driven accounting information to flow in to the maintenance of relevant records and submission of returns under GST for compliance. GST would be an IT-enabled system-driven automated platform, which we need to adhere to at par.

Let us join hands together to promote and motivate investors to Make in India, the prime mission set by our Honorable Prime Minister, Shri Narendra Modiji. Let us all raise to the need of the economy and the Nation at large in smooth implementation of proposed GST in India and to make India the 'destination-country for investment'. Let CMAs be the leaders and major facilitators for the tax-stakeholders to be tax-compliant.

I express my sincere thanks to CMA Chiranjib Das, Joint Director, Tax Research Dept (TRD) and CMA Amit Dey, whose relentless and untiring efforts over the last few days, under my guidance, has made this publication possible. They have attempted to articulate the provisions of the law through graphs, flow charts, diagrams, analysis, examples and practical illustrations for ease of understanding.

I also express my gratitude all Members of Taxation Committee (2015-16), other colleagues in the Council, Immediate Past President (IPP), President, Vice-President for their support. Be a Leader. Let us join hands in making 'One Nation, One Tax' and contribute in making India - a tax compliant economy.

With warm regards.

CMA Ashok B Nawal

GOODS AND SERVICES TAX (GST) in India_ Train the Trainers Program on Model GST Law

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Goods and Services Tax (GST) in India

1.1 Introduction

Tax policies play an important role on the economy through their impact on both efficiency and equity. A good tax system should keep in view issues of income distribution and, at the same time, also endeavour to generate tax revenues to support government expenditure on public services and infrastructure development. Cascading tax revenues have differential impacts on firms in the economy with relatively high burden on those not getting full offsets. Analysis of the tax levy can be extended to international competitiveness of the adversely affected sectors of production in the economy. Such domestic and international factors lead to inefficient allocation of productive resources in the economy. This results in loss of income and welfare of the affected economy.

Even though the country has moved on the path of tax reforms since mid 1980s yet there are various issues which need to be restructured so as to boost productivity and international competitiveness of the Indian exporters.

- Sales of services to consumers are not appropriately taxed with many types of services escaping the tax net.
- Intermediate purchases of inputs by the business firms do not get full offset and part of non-offset taxes may get added up in prices quoted for exports thus making exporters less competitive in world markets
  (Poddar and Ahmad, 2009)

The proposed reform on moving to a 'goods and services tax' would impact the national economy, international trade, firms and consumers.

- GST is a tax on both goods and services across the supply chain/Value Chain.
- It is levied at every stage of supply/Value Addition.
- The GST on Inputs (known as ITC - Input Tax Credit) is generally available as credit for set-off against the GST on the output supply.

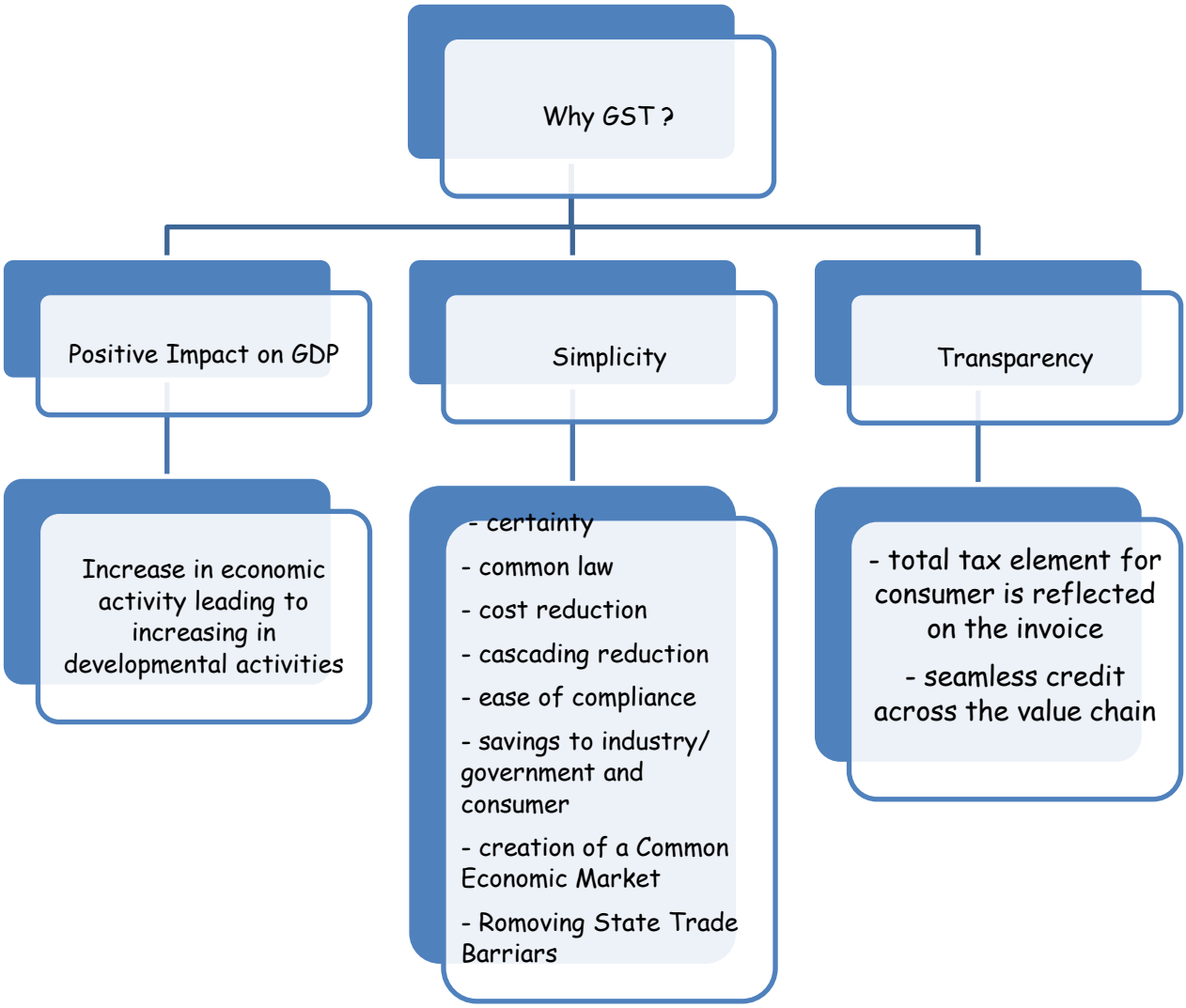
New Article 366(12A) of the Indian Constitution, defines Goods and Services Tax (GST) to mean any tax on supply of goods or services or both except taxes on the supply of the alcoholic liquor for human consumption.

New Article 366(26A) defines service to mean anything other than goods.
Existing Article 366(12) defines goods to include all materials, commodities and articles.

Goods and Services Tax (GST) in India is proposed to be the maiden REFORM (and not an amendment) in the existing indirect taxation structure. The proposed GST is a long pending and much awaited tax reform which is expected to iron out the wrinkles in the existing indirect taxation system. This comprehensive tax policy is expected to be one of the most important contributor to the India growth story.

1.2 Relevance of GST

- Avoid Double Taxation
- Avoid Cascading Effect
- Level Playing Field
- Simplifies & Unified Tax System
- Ease of Doing Business
- Reduce Interface with different departments: Central, State & Local bodies
- Simple Collection System
- Reduction in Collection of Revenue Cost



Goods & Service Tax (GST) or VAT serves the purpose to impose a broad-based tax on final consumption by households. Hence, GST is a comprehensive tax levy on supply of goods and services.

- Both Government and Industry are keen to implement GST
- Governments are looking at increasing the tax base and tax collections (i.e. increase revenue buoyancy) through GST
- State is looking at GST as a window for taxing services
- Centre is looking at GST to go beyond the point of manufacture
- Industry wants GST to eliminate the cascading effect of taxes
- Harmonization of taxes

GST would also address issues of development through greater interaction between VAT/GST systems, along with growing risks of double taxation and unintended non-taxation in the absence of international VAT/GST coordination. Basic principles of VAT/GST are generally same across the tax jurisdictions in so far as they are designed to tax final consumption in the jurisdiction where it occurs according to the destination principle. The fundamental proposition is that GST/VAT is a tax on final consumption and hence the burden should not rest on the business.

GST/VAT prescribes that the tax should be collected at every stage of value addition. Each business entity/tax payer in the supply chain should take integral part in the process of controlling and collecting the tax, remitting the proportion of tax corresponding to its margin, i.e. on the difference between GST imposed on its taxed inputs/supplies and the GST imposed on its taxed outputs/supplies. This design of tax structure, ensures the neutrality of the tax. As a result, the GST thereby "flows through the business" to tax supplies made to final consumers, hence gives its essential character in domestic trade/supplies as an economically neutral tax.

The proposed reform through introduction of GST would bring about a sea-change in the legal provisions for imposing duty/tax liability in stages of manufacture, sale (inter-state/intra-state) of goods, rendering of services and shall stand replaced with the place of supply, where the final consumption/ enjoyment and use of goods/services were made. Hence, this revolutionary reform is necessary to be introduced to perceive the following benefits for the intended stakeholders:

(A) <u>To Trade</u>

- Reduction in multiplicity of taxes
- Mitigation of cascading/ double taxation
- More efficient neutralization of taxes especially for exports
- Development of Common National Market or Common Economic Market
- Simpler tax regime with fewer rates and exemptions
- Increase in 'cost competitiveness' for domestic industries with reduction in tax cost and also reduced cost of compliance

(B) To Government

- Simpler tax system
- Broadening tax base
- Improved compliance and revenue collections
- Efficient use of resources
- Investments out of savings by consumers - due to mitigation of cascading effect, contributes to increase in availability of funds out of savings of consumer - which may be used for financing developmental activities

(C) To Consumer

- Reduction in cost of goods and services due to elimination of cascading effect of taxes
- Increase in purchasing power and real income
- Increase in savings due to decrease in cost
- Increase in investments due to increase in savings

1.3 Principle of Equity

It is desirable for Indian economy to become more competitive and efficient in its resource usage. Apart from various other policy instruments, India must pursue taxation policies that would maximise its economic efficiency and minimise distortions and impediments to efficient allocation of resources, specialisation, capital formation and international trade.

Equity can be brought in and established through a good taxation system. Equity can be classified as (a) horizontal and (b) vertical.

While vertical equity is based on high marginal rates of taxation, both in direct and indirect taxes, horizontal equity relies on simple and transparent broad-based taxes with low variance across the states.

There will be no distinction between goods and services for the purpose of tax with a common legislation applicable to both.

Since, the proposed GST would be broad-based with low variance across the States in India, there shall arise benefits of horizontal equity.

Further that, it should be an inclusive growth across all the states in India. Presently tax is collected by the state where it is originated whereas GST is a destination based consumption tax, hence more revenue will flow to the state where consumption is more and therefore such revenue can be utilised for developing infrastructure so that there will be multiple growth of industry & service across all the state.

1.4 Common Economic Market (CEM) - Post GST

Common Economic Market has been generally understood to mean ' group formed by countries/states within a geographical area to promote duty free trade and free movement of labour and capital among its members'.

Example: European Union.

"The concept of a common market involves the elimination of all obstacles to intra-community trade in order to merge the national markets into a single market and bring about conditions as close as possible to those of a genuine internal market" - Court of Justice Ruling in Case 15/81, Netherlands

Common Economic Market - characteristics:

- free movement of goods
- free movement of salaried and non-salaried workers
- freedom of establishment of persons and companies in the territory of any member state
- free capital movements for business or personal purposes

Common Economic Market - advantages:

- living standard of people expected to go up due to free flow of goods and services within the region
- no tariff and non-tariff barriers, trade in Common market partners - increasing the gains from trade from that source
- through more straight forward access to larger markets (the whole Single Market) firms can operate at a larger scale, production in most efficient in scale (bigger often equals cheaper) and scope (the same production inputs might be used for multiple purposes)

Key theme of CEM is "Freedom of Trade"
- which would lead to 'Ease of doing business in India"
and
motivate investors to set up industrial / business units to "MAKE IN INDIA"

Note: Article 301 of the Indian Constitution provides for freedom of trade and commerce.

1.5 GST Models - Internationally

Goods & Services Tax (GST) is implemented by about 160 countries in the world. France being the first country to implement GST in 1960.

There are various models of GST followed across the World. They are stated with salient features associated therein:

GST Model	Main Features	Applicable in Countries
National GST	Tax levied by Centre with provisions for revenue sharing with Provinces/States	Australia, China
State GST	Tax levied by Provinces/States	USA
Non-concurrent Dual GST	GST on Goods levied by State & on Services levied by Centre	
Concurrent Dual GST	Tax levied by Centre & State on both Goods & Services	Brazil & Canada "India's Proposed Model"
Quebec Model	Separate legislation for Federal/ Provinces – Tax collection, Administration, Enforcements, etc. by Provinces	

A statistical analysis of countries which implemented GST with rates of taxes:

Sr. No.	Region	No. of Countries	Tax Rate (Range)
1.	ASEAN-*(Thailand& Philippines)*	7	7-12%
2.	Asia-(Iran & Tajikstan)	19	5-20%
3.	Europe-(Jersey& Hungary)	53	5-27%
4.	Oceania-(Niue & New Zealand)	7	5-15%
1.	Africa-(Nigeria & Gambia)	44	5-40%
6.	South America-(Brazil & Uruguay)	11	10-22%
7.	Caribbean, Central & North America (Canada & Barbados)	19	5-17.5%
	Total No. of Countries	160	

[Source: "Countries implementing VAT or GST"]

1.6 Proposed GST Model for India

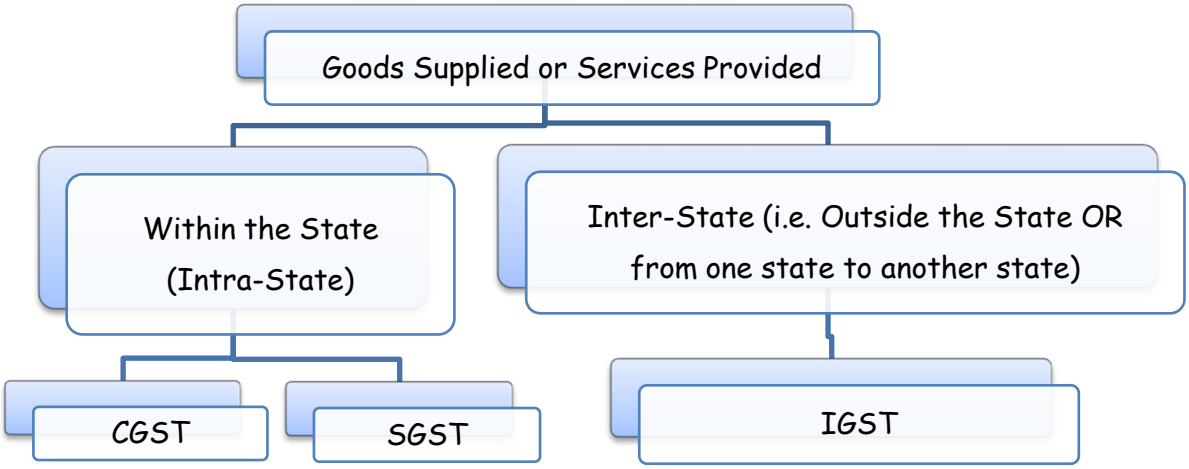
India is opting for "Concurrent Dual GST" model. The need for a Dual-GST model is based on the following premise:

- At existing framework, both levels of Government i.e. Centre and State, as per Constitution holds concurrent powers to levy tax on domestic goods and services;
- The proposed Concurrent Dual-GST model would be a dual levy imposed concurrently by the Centre and the States, but independently;
- Both the Centre and State will operate over a common base, i.e. the base for levy and imposition of duty/tax liability would be identical.

To understand the operating procedure of "Concurrent Dual GST Model" we have to consider the tax/taxes which shall be levied as per place of supply of goods and services .

- CGST – Central Goods and Service Tax
- SGST – State Goods and Service Tax
- IGST – Integrated Goods and Service Tax

Now we will try to understand when each of these will be levied by the following chart:



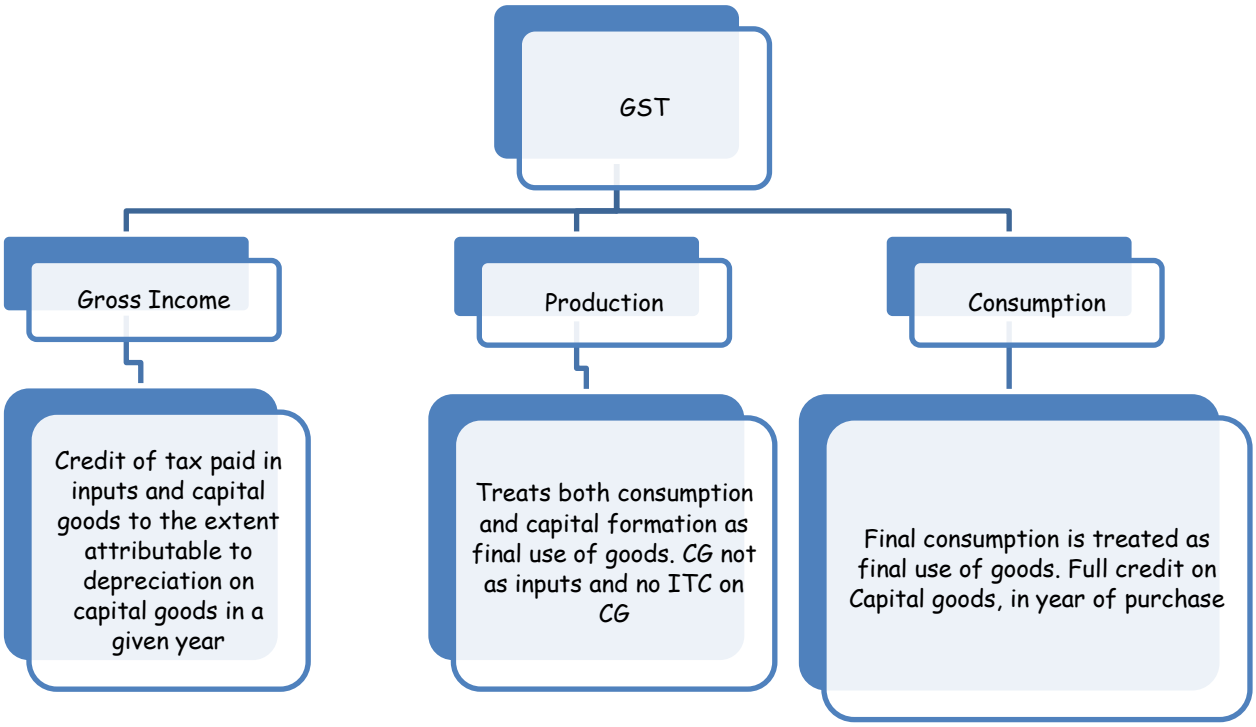
A summary of levy and the imposing and collecting authority:

Nature of Levy	To be levied by	To be paid to the account of
CGST	Central Government on Intra-State Supply of Goods and/ or Services	CG
SGST	State Government Intra State Supply of Goods and/ or Services	SG
IGST = CGST + SGST	Central Government on Inter-State Supply of Goods and/ or Services	CG

1.6.1 Goods & Services Tax (GST) in India – Type of GST

To arrive at the method / type of GST, one must remember/recall the three methods applied for computation of National Income of a country. They are Income Method, Production Method and Expenditure (or Consumption) Method.

GST can also be classified in similar types - Gross Income, Production and Consumption. The diagram demonstrates the type of GST and its corresponding features.



India is proposed to follow and apply the 'Consumption -type GST'.

1.6.2 Goods & Services Tax (GST) in India - Why Consumption Type of GST ?

Indian is proposed to follow the destination based, consumption type of GST. The reasons for adoption of consumption type GST are:

- most favoured tax base from both the perspectives of economic neutrality and ease of administration
- restricts tax burden to final consumption goods
- no distinction drawn between capital goods and other inputs and no depreciation need to be computed
- consumption is argued to be a broad measure of the ability to pay taxes, much like income
- it excludes savings from the base, hence does not discourage investment

From the perspective of economic growth, both income and product type have an anti-investment bias. This is more significant in countries that impose substantial income taxes. Hence, consumption type GST is adopted.

1.6.3: Goods & Services Tax (GST) in India-Why Destination-based instead of Origin-based ?

GST in India is a 'destination-based consumption tax'. To justify the features and related advantages of destination based consumption tax, we shall have to understand the 'origin-based GST' and its relevance in comparison.

Origin based- GST	Destination based- GST
is imposed on the value added of all taxable products that are produced domestically	is imposed on the value added of all taxable products that are consumed domestically
Location of Production	Location of Consumption
Imports are not taxed but Exports are taxed under origin principle in an open economy	Exports are not taxes but imports are taxed under destination principle in an open economy

Note: In closed economy, both are same; the question of taxation of either imports or exports does not arise at all.

OECD VAT guidelines support the adoption of the "Destination Principle" for supplies of services and intangibles. This guideline supports the universal adoption of the 'destination principle' as a means of reducing both potential double taxation (i.e. supplies being taxed in both the source and destination) and potential under taxation (i.e. supplies not being taxed in either the source or the destination).

Destination based Consumption type GST should be adopted as it contributes towards increased international competitiveness and sustainability of domestic industries.

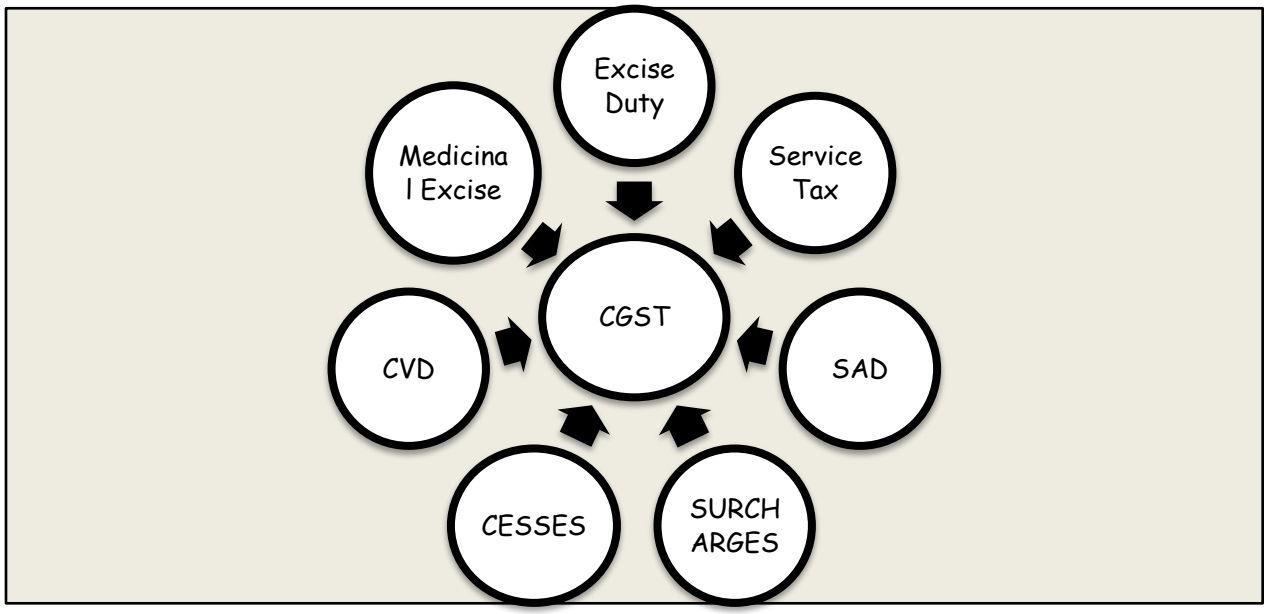
Illustration:

Mr. A manufactures goods. He bought goods for Rs. 1,20,000 and incurred expenses of Rs. 10,000. These manufactured goods were sold at the profit of Rs. 15,000. Say, CGST rate 10% & SGST rate 10%. Compute Sale Price.

Solution:

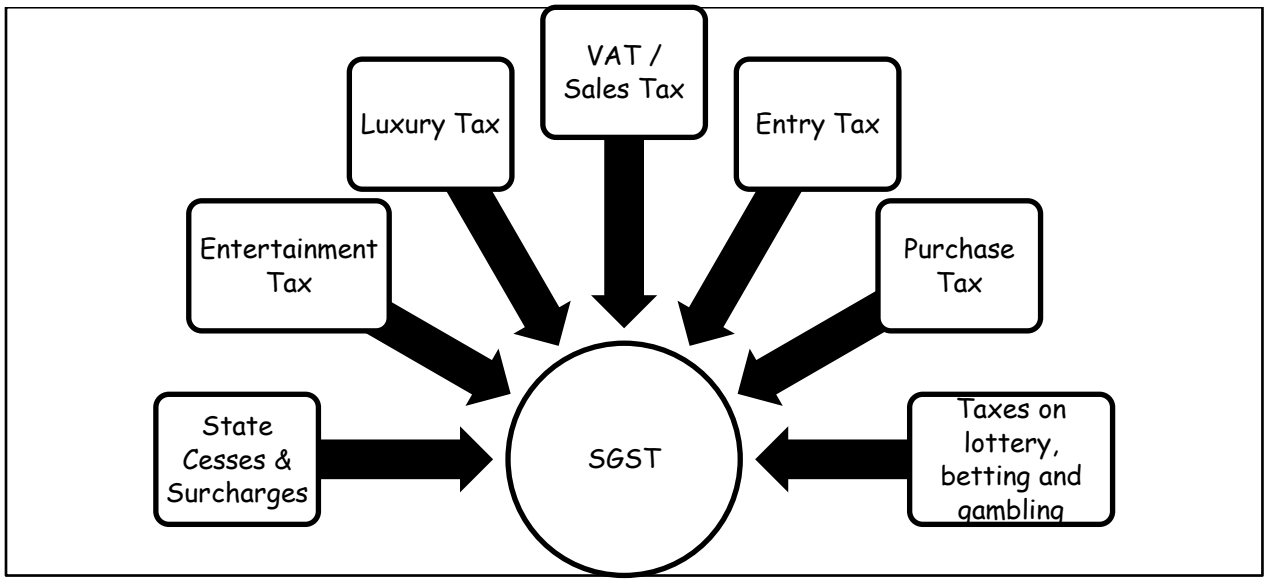
Intra-state sale		Inter-state sale	
Particulars	Amount (Rs.)	Particulars	Amount (Rs.)
Cost of Goods	1,20,000	Cost of Goods	1,20,000
Add: Expenses	10,000	Add: Expenses	10,000
Add: Profit	15,000	Add: Profit	15,000
Sales	1,45,000	Sales	1,45,000
SGST @ 10%	14,500	IGST @ 20%	29,000
CGST @ 10%	14,500		
Sales Price	1,74,000	Sales Price	1,74,000

1.7.1 Taxes to be Subsumed into CGST



Where, CVD = Countervailing Duty & SVD = Special Countervailing Duty.

1.7.2 Taxes to be Subsumed into SGST



1.8 GST Coverage:

- **GST will be applicable on all Goods & Services EXCEPT**
  - Alcoholic Bevarages for Human Consumption – State Excise Duty to Continue
  - Effective date for Petroleum Products will be notified later
- Industrial incentives to be converted into investment link cash subsidy
- Special Industrial Area Schemes to be also converted into investment based through their validity period
- Around 99 items presently exempted under VAT may continue in GST regime without any scope to change any list.
- Common list of exemption for CGST & SGST
- Transactions which are below threshold limits
- **GST will be applicable to whole of India : Sec 2(53) defines "India" means :**

a. the territory of the Union as referred to in clauses (2) and (3) of Article 1 of the Constitution;

b. its territorial waters, continental shelf, exclusive economic zone or any other maritime zone as defined in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 (80 of 1976);

c. the seabed and the subsoil underlying the territorial waters;

d. the air space above its territory and territorial waters; and

e. the installations, structures and vessels located in the continental shelf of India and the exclusive economic zone of India, for the purposes of prospecting or extraction or production of mineral oil and natural gas and supply thereof;

1.9 GST Council:

- **Insertion of Article 279A – President to Constitute GST Council**
- **Composition of the GST Council:**
  - Union Finance Minister - Chairman
  - Union Minister of State in charge of Revenue or Finance Member
  - State FM's / Nominated State Ministers Members
  - Members to choose Vice Chairperson

Quorum – One Half of the total members shall constitute the quorum.

Voting & Decision making : Every decision of the council shall be taken by majority of not less than ¾ th of the weighted votes of the members present and voting in accordance with the following principles:

- Vote of Union Government shall have a weightage of 1/3rd of the total votes cast.
- Votes of all State Government taken together shall have weightage of 2/3rd of the total votes cast.

❖ **GST Council to recommend on:**

- Taxes, Cesses & Surcharges levied by Union, State, Local Bodies to be subsumed in the GST
- Goods and services that may be taxable or exempted
- Model GST Laws, principles of levy, apportionment of IGST and the principles that govern the place of supply
- Threshold limit of turnover for exemption
- Rates including floor rates with bands of GST
- Special rate(s) for a specified period, to raise additional resources during any natural calamity or disaster
- Special provision with respect to the States of Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur; Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand; and
- Any other matter relating to the goods and services tax, as the Council may decide.

1.10 Proposed GST Rates:

Recommendations by	CGST	SGST	TOTAL
13th Finance Commission	5%	7%	12%
Dept. of Revenue, MoF, GoI	8%	8%	16%
SC – EC	12.77%	13.91%	26.68%
Dr. Arvind Subramanian Committee	9%	9%	18%

However, stakeholders, investors including other nations across the world are looking forward for the GST Rates to be pronounced (which are pending finalization, as on this date of publication).

CONSTITUTIONAL AMENDMENT BILL, 2014

Goods and Services Tax (GST): Key changes made by the 2016 amendments to the Constitution (122nd Amendment) Bill, 2014

The Constitution (122nd Amendment) Bill, 2014 was introduced in Lok Sabha on December 9, 2014. The Bill was passed by the Lok Sabha on May 6, 2015 and was referred to Rajya Sabha for concurrence. The Upper House then referred to a Select Committee of Rajya Sabha which submitted its report on the Bill on July 22, 2015. The Bill was passed with amendments in Rajya Sabha on August 3, 2016 and returned to Lok Sabha on 4th August,2016. Lok Sabha passed the Bill on 8th August, 2016.

A comparative analysis of major highlights of change summarized for quick reference:

(A) On Integrated GST (IGST) - changes made by 2016 amendments		
	Provision as per the Constitution (One Hundred and Twenty Second Amendment Bill, 2014) as referred to Lok Sabha after amendments in Rajya Sabha	**Amendments as per "the Constitution (One Hundred and First Amendment) Act, 2016**
Clause 9	Apportionment of Integrated GST	This is a technical change in relation to the apportionment of the IGST. It clarifies that the states' share of the IGST shall not form a part of the Consolidated Fund of India
Clause 12	Replacement of the term IGST	Under the 2014 Bill, the GST Council would make recommendations on the apportionment of the Integrated Goods and Services Tax (IGST). However, the term IGST was not defined. The 2016 amendment replace this term with 'goods and services tax levied on supplies in the course of inter-state trade or commerce'.
(B) Inclusion of CGST and IGST in tax devolution to States		
Clause 10	The GST collected and levied by the Centre, other than states' share of IGST, (CGST and centre's share of IGST) shall also be distributed between the centre and states	2016 amendments state that the CGST and the centre's share of IGST will be distributed between the centre and states. This is just a restatement in the 2014 Bill in clearer terms.

(C) Dispute Resolution		
Clause 12	The GST Council may decide upon the modalities to resolve disputes arising out of its recommendations	2016 amendments - the GST Council shall establish a mechanism to adjudicate any dispute arising out of its recommendations. Disputes can be between: (a) the centre vs. one or more states; (b) the centre and state vs. one or more states; (c) state vs. state. This implies that there will be a standing mechanism to resolve disputes.
(D) Additional Tax upto 1% on inter-state sale - THIS PROVISION IS ABOLISHED		
	Provision as per the Constitution (One Hundred and Twenty Second Amendment Bill, 2014) as referred to Lok Sabha after amendments in Rajya Sabha	**Amendments as per "the Constitution (One Hundred and First Amendment) Act, 2016**
Clause 18	An additional tax of upto 1% on the supply of goods will be levied by the centre in the course of inter-state trade or commerce.	THIS PROVISION IS DELETED. The Select Committee in its report of July,2015 noted that the provision for the 1% additional tax is likely to lead to cascading of taxes.
(E) Compensation to States		
Clause 19	Parliament may, by law, provide for compensation to states for any loss of revenues, for a period which may extend to five years. This would be based on the recommendations of the GST Council. This implies that Parliament may decide (i) whether it wants to provide compensation; (ii) the time period for which it can provide such compensation, upto five years.	Parliament shall, by law, provide for compensation to states for any loss of revenues, for a period of five years. This would be based on the recommendations of the GST Council. This implies that compensation must be provided for a full five-year period.

Following references are attached for understanding the process undergone by Ministry of Finance, Government of India before clearing this 122nd Constitutional Amendment Bill,2014

LOK SABHA

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LIST OF BUSINESS

Monday, August 8, 2016 / Shravana 17, 1938 (Saka)

11 A.M.

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QUESTIONS

1. QUESTIONS entered in separate list to be asked and answers given.

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RELEVANT EXTRACTS FROM Page 17-19
[obtained from Lok Sabha website]

LEGISLATIVE BUSINESS

Consideration of Rajya Sabha Amendments

** Constitution (One Hundred and Twenty-second Amendment) Bill, 2014.*

11. SHRI ARUN JAITLEY to move that the following amendments made by Rajya Sabha in the Bill further to amend the Constitution of India, as passed by Lok Sabha, be taken into consideration:–

ENACTING FORMULA

1. That at page 1, line 1, ***for*** the word "Sixty-sixth", the word "Sixty-seventh" be ***substituted.***

CLAUSE 1

2. That at page 1, lines 2 and 3, ***for*** the words, bracket and figure "the Constitution (One Hundredth Amendment) Act, 2015", the words, bracket and figure "the Constitution (One Hundred and First Amendment) Act, 2016" be ***substituted.***

CLAUSE 9

3. That at page 2, ***after*** line 28, the following be ***inserted***, namely:-

"(2) The amount apportioned to a State under clause (1) shall not form part of the Consolidated Fund of India.

(3) Where an amount collected as tax levied under clause (1) has been used for payment of the tax levied by a State under article 246A, such amount shall not form part of the Consolidated Fund of India.

(4) Where an amount collected as tax levied by a State under article 246A has been used for payment of the tax levied under clause (1), such amount shall not form part of the Consolidated Fund of the State.

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* **The Bill was passed by Lok Sabha on the 6th May, 2015 and transmitted to Rajya Sabha for concurrence. Rajya Sabha passed the Bill with amendments at its sitting held on the 3rd August, 2016 and returned it to Lok Sabha on 4th August, 2016.**

CLAUSE 10

4. That at page 2, ***for*** lines 35 to 39, the following be ***substituted***, namely:-

'(ii) after clause (1), the following clauses shall be substituted, namely:-

"(1A) The tax collected by the Union under clause (1) of article 246A shall also be distributed between the Union and the States in the manner provided in clause (2).

(1B) The tax levied and collected by the Union under clause (2) of article 246A and article 269A, which has been used for payment of the tax levied by the Union under clause (1) of article 246A and the amount apportioned to the Union under clause (1) of article 269A, shall also be distributed between the Union and the States in the manner provided in clause (2).".'.

CLAUSE 12

5. That at page 3, line 3, ***for*** the words, bracket and figure "the Constitution (One Hundredth Amendment) Act, 2015", the words, bracket and figure "the Constitution (One Hundred and First Amendment) Act, 2016" be ***substituted.***

6. That at page 3, line 22, ***for*** the words "Integrated Goods and Services Tax", the words, figure and alphabet "Goods and Services Tax levied on supplies in the course of inter-State trade or commerce under article 269A" be ***substituted.***

7. That at page 4, ***for*** lines 15 and 16, the following be ***substituted***, namely:-

"(11) The Goods and Services Tax Council shall establish a mechanism to adjudicate any dispute –

(a) between the Government of India and one or more States; or

(b) between the Government of India and any State or States on one side and one or more other States on the other side; or

(c) between two or more States,

arising out of the recommendations of the Council or implementation thereof.".

CLAUSE 14

8. That at page 4, line 34, ***after*** the word "and", the word "article" be ***inserted***.

CLAUSE 18

9. That at page 5, lines 26 to 40, be ***deleted***. Omission of clause 18.

CLAUSE 19

10. That at page 6, line 1, ***for*** the word "may", the word "shall" be ***substituted***.

11. That at page 6, line 3, ***for*** the words "such period which may extend to", the words "a period of" be ***substituted***.

ALSO to move that the Bill, as amended by the amendments agreed to, be passed.

DISCUSSION UNDER RULE 193

12. FURTHER DISCUSSION on Sustainable Development Goals raised by Kunwar Bharatendra Singh on 3rd August, 2016.

NEW DELHI;
August 5, 2016
Shravana 14, 1938 (Saka)

ANOOP MISHRA
Secretary General

PARLIAMENT OF INDIA
RAJYA SABHA

REPORT OF THE SELECT COMMITTEE

ON

THE CONSTITUTION
(ONE HUNDRED & TWENTY-SECOND AMENDMENT) BILL, 2014

PRESENTED TO THE RAJYA SABHA ON 22nd July, 2015

Rajya Sabha Secretariat, New Delhi
22nd July, 2015/Ashadha, 1937 (Saka)

THE CONSTITUTION (ONE HUNDRED AND TWENTY-SECOND AMENDMENT) BILL, 2014

AS REPORTED BY THE SELECT COMMITTEE
No.– of 2015

	THE CONSTITUTION (ONE HUNDRED AND FIRST AMENDMENT) BILL, 2015 [*Words underlined indicate the amendments suggested by the Select Committee and asterisks indicate omissions*]	
	A BILL	
	further to amend the Constitution of India.	
	BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—	
	1. (1) This Act may be called the Constitution (One Hundred --------Amendment) Act, 2015.	Short title and commencement.
	(2) It shall come into force on such date as the Central Government may, by notificationin the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the commencement of that provision.	
	2. After article 246 of the Constitution, the following article shall be inserted, namely:—	Insertion of new article 246A.
	"246A. (1) Notwithstanding anything contained in articles 246 and 254, Parliament, and, subject to clause (2), the Legislature of every State, have power to make laws with	Special provision with respect to goods and services tax.

	respect to goods and services tax imposed by the Union or by such State.	
	(2) Parliament has exclusive power to make laws with respect to goods and services tax where the supply of goods, or of services, or both takes place in the course of inter-State trade or commerce. *Explanation.*—The provisions of this article, shall, in respect of goods and services tax referred to in clause (5) of article 279A, take effect from the date recommended by the Goods and Services Tax Council.".	
	3. In article 248 of the Constitution, in clause (1), for the word "Parliament", the words, figures and letter "Subject to article 246A, Parliament" shall be substituted.	Amendment of article 248.
	4. In article 249 of the Constitution, in clause (1), after the words "with respect to", the words, figures and letter "goods and services tax provided under article 246A or" shall be inserted.	Amendment of article 249.
	5. In article 250 of the Constitution, in clause (1), after the words "with respect to", the words, figures and letter "goods and services tax provided under article 246A or" shall be inserted.	Amendment of article 250.
	6. In article 268 of the Constitution, in clause (1), the words "and such duties of excise on medicinal and toilet preparations" shall be omitted.	Amendment of article 268.
	7. Article 268A of the Constitution, as inserted by section 2 of the Constitution (Eighty-eighth Amendment) Act, 2003 shall be omitted.	Amendment of article 268A.
	8. In article 269 of the Constitution, in clause (1), after the words "consignment of goods", the words, figures and letter "except as provided in article 269A" shall be inserted.	Amendment of article 269.
	9. After article 269 of the Constitution, the following article shall be inserted, namely:—	Insertion of new article 269A.

	"269A. (1) Goods and services tax on supplies in the course of inter-State trade or commerce shall be levied and collected by the Government of India and such tax shall be apportioned between the Union and the States in the manner as may be provided by Parliament by law on the recommendations of the Goods and Services Tax Council. *Explanation.*—For the purposes of this clause, supply of goods, or of services, or both in the course of import into the territory of India shall be deemed to be supply of goods, or of services, or both in the course of inter-State trade or commerce.	Levy and collection of goods and services tax in course of inter-State trade or commerce.
	(2) Parliament may, by law, formulate the principles for determining the place of supply, and when a supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.".	
	10. In article 270 of the Constitution,—	Amendment of article 270.
	(i) in clause (1), for the words, figures and letter "articles 268, 268A and article 269", the words, figures and letter "articles 268, 269 and article 269A" shall be substituted;	
	(ii) after clause (1), the following clause shall be inserted, namely:—	
	"(1A) The goods and services tax levied and collected by the Government of India, except the tax apportioned with the States under clause (1) of article 269A, shall also be distributed between the Union and the States in the manner provided in clause (2).".	
	11. In article 271 of the Constitution, after the words "in those articles", the words, figures and letter "except the goods and services tax under article 246A," shall be inserted.	Amendment of article 271.
	12. After article 279 of the Constitution, the	Insertion of new

	following article shall be inserted, namely:—	article 279A.
	'279A. (1) **The President shall, within sixty days from the date of commencement of the Constitution (One Hundred ------- Amendment) Act, 2015, by order, constitute a Council to be called the Goods and Services Tax Council.**	Goods and Services Tax Council.
	(2) **The Goods and Services Tax Council shall consist of the following Members, namely:—**	
	(a) the Union Finance Minister …….Chairperson; **(b) the Union Minister of State in charge of Revenue or Finance……Member;** (c) **the Minister in charge of Finance or Taxation or any other Minister nominated by each State Government…….Members.**	
	(3) **The Members of the Goods and Services Tax Council referred to in sub-clause** (c) **of clause (2) shall, as soon as may be, choose one amongst themselves to be the Vice-Chairperson of the Council for such period as they may decide.**	
	(4) **The Goods and Services Tax Council shall make recommendations to the Union and the States on—** **(a) the taxes, cesses and surcharges levied by the Union, the States and the local bodies which may be subsumed in the goods and services tax;** **(b) the goods and services that may be subjected to, or exempted from the goods and services tax;** **(c) model Goods and Services Tax Laws, principles of levy, apportionment**	

	of Integrated Goods and Services Tax and the principles that govern the place of supply; **(d) the threshold limit of turnover below which goods and services may be exempted from goods and services tax;** **(e) the rates including floor rates with bands of goods and services tax;** *(f)***any special rate or rates for a specified period, to raise additional resources during any natural calamity or disaster;** *(g)***special provision with respect to the States of Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand; and** (*h*)**any other matter relating to the goods and services tax, as the Council may decide.**	
	(5)**The Goods and Services Tax Council shall recommend the date on which the goods and services tax be levied on petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel.**	
	(6)**While discharging the functions conferred by this article, the Goods and Services Tax Council shall be guided by the need for a harmonised structure of goods and services tax and for the development of a harmonised national market for goods and services.**	
	(7) One half of the total number of Members of the Goods and Services Tax Council shall constitute the quorum at its	

	meetings.	
	(8) The Goods and Services Tax Council shall determine the procedure in the performance of its functions.	
	(9) Every decision of the Goods and Services Tax Council shall be taken at a meeting, by a majority of not less than three-fourths of the weighted votes of the Members present and voting, in accordance with the following principles, namely:— (a)**the vote of the Central Government shall have a weightage of one-third of the total votes cast, and** (b)**the votes of all the State Governments taken together shall have a weightage of two-thirds of the total votes cast,in that meeting.**	
	(10) No act or proceedings of the Goods and Services Tax Council shall be invalid merely by reason of— (a)**any vacancy in, or any defect in, the constitution of the Council; or** (b)**any defect in the appointment of a person as a Member of the Council; or** *(c)***any procedural irregularity of the Council not affecting the merits of the case.**	
	(11) The Goods and Services Tax Council may decide about the modalities toresolve disputes arising out of its recommendations.".	
	13. In article 286 of the Constitution,—	Amendment of article 286.
	*(i)*in clause (1),— *(A)*for the words "the sale or purchase of goods where such sale or purchase takes place", the words "the supply of goods or of	

	services or both, where such supply takes place" shall be substituted; *(B)*in sub-clause *(b)*, for the word "goods", at both the places where it occurs, the words "goods or services or both" shall be substituted; *(ii)*in clause (2), for the words "sale or purchase of goods takes place", the words "supply of goods or of services or both" shall be substituted; *(iii)*clause (3) shall be omitted.	
	14. In article 366 of the Constitution,—	Amendment of article 366.
	*(i)*after clause (12), the following clause shall be inserted, namely:— '(12A) "goods and services tax" means any tax on supply of goods, or services or both except taxes on the supply of the alcoholic liquor for human consumption;'; *(ii)*after clause (26), the following clauses shall be inserted, namely:— '(26A) "Services" means anything other than goods; (26B) "State" with reference to articles 246A, 268, 269, 269A and article 279A includes a Union territory with Legislature;'.	
	15. In article 368 of the Constitution, in clause (2), in the proviso, in clause (a), for the words and figures "article 162 or article 241", the words, figures and letter "article 162, article241 or article 279A" shall be substituted.	Amendment of article 368.
	16. In the Sixth Schedule to the Constitution, in paragraph 8, in sub-paragraph (3),— *(i)*in clause *(c)*, the word "and" occurring at	Amendment of Sixth Schedule.

	the end shall be omitted; *(ii)*in clause *(d)*, the word "and" shall be inserted at the end; *(iii)*after clause *(d)*, the following clause shall be inserted, namely:— *"(e)* taxes on entertainment and amusements.".	
	17. In the Seventh Schedule to the Constitution,—	Amendment of Seventh Schedule.
	(a)in List I — Union List,— *(i)*for entry 84, the following entry shall be substituted, namely:— "84. Duties of excise on the following goods manufactured or produced in India, namely:— *(a)*petroleum crude; *(b)*high speed diesel; *(c)* motor spirit (commonly known as petrol); *(d)*natural gas; *(e)* aviation turbine fuel; and *(f)* tobacco and tobacco products."; *(ii)*entries 92 and 92C shall be omitted;	
	*(b)*in List II — State List,— *(i)* entry 52 shall be omitted; *(ii)* for entry 54, the following entry shall be substituted, namely:— "54. Taxes on the sale of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas, aviation turbine fuel and alcoholic liquor for human consumption, but not including sale	

	in the course of inter-State trade or commerce or sale in the course of international trade or commerce of such goods."; *(iii)*entry 55 shall be omitted; *(iv)*for entry 62, the following entry shall be substituted, namely:— "62. Taxes on entertainments and amusements to the extent levied and collected by a Panchayat or a Municipality or a Regional Council or a District Council.".	
	18. (1) An additional tax on supply of goods, not exceeding one per cent. in the course of inter-State trade or commerce shall, notwithstanding anything contained in clause (1) of article 269A, be levied and collected by the Government of India for a period of two years or such other period as the Goods and Services Tax Council may recommend, and such tax shall be assigned to the States in the manner provided in sub-section (2).	Arrangement for assignment of additional tax on supply of goods to States for two years or such other period recommended by Council.
	(2) The net proceeds of additional tax on supply of goods in any financial year, except the proceeds attributable to the Union territories, shall not form part of the Consolidated Fund of India and be deemed to have been assigned to the States from where the supply originates. (3) The Government of India may, where it considers necessary in the public interest, exempt such goods from the levy of tax under sub-section (1). (4) Parliament may, by law, formulate the principles for determining the place of origin from where supply of goods take place in the course of inter-State trade or commerce. (5) For the purposes of this section, "State" shall have the meaning assigned to it in clause (26B) of article 366 of the Constitution.	

	19. Parliament may, by law, on the recommendation of the Goods and Services Tax Council, provide for compensation to the States for loss of revenue arising on account of implementation of the goods and services tax for a* period **** of five years.	Compensation to States for loss of revenue on account of introduction of goods and services tax.
	20. Notwithstanding anything in this Act, any provision of any law relating to tax on goods or services or on both in force in any State immediately before the commencement of this Act, which is inconsistent with the provisions of the Constitution as amended by this Act shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until expiration of one year from such commencement, whichever is earlier.	Transitional provisions.
	21. (1) If any difficulty arises in giving effect to the provisions of the Constitution as amended by this Act (including any difficulty in relation to the transition from the provisions of the Constitution as they stood immediately before the date of assent of the President to this Act to the provisions of the Constitution as amended by this Act), the President may, by order, make such provisions, including any adaptation or modification of any provision of the Constitution as amended by this Act or law, as appear to the President to be necessary or expedient for the purpose of removing the difficulty: Provided that no such order shall be made after the expiry of three years from the date of such assent. *(2)*Every order made under sub-section *(1)*shall, as soon as may be after it is made, be laid before each House of Parliament.	Power of President to remove difficulties.

AS PASSED BY LOK SABHA ON 6-5-2015

Bill No. 192-C of 2014

THE CONSTITUTION (ONE HUNDRED AND TWENTY-SECOND AMENDMENT) BILL, 2014

A

BILL

further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Constitution (One Hundredth Amendment) Act, 2015.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the commencement of that provision.

Insertion of new article 246A.

2. After article 246 of the Constitution, the following article shall be inserted, namely:—

Special provision with respect to goods and services tax.

"246A. (1) Notwithstanding anything contained in articles 246 and 254, Parliament, and, subject to clause (2), the Legislature of every State, have power to make laws with respect to goods and services tax imposed by the Union or by such State.

(2) Parliament has exclusive power to make laws with respect to goods and services tax where the supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.

Explanation.—The provisions of this article, shall, in respect of goods and services tax referred to in clause (5) of article 279A, take effect from the date recommended by the Goods and Services Tax Council.''.

Amendment of article 248.

3. In article 248 of the Constitution, in clause (1), for the word "Parliament", the words, figures and letter "Subject to article 246A, Parliament" shall be substituted.

Amendment of article 249.

4. In article 249 of the Constitution, in clause (1), after the words "with respect to", the words, figures and letter"goods and services tax provided under article 246A or" shall be inserted.

Amendment of article 250.

5. In article 250 of the Constitution, in clause (1), after the words "with respect to", the words, figures and letter "goods and services tax provided under article 246A or" shall be inserted.

Amendment of article 268.

6. In article 268 of the Constitution, in clause (1), the words "and such duties of excise on medicinal and toilet preparations" shall be omitted.

Omission of article 268A.

7. Article 268A of the Constitution, as inserted by section 2 of the Constitution (Eighty-eighth Amendment) Act, 2003 shall be omitted.

Amendment of article 269.

8. In article 269 of the Constitution, in clause (1), after the words "consignment of goods", the words, figures and letter "except as provided in article 269A" shall be inserted.

Insertion of new article 269A.

9. After article 269 of the Constitution, the following article shall be inserted, namely:—

Levy and collection of goods and services tax in course of inter-State trade or commerce.

''269A. (1) Goods and services tax on supplies in the course of inter-State trade or commerce shall be levied and collected by the Government of India and such tax shall be apportioned between the Union and the States in the manner as may be provided by Parliament by law on the recommendations of the Goods and Services Tax Council.

Explanation.—For the purposes of this clause, supply of goods, or of services, or both in the course of import into the territory of India shall be deemed to be supply of goods, or of services, or both in the course of inter-State trade or commerce.

(2) Parliament may, by law, formulate the principles for determining the place of supply, and when a supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.''.

Amendment of article 270.

10. In article 270 of the Constitution,—

(*i*) in clause (1), for the words, figures and letter "articles 268, 268A and 269", the words, figures and letter "articles 268, 269 and 269A" shall be substituted;

(*ii*) after clause (*1*), the following clause shall be inserted, namely:—

''(1A) The goods and services tax levied and collected by the Government of India, except the tax apportioned with the States under clause (1) of article 269A, shall also be distributed between the Union and the States in the manner provided in clause (2).''.

Amendment of article 271.

11. In article 271 of the Constitution, after the words ''in those articles'', the words, figures and letter ''except the goods and services tax under article 246A,'' shall be inserted.

12. After article 279 of the Constitution, the following article shall be inserted, namely:—

Insertion of new article 279A.

"279A. (1) **The President shall, within sixty days from the date of commencement of the Constitution (One Hundredth Amendment) Act, 2015, by order, constitute a Council to be called the Goods and Services Tax Council.**

Goods and Services Tax Council.

(2) **The Goods and Services Tax Council shall consist of the following members, namely:—**

(*a*) **the Union Finance Minister..... Chairperson;**

(*b*) **the Union Minister of State in charge of Revenue or Finance..... Member;**

(*c*) **the Minister in charge of Finance or Taxation or any other Minister nominated by each State Government.....Members.**

(3) **The Members of the Goods and Services Tax Council referred to in sub-clause (*c*) of clause (2) shall, as soon as may be, choose one amongst themselves to be the Vice-Chairperson of the Council for such period as they may decide.**

(4) **The Goods and Services Tax Council shall make recommendations to the Union and the States on—**

(*a*) **the taxes, cesses and surcharges levied by the Union, the States and the local bodies which may be subsumed in the goods and services tax;**

(*b*) **the goods and services that may be subjected to, or exempted from the goods and services tax;**

(*c*) **model Goods and Services Tax Laws, principles of levy, apportionment of Integrated Goods and Services Tax and the principles that govern the place of supply;**

(*d*) **the threshold limit of turnover below which goods and services may be exempted from goods and services tax;**

(*e*) **the rates including floor rates with bands of goods and services tax;**

(*f*) **any special rate or rates for a specified period, to raise additional resources during any natural calamity or disaster;**

(*g*) **special provision with respect to the States of Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand; and**

(*h*) **any other matter relating to the goods and services tax, as the Council may decide.**

(5) **The Goods and Services Tax Council shall recommend the date on which the goods and services tax be levied on petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel.**

(6) **While discharging the functions conferred by this article, the Goods and Services Tax Council shall be guided by the need for a harmonised structure of goods and services tax and for the development of a harmonised national market for goods and services.**

(7) **One half of the total number of Members of the Goods and Services Tax Council shall constitute the quorum at its meetings.**

(8) **The Goods and Services Tax Council shall determine the procedure in the performance of its functions.**

(9) **Every decision of the Goods and Services Tax Council shall be taken at a meeting, by a majority of not less than three-fourths of the weighted votes of the members present and voting, in accordance with the following principles, namely:—**

(*a*) **the vote of the Central Government shall have a weightage of one-third of the total votes cast, and**

(*b*) **the votes of all the State Governments taken together shall have a weightage of two-thirds of the total votes cast,**

in that meeting.

(10) **No act or proceedings of the Goods and Services Tax Council shall be invalid merely by reason of—**

(*a*) **any vacancy in, or any defect in, the constitution of the Council; or**

(*b*) **any defect in the appointment of a person as a Member of the Council; or**

(c) **any procedural irregularity of the Council not affecting the merits of the case.**

(11) **The Goods and Services Tax Council may decide about the modalities to resolve disputes arising out of its recommendations.".**

Amendment of article 286.

13. In article 286 of the Constitution,—

(i) in clause (1),—

(A) for the words "the sale or purchase of goods where such sale or purchase takes place", the words "the supply of goods or of services or both, where such supply takes place" shall be substituted;

(B) in sub-clause *(b),* for the word "goods", at both the places where it occurs the words "goods or services or both" shall be substituted;

(ii) in clause (2), for the words "sale or purchase of goods takes place", the words "supply of goods or of services or both" shall be substituted;

(iii) clause (3) shall be omitted.

Amendment of article 366.

14. In article 366 of the Constitution,—

(i) after clause (12), the following clause shall be inserted, namely:—

'(12A) "goods and services tax" means any tax on supply of goods, or services or both except taxes on the supply of the alcoholic liquor for human consumption;';

(ii) after clause (26), the following clauses shall be inserted, namely:—

'(26A) "Services" means anything other than goods;

(26B) "State" with reference to articles 246A, 268, 269, 269A and 279A includes a Union territory with Legislature;'.

Amendment of article 368.

15. In article 368 of the Constitution, in clause (2), in the proviso, in clause (*a*), for the words and figures "article 162 or article 241", the words, figures and letter "article 162, article 241 or article 279A" shall be substituted.

Amendment of Sixth Schedule.

16. In the Sixth Schedule to the Constitution, in paragraph 8, in sub-paragraph (3),—

(i) in clause *(c),* the word "and" occurring at the end shall be omitted;

(ii) in clause *(d)*, the word "and" shall be inserted at the end;

(iii) after clause *(d),* the following clause shall be inserted, namely:—

"(e) taxes on entertainment and amusements.".

Amendment of Seventh Schedule.

17. In the Seventh Schedule to the Constitution,—

(*a*) in List I — Union List,—

(i) for entry 84, the following entry shall be substituted, namely:—

"84. Duties of excise on the following goods manufactured or produced in India, namely:—

(a) petroleum crude;

(b) high speed diesel;

(c) motor spirit (commonly known as petrol);

(d) natural gas;

(e) aviation turbine fuel; and

(f) tobacco and tobacco products.";

(ii) entries 92 and 92C shall be omitted;

(b) in List II — State List,—

(i) entry 52 shall be omitted;

(ii) for entry 54, the following entry shall be substituted, namely:—

"54. Taxes on the sale of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas, aviation turbine fuel and alcoholic liquor for human consumption, but not including sale in the course of inter-State trade or commerce or sale in the course of international trade or commerce of such goods.";

(iii) entry 55 shall be omitted;

(iv) for entry 62, the following entry shall be substituted, namely:—

"62. Taxes on entertainments and amusements to the extent levied and collected by a Panchayat or a Municipality or a Regional Council or a District Council.".

Arrangement for assignment of additional tax on supply of goods to States for two years or such other period recommended by the Council.

18. (*1*) An additional tax on supply of goods, not exceeding one per cent, in the course of inter-State trade or commerce shall, notwithstanding anything contained in clause (1) of article 269A, be levied and collected by the Government of India for a period of two years or such other period as the Goods and Services Tax Council may recommend, and such tax shall be assigned to the States in the manner provided in sub-section (*2*).

(*2*) The net proceeds of additional tax on supply of goods in any financial year, except the proceeds attributable to the Union territories, shall not form part of the Consolidated Fund of India and be deemed to have been assigned to the States from where the supply originates.

(*3*) The Government of India may, where it considers necessary in the public interest, exempt such goods from the levy of tax under sub-section (*1*).

(*4*) Parliament may, by law, formulate the principles for determining the place of origin from where supply of goods take place in the course of inter-State trade or commerce.

(*5*) For the purposes of this section, "State" shall have the meaning assigned to it in clause (26B) of article 366 of the Constitution.

Compensation to States for loss of revenue on account of introduction of goods and services tax.

19. Parliament may, by law, on the recommendation of the Goods and Services Tax Council, provide for compensation to the States for loss of revenue arising on account of implementation of the goods and services tax for such period which may extend to five years.

Transitional provisions.

20. Notwithstanding anything in this Act, any provision of any law relating to tax on goods or services or on both in force in any State immediately before the commencement of this Act, which is inconsistent with the provisions of the Constitution as amended by this Act shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until expiration of one year from such commencement, whichever is earlier.

Power of President to remove difficulties.

21. (*1*) If any difficulty arises in giving effect to the provisions of the Constitution as amended by this Act (including any difficulty in relation to the transition from the provisions of the Constitution as they stood immediately before the date of assent of the President to this Act to the provisions of the Constitution as amended by this Act), the President may, by order, make such provisions, including any adaptation or modification of any provision of the Constitution as amended by this Act or law, as appear to the President to be necessary or expedient for the purpose of removing the difficulty:

Provided that no such order shall be made after the expiry of three years from the date of such assent.

(*2*) Every order made under sub-section (*1*) shall, as soon as may be after it is made, be laid before each House of Parliament.

LOK SABHA

A

BILL

further to amend the Constitution of India.

(As passed by Lok Sabha)

GMGIPMRND—893LS—06.05.2015

Bill No. 192 of 2014

THE CONSTITUTION (ONE HUNDRED AND TWENTY-SECOND AMENDMENT) BILL, 2014

A

BILL

further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-fifth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Constitution (One Hundred and Twenty-second Amendment) Act, 2014.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the commencement of that provision.

Insertion of new article 246A.

2. After article 246 of the Constitution, the following article shall be inserted, namely:—

Special provision with respect to goods and services tax.

"246A. (1) Notwithstanding anything contained in articles 246 and 254, Parliament, and, subject to clause (2), the Legislature of every State, have power to make laws with respect to goods and services tax imposed by the Union or by such State.

(2) Parliament has exclusive power to make laws with respect to goods and services tax where the supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.

Explanation.—The provisions of this article, shall, in respect of goods and services tax referred to in clause (5), of article 279A, take effect from the date recommended by the Goods and Services Tax Council.''.

Amendment of article 248.

3. In article 248 of the Constitution, in clause (1), for the word "Parliament", the words, figures and letter "Subject to article 246A, Parliament" shall be substituted.

Amendment of article 249.

4. In article 249 of the Constitution, in clause (1), after the words "with respect to", the words, figures and letter"goods and services tax provided under article 246A or" shall be inserted.

Amendment of article 250.

5. In article 250 of the Constitution, in clause (1), after the words "with respect to", the words, figures and letter "goods and services tax provided under article 246A or" shall be inserted.

Amendment of article 268.

6. In article 268 of the Constitution, in clause (1), the words "and such duties of excise on medicinal and toilet preparations" shall be omitted.

Omission of article 268A.

7. Article 268A of the Constitution, as inserted by section 2 of the Constitution (Eighty-eighth Amendment) Act, 2003 shall be omitted.

Amendment of article 269.

8. In article 269 of the Constitution, in clause (1), after the words "consignment of goods", the words, figures and letter "except as provided in article 269A" shall be inserted.

Insertion of new article 269A.

9. After article 269 of the Constitution, the following article shall be inserted, namely:—

Levy and collection of goods and services tax in course of inter-State trade or commerce.

''269A. (1) Goods and services tax on supplies in the course of inter-State trade or commerce shall be levied and collected by the Government of India and such tax shall be apportioned between the Union and the States in the manner as may be provided by Parliament by law on the recommendations of the Goods and Services Tax Council.

Explanation.—For the purposes of this clause, supply of goods, or of services, or both in the course of import into the territory of India shall be deemed to be supply of goods, or of services, or both in the course of inter-State trade or commerce.

(2) Parliament may, by law, formulate the principles for determining the place of supply, and when a supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.''.

Amendment of article 270.

10. In article 270 of the Contitution,—

(*i*) in clause (1), for the words, figures and letter "articles 268, 268A and article 269", the words, figures and letter "articles 268, 269 and article 269A" shall be substituted;

(*ii*) after clause (*1*), the following clause shall be inserted, namely:—

''(1A) The goods and services tax levied and collected by the Government of India, except the tax apportioned with the States under clause (1) of article 269A, shall also be distributed between the Union and the States in the manner provided in clause (2).''.

Amendment of article 271.

11. In article 271 of the Constitution, after the words ''in those articles'', the words, figures and letter ''except the goods and services tax under article 246A,'' shall be inserted.

12. After article 279 of the Constitution, the following article shall be inserted, namely:— Insertion of new article 279A.

"279A. (1) **The President shall, within sixty days from the date of commencement of the Constitution (One Hundred and Twenty-second Amendment) Act, 2014, by order, constitute a Council to be called the Goods and Services Tax Council.** Goods and Services Tax Council.

(2) **The Goods and Services Tax Council shall consist of the following members, namely:—**

(*a*) **the Union Finance Minister..... Chairperson;**

(*b*) **the Union Minister of State in charge of Revenue or Finance..... Member;**

(*c*) **the Minister in charge of Finance or Taxation or any other Minister nominated by each State Government.....Members.**

(3) **The Members of the Goods and Services Tax Council referred to in sub-clause (*c*) of clause (2) shall, as soon as may be, choose one amongst themselves to be the Vice-Chairperson of the Council for such period as they may decide.**

(4) **The Goods and Services Tax Council shall make recommendations to the Union and the States on—**

(*a*) **the taxes, cesses and surcharges levied by the Union, the States and the local bodies which may be subsumed in the goods and services tax;**

(*b*) **the goods and services that may be subjected to, or exempted from the goods and services tax;**

(*c*) **model Goods and Services Tax Laws, principles of levy, apportionment of Integrated Goods and Services Tax and the principles that govern the place of supply;**

(*d*) **the threshold limit of turnover below which goods and services may be exempted from goods and services tax;**

(*e*) **the rates including floor rates with bands of goods and services tax;**

(*f*) **any special rate or rates for a specified period, to raise additional resources during any natural calamity or disaster;**

(*g*) **special provision with respect to the States of Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand; and**

(*h*) **any other matter relating to the goods and services tax, as the Council may decide.**

(5) **The Goods and Services Tax Council shall recommend the date on which the goods and services tax be levied on petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel.**

(6) **While discharging the functions conferred by this article, the Goods and Services Tax Council shall be guided by the need for a harmonised structure of goods and services tax and for the development of a harmonised national market for goods and services.**

(7) **One half of the total number of Members of the Goods and Services Tax Council shall constitute the quorum at its meetings.**

(8) **The Goods and Services Tax Council shall determine the procedure in the performance of its functions.**

(9) **Every decision of the Goods and Services Tax Council shall be taken at a meeting, by a majority of not less than three-fourths of the weighted votes of the members present and voting, in accordance with the following principles, namely:—**

(*a*) **the vote of the Central Government shall have a weightage of one-third of the total votes cast, and**

(*b*) **the votes of all the State Governments taken together shall have a weightage of two-thirds of the total votes cast,**

in that meeting.

(10) **No act or proceedings of the Goods and Services Tax Council shall be invalid merely by reason of—**

(*a*) **any vacancy in, or any defect in, the constitution of the Council; or**

(*b*) **any defect in the appointment of a person as a member of the Council; or**

(c) **any procedural irregularity of the Council not affecting the merits of the case.**

(11) **The Goods and Services Tax Council may decide about the modalities to resolve disputes arising out of its recommendation.".**

Amendment of article 286.

13. In article 286 of the Constitution,—

(i) in clause (1),—

(A) for the words "the sale or purchase of goods where such sale or purchase takes place", the words "the supply of goods or of services or both, where such supply takes place" shall be substituted;

(B) in sub-clause *(b)*, for the word "goods", at both the places where it occurs the words "goods or services or both" shall be substituted;

(ii) in clause (2), for the words "sale or purchase of goods takes place", the words "supply of goods or of services or both" shall be substituted;

(iii) clause (3) shall be omitted.

Amendment of article 366.

14. In article 366 of the Constitution,—

(i) after clause (12), the following clause shall be inserted, namely:—

'(12A) "goods and services tax" means any tax on supply of goods, or services or both except taxes on the supply of the alcoholic liquor for human consumption;';

(ii) after clause (26), the following clauses shall be inserted, namely:—

'(26A) "Services" means anything other than goods;

(26B) "State" with reference to articles 246A, 268, 269, 269A and article 279A includes a Union territory with Legislature;'.

Amendment of article 368.

15. In article 368 of the Constitution, in clause (2), in the proviso, in clause (*a*), for the words and figures "article 162 or article 241", the words, figures and letter "article 162, article 241 or article 279A" shall be substituted.

Amendment of Sixth Schedule.

16. In the Sixth Schedule to the Constitution, in paragraph 8, in sub-paragraph (3),—

(i) in clause *(c)*, the word "and" occurring at the end shall be omitted;

(ii) in clause *(d)*, the word "and" shall be inserted at the end;

(iii) after clause *(d)*, the following clause shall be inserted, namely:—

"(e) taxes on entertainment and amusements.".

Amendment of Seventh Schedule.

17. In the Seventh Schedule to the Constitution,—

(*a*) in List I — Union List,—

(i) for entry 84, the following entry shall be substituted, namely:—

"84. Duties of excise on the following goods manufactured or produced in India, namely:—

(a) petroleum crude;

(b) high speed diesel;

(c) motor spirit (commonly known as petrol);

(d) natural gas;

(e) aviation turbine fuel; and

(f) tobacco and tobacco products.";

(ii) entries 92 and 92C shall be omitted;

(b) in List II — State List,—

(i) entry 52 shall be omitted;

(ii) for entry 54, the following entry shall be substituted, namely:—

"54. Taxes on the sale of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas, aviation turbine fuel and alcoholic liquor for human consumption, but not including sale in the course of inter-State trade or commerce or sale in the course of international trade or commerce of such goods.";

(iii) entry 55 shall be omitted;

(iv) for entry 62, the following entry shall be substituted, namely:—

"62. Taxes on entertainments and amusements to the extent levied and collected by a Panchayat or a Municipality or a Regional Council or a District Council.".

Arrangement for assignment of additional tax on supply of goods to States for two years or such other period recommended by the Council.

18. (*1*) An additional tax on supply of goods, not exceeding one per cent. in the course of inter-State trade or commerce shall, notwithstanding anything contained in clause (1) of article 269A, be levied and collected by the Government of India for a period of two years or such other period as the Goods and Services Tax Council may recommend, and such tax shall be assigned to the States in the manner provided in clause (2).

(*2*) The net proceeds of additional tax on supply of goods in any financial year, except the proceeds attributable to the Union territories, shall not form part of the Consolidated Fund of India and be deemed to have been assigned to the States from where the supply originates.

(*3*) The Government of India may, where it considers necessary in the public interest, exempt such goods from the levy of tax under clause (1).

(*4*) Parliament may, by law, formulate the principles for determining the place of origin from where supply of goods take place in the course of inter-State trade or commerce.

Compensation to States for loss of revenue on account of introduction of goods and services tax.

19. Parliament may, by law, on the recommendation of the Goods and Services Tax Council, provide for compensation to the States for loss of revenue arising on account of implementation of the goods and services tax for such period which may extend to five years.

Transitional provisions.

20. Notwithstanding anything in this Act, any provision of any law relating to tax on goods or services or on both in force in any State immediately before the commencement of this Act, which is inconsistent with the provisions of the Constitution as amended by this Act shall continue to be inforce until amended or repealed by a competent Legislature or other competent authority or until expiration of one year from such commencement, whichever is earlier.

Power of President to remove difficulties.

21. (*1*) If any difficulty arises in giving effect to the provisions of the Constitution as amended by this Act (including any difficulty in relation to the transition from the provisions of the Constitution as they stood immediately before the date of assent of the President to this Act to the provisions of the Constitution as amended by this Act), the President may, by order, make such provisions, including any adaptation or modification of any provision of the Constitution as amended by this Act or law, as appear to the President to be necessary or expedient for the purpose of removing the difficulty:

Provided that no such order shall be made after the expiry of three years from the date of such assent.

(*2*) Every order made under sub-section (*1*) shall, as soon as may be after it is made, be laid before each House of Parliament.

STATEMENT OF OBJECTS AND REASONS

The Constitution is proposed to be amended to introduce the goods and services tax for conferring concurrent taxing powers on the Union as well as the States including Union territory with Legislature to make laws for levying goods and services tax on every transaction of supply of goods or services or both. The goods and services tax shall replace a number of indirect taxes being levied by the Union and the State Governments and is intended to remove cascading effect of taxes and provide for a common national market for goods and services. The proposed Central and State goods and services tax will be levied on all transactions involving supply of goods and services, except those which are kept out of the purview of the goods and services tax.

2. The proposed Bill, which seeks further to amend the Constitution, *inter alia*, provides for—

(a) subsuming of various Central indirect taxes and levies such as Central Excise Duty, Additional Excise Duties, Excise Duty levied under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955, Service Tax, Additional Customs Duty commonly known as Countervailing Duty, Special Additional Duty of Customs, and Central Surcharges and Cesses so far as they relate to the supply of goods and services;

(b) subsuming of State Value Added Tax/Sales Tax, Entertainment Tax (other than the tax levied by the local bodies), Central Sales Tax (levied by the Centre and collected by the States), Octroi and Entry tax, Purchase Tax, Luxury tax, Taxes on lottery, betting and gambling; and State cesses and surcharges in so far as they relate to supply of goods and services;

(c) dispensing with the concept of 'declared goods of special importance' under the Constitution;

(d) levy of Integrated Goods and Services Tax on inter-State transactions of goods and services;

(e) levy of an additional tax on supply of goods, not exceeding one per cent. in the course of inter-State trade or commerce to be collected by the Government of India for a period of two years, and assigned to the States from where the supply originates;

(f) conferring concurrent power upon Parliament and the State Legislatures to make laws governing goods and services tax;

(g) coverage of all goods and services, except alcoholic liquor for human consumption, for the levy of goods and services tax. In case of petroleum and petroleum products, it has been provided that these goods shall not be subject to the levy of Goods and Services Tax till a date notified on the recommendation of the Goods and Services Tax Council.

(h) compensation to the States for loss of revenue arising on account of implementation of the Goods and Services Tax for a period which may extend to five years;

(i) creation of Goods and Services Tax Council to examine issues relating to goods and services tax and make recommendations to the Union and the States on parameters like rates, exemption list and threshold limits. The Council shall function under the Chairmanship of the Union Finance Minister and will have the Union Minister of State in charge of Revenue or Finance as member, along with the Minister in-charge of Finance or Taxation or any other Minister nominated by each State Government. It is further provided that every decision of the Council shall be taken by a majority of

not less than three-fourths of the weighted votes of the members present and voting in accordance with the following principles:—

(A) the vote of the Central Government shall have a weightage of one-third of the total votes cast, and

(B) the votes of all the State Governments taken together shall have a weightage of two-thirds of the total votes cast in that meeting.

Illustration:

In terms of clause (9) of the proposed article 279A, the "weighted votes of the members present and voting" in favour of a proposal in the Goods and Services Tax Council shall be determined as under:—

WT = WC+WS

Where,

$WT = WC + WS = \left(\frac{WST}{SP}\right) \times SF$

Wherein—

WT = Total weighted votes of all members in favour of a proposal.

WC = Weighted vote of the Union = $\frac{1}{3}$ *i.e.,* 33.33% if the Union is in favour of the proposal and be taken as "0" if, Union is not in favour of a proposal.

WS = Weighted votes of the States in favour of a proposal.

SP = Number of States present and voting.

WST = Weighted votes of all States present and voting *i.e.*, $\frac{2}{3}$ *i.e.,* 66.67%

SF = Number of States voting in favour of a proposal.

(j) Clause 20 of the proposed Bill makes transitional provisions to take care of any inconsistency which may arise with respect to any law relating to tax on goods or services or on both in force in any State on the commencement of the provisions of the Constitution as amended by this Act within a period of one year.

3. the Bill seeks to achieve the above objects.

NEW DELHI;
The 18*th December*, 2014

ARUN JAITLEY

———

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE CONSTITUTION OF INDIA

[Copy of letter No. S-31011/07/2014-SO(ST), dated the 18th December, 2014 from Shri Arun Jaitley, Minister of Finance to the Secretary-General, Lok Sabha.]

The President, having been informed of the subject matter of the proposed Bill, recommends under clauses (1) and (3) of article 117, read with clause (1) of article 274, of the Constitution of India, the introduction of the Constitution (One Hundred and Twenty-second Amendment) Bill, 2014 in Lok Sabha and also the consideration of the Bill.

FINANCIAL MEMORANDUM

Clause 12 of the Bill seeks to insert a new article 279A in the Constitution relating to Constitution of Goods and Services Tax Council. The Council shall function under the Chairmanship of the Union Finance Minister and will have the Union Minister of State incharge of Revenue or Finance as member, along with the Minister in-charge of Finance or Taxation or any other Minister nominated by each State Government.

2. The creation of Goods and Services Tax Council will involve expenditure on office expenses, salaries and allowances of the officers and staff. The objective that the introduction of goods and services tax will make the Indian trade and industry more competitive, domestically as well as internationally and contribute significantly to the growth of the economy, such additional expenditure on the Council will not be significant.

3. At this stage, it will be difficult to make an estimate of the expenditure, both recurring and non-recurring on account of the Constitution of the Council.

4. Further, it is provided for compensation to the States for loss of revenue arising on account of implementation of the Goods and Services Tax for such period which may extend to five years. The exact compensation can be worked out only when the provisions of the Bill are implemented.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 of the Bill seeks to insert a new article 279A relating to the constitution of a Council to be called the Goods and Services Tax Council. Clause (1) of the proposed new article 279A provides that the President, shall within sixty days from the date of the commencement of the Constitution (One Hundred and Twenty-second Amendment) Act, 2014, by order, constitute a Council to be called the Goods and Services Tax Council. Clause (8) of the said article provides that the Council shall determine the procedure in the performance of its functions.

2. The procedures, as may be laid down by the Goods and Services Tax Council in the performance of its functions, are matters of procedure and details. The delegation of legislative power is, therefore, of a normal character.

ANNEXURE

EXTRACTS FROM THE CONSTITUTION OF INDIA

* * * * *

248. (1) Parliament has exclusive power to make any law with respect to any matter not enumerated in the Concurrent List or State List. Residuary powers of legislation.

* * * * *

249. (1) Notwithstanding anything in the foregoing provisions of this Chapter, if the Council of States has declared by resolution supported by not less than two-thirds of the members present and voting that it is necessary or expedient in the national interest that Parliament should make laws with respect to any matter enumerated in the State List specified in the resolution, it shall be lawful for Parliament to make laws for the whole or any part of the territory of India with respect to that matter while the resolution remains in force. Power of Parliament to legislate with respect to a matter in the State List in the national interest.

* * * * *

250. (1) Notwithstanding anything in this Chapter, Parliament shall, while a Proclamation of Emergency is in operation, have power to make laws for the whole or any part of the territory of India with respect to any of the matters enumerated in the State List. Power of Parliament to legislate with respect to any matter in the State List if a Proclamation of Emergency is in operation.

* * * * *

Distribution of Revenues between the Union and the States

268. (1) Such stamp duties and such duties of excise on medicinal and toilet preparations as are mentioned in the Union List shall be levied by the Government of India but shall be collected— Duties levied by the Union but collected and appropriated by the States.

(*a*) in the case where such duties are leviable within any Union territory, by the Government of India, and

(*b*) in other cases, by the States within which such duties are respectively leviable.

* * * * *

268A. (1) Taxes on services shall be levied by the Government of India and such tax shall be collected and appropriated by the Government of India and the States, in the manner provided in clause (2). Service tax levied by Union and collected and appropriated by the Union and the States.

(2) The proceeds in any financial year of any such tax levied in accordance with the provisions of clause (1) shall be—

(*a*) collected by the Government of India and the States;

(*b*) appropriated by the Government of India and the States,

in accordance with such principles of collection and appropriation as may be formulated by Parliament by law.

269. (1) Taxes on the sale or purchase of goods and taxes on the consignment of goods shall be levied and collected by the Government of India but shall be assigned and shall be deemed to have been assigned to the States on or after the 1st day of April, 1996 in the manner provided in clause (2). Taxes levied and collected by the Union but assigned to the States.

Explanation.—For the purposes of this clause,—

(*a*) the expression "taxes on the sale or purchase of goods" shall mean taxes on sale or purchase of goods other than newspapers, where such sale or purchase takes place in the course of inter-State trade or commerce;

(*b*) the expression "taxes on the consignment of goods" shall mean taxes on the consignment of goods (whether the consignment is to the person making it or to any other person), where such consignment takes place in the course of inter-State trade or commerce.

* * * * *

Taxes levied and distributed between the Union and the States.

270. (1) All taxes and duties referred to in the Union List, except the duties and taxes referred to in articles 268, 268A and 269, respectively, surcharge on taxes and duties referred to in article 271 and any cess levied for specific purposes under any law made by Parliament shall be levied and collected by the Government of India and shall be distributed between the Union and the States in the manner provided in clause (2).

* * * * *

Surcharge on certain duties and taxes for purposes of the Union.

271. Notwithstanding anything in articles 269 and 270, Parliament may at any time increase any of the duties or taxes referred to in those articles by a surcharge for purposes of the Union and the whole proceeds of any such surcharge shall form part of the Consolidated Fund of India.

* * * * *

Restrictions as to imposition of tax on the sale or purchase of goods.

286. (1) No law of a State shall impose, or authorise the imposition of, a tax on the sale or purchase of goods where such sale or purchase takes place—

(*a*) outside the State; or

(*b*) in the course of the import of the goods into, or export of the goods out of, the territory of India.

(2) Parliament may by law formulate principles for determining when a sale or purchase of goods takes place in any of the ways mentioned in clause (1).

(3) Any law of a State shall, in so far as it imposes, or authorises the imposition of,—

(*a*) a tax on the sale or purchase of goods declared by Parliament by law to be of special importance in inter-State trade or commerce; or

(*b*) a tax on the sale or purchase of goods, being a tax of the nature referred to in sub-clause (*b*), sub-clause (*c*) or sub-clause (*d*) of clause (29A) of article 366,

be subject to such restrictions and conditions in regard to the system of levy, rates and other incidents of the tax as Parliament may by law specify.

* * * * *

PART XX

AMENDMENT OF THE CONSTITUTION

Power of Parliament to amend the Constitution and procedure therefore.

368. (1) * * * * *

(2) An amendment of this Constitution may be initiated only by the introduction of a Bill for the purpose in either House of Parliament, and when the Bill is passed in each House by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting, it shall be presented to the President who shall give his assent to the Bill and thereupon the Constitution shall stand amended in accordance with the terms of the Bill:

Provided that if such amendment seeks to make any change in—

(*a*) article 54, article 55, article 73, article 162 or article 241, or

(*b*) Chapter IV of Part V, Chapter V of Part VI, or Chapter I of Part XI, or

(*c*) any of the Lists in the Seventh Schedule, or

(*d*) the representation of States in Parliament, or

(*e*) the provisions of this article,

the amendment shall also require to be ratified by the Legislatures of not less than one-half of the States by resolutions to that effect passed by those Legislatures before the Bill making provision for such amendment is presented to the President for assent.

* * * * *

SIXTH SCHEDULE

[Articles 244(2) and 275(1)]

Provisions as to the Administration of Tribal Areas in the States of Assam, Meghalaya, Tripura and Mizoram

* * * * *

8. (1) * * * * *

Powers to assess and collect land revenue and to impose taxes.

(3) The District Council for an autonomous district shall have the power to levy and collect all or any of the following taxes within such district, that is to say—

* * * * *

(*c*) taxes on the entry of goods into a market for sale therein, and tolls on passengers and goods carried in ferries; and

(*d*) taxes for the maintenance of schools, dispensaries or roads.

* * * * *

SEVENTH SCHEDULE

(Article 246)

List I- Union List

* * * * *

84. Duties of excise on tobacco and other goods manufactured or produced in India except—

(*a*) alcoholic liquors for human consumption;

(*b*) opium, Indian hemp and other narcotic drugs and narcotics,

but including medicinal and toilet preparations containing alcohol or any substance included in sub-paragraph (*b*) of this entry.

* * * * *

92. Taxes on the sale or purchase of newspapers and on advertisements published therein.

* * * * *

92C. Taxes on services.

* * * * *

List II-State List

* * * * *

52. Taxes on the entry of goods into a local area for consumption, use or sale therein.

* * * * *

54. Taxes on the sale or purchase of goods other than newspapers, subject to the provisions of entry 92A of List I.

55. Taxes on advertisements other than advertisements published in the newspapers and advertisements broadcast by radio or television.

* * * * *

62. Taxes on luxuries, including taxes on entertainments, amusements, betting and gambling.

* * * * *

LOK SABHA

———

A

BILL

further to amend the Constitution of India.

———

(Shri Arun Jaitley, Minister of Finance)

GMGIPMRND—3824LS—18.12.2014

LOK SABHA

CORRIGENDA

to

THE CONSTITUTION (ONE HUNDRED AND TWENTY-SECOND AMENDMENT) BILL, 2014

[To be/As introduced in Lok Sabha]

1. Page 2, line 32, -

   for "Contitution,–"

   read "Constitution,–"

2. Page 4, line 16, -

   for "of its recommendation."."

   read "of its recommendations."."

3. Page 5, in the marginal citation against clause 18, -

   for "by the Council."

   read "by Council."

4. Page 8, *omit* line 11.

NEW DELHI;

December 19, 2014
Agrahayana 28, 1936 (Saka)

Definitions (Section-2)

(1) "actionable claim" shall have the meaning assigned to it in section 3 of the Transfer of Property Act, 1882;

Parallel Provision in the existing Act / Rules:
As per section 3 of the Transfer of Property Act, 1882
Existing Act / Rule:
Finance Act 1994 as amended
Existing Act / Rule No:
Sec 65B(1)
Analysis:
"actionable claim" means a claim to any debt, other than a debt secured by mortgage of immovable property or by hypothecation or pledge of movable property, or to any beneficial interest in movable property not in the possession, either actual or constructive, of the claimant, which the civil courts recognise as affording grounds for relief, whether such debt or beneficial interest be existent, accruing, conditional or contingent;

(2) "address of delivery" means the address of the recipient of goods and/or services indicated on the tax invoice issued by a taxable person for delivery of such goods and/or services;

Parallel Provision in the existing Act / Rules:
Section 2(2) amended and definition of "address of delivery" means the address of the recipient of goods and/or services indicated on the tax invoice issued by a taxable person for delivery of such goods and/or services; is included
Analysis:
New insertion mainly to determine taxable event of IGST / CGST in the case of Inter- State / Intra State delivery of the goods, when supplies are made on consignment basis other than job work.
Now, address on record will be different and address of delivery may be different and taxable event of applicability of IGST / CGST will be based on address of delivery, where goods are delivered / delivery is terminated.

(3) "address on record" means the address of the recipient as available in the records of the supplier;

Parallel Provision in the existing Act / Rules:
No Such Definition
Analysis:
Now, address on record will be different and address of delivery may be different and taxable event of applicability of IGST / CGST will be based on address of delivery, where goods are delivered / delivery is terminated.

(4) "Adjudicating authority" means any authority competent to pass any order or decision under this Act, but does not include the Board, the First Appellate Authority and the Appellate Tribunal;

Parallel Provision in the existing Act / Rules:
Authority competent to pass any order or decision under this Act, but does not include the Board,

the Commissioner (Appeals) and the Appellate Tribunal;
Existing Act / Rule:
The Central Excise Act, 1944
Existing Act / Rule No:
Sec 2(a)
Analysis:
No Change
Adjudication procedure. -
(1) The Adjudicating authority shall, in any proceeding under this Chapter or any other provision of this Act, give an opportunity of being heard to a party in a proceeding, if the party so desires.
(2) The Adjudicating authority may, if sufficient cause is shown, at any stage of proceeding referred to in sub-section (1), grant time, from time to time, to the parties or any of them and adjourn the hearing for reasons to be recorded in writing:
Provided that no such adjournment shall be granted more than three times to a party during the proceeding.

(5) "agent" means a person who carries on the business of supply or receipt of goods and/or services on behalf of another, whether disclosed or not and includes a factor, broker, commission agent, *arhatia*, *del credere* agent, intermediary or an auctioneer or any other mercantile agent, by whatever name called, and whether of the same description as hereinbefore mentioned or not;

Analysis:
This definition has been newly inserted, since person who supply the goods and / or services on behalf of other registered taxable person, whether an agent or otherwise, irrespective of threshold limit needs to be obtained the registration and also discharge the liability as applicable. Now, C&F Agent can operate on their own registration number than that of opening the branches / depos and operate through C&F Agent.

(6) "aggregate turnover" means the aggregate value of all taxable and non-taxable supplies, exempt supplies and exports of goods and/or services of a person having the same PAN, to be computed on all India basis and excludes taxes, if any, charged under the CGST Act, SGST Act and the IGST Act, as the case may be;
Explanation.- Aggregate turnover does not include the value of supplies on which tax is levied on reverse charge basis and the value of inward supplies.

Analysis:
Aggregate Turnover defined on all India Level including all types of suplies (exemted/non-exmpted/export/service) for a person having the same PAN (PAN India basis). It is in the same line of the turnover which is considered for calculations under Rule 5 & 6 of existing Cenvat Credit Rules 2004. Therefore, almost number of assesses will be covered considering lower threshold limit and they have to be access different authorities (Central & State) .

(7) "agriculture" with all its grammatical variations and cognate expressions, includes floriculture, horticulture, sericulture, the raising of crops, grass or garden produce and also grazing, but does not include dairy farming, poultry farming, stock breeding, the mere cutting

of wood or grass, gathering of fruit, raising of man-made forest or rearing of seedlings or plants;

Explanation.– For the purpose of this clause, the expression 'forest' means the forest to which the Indian Forest Act, 1927 applies.

Parallel Provision in the existing Act / Rules:

cultivation of plants and rearing of all life- forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products;

Existing Act / Rule:

Finance Act 1994 as amended

Existing Act / Rule No:

Sec 65B(3)

Analysis:

No change. The supply of agriculture produce will be out of perview of GST. Since the definition of Agriculture of produce has been removed, which was existence in finance act, there may be additional litigations.

(8) "agriculturist" means a person who cultivates land personally, for the purpose of agriculture;

Parallel Provision in the existing Act / Rules:

No Such Definition

(9) "Appellate Tribunal" means the National Goods and Services Tax Appellate Tribunal constituted under section 81;

Parallel Provision in the existing Act / Rules:

The Customs, Excise and Service Tax Appellate Tribunal constituted under section 129 of the Customs Act, 196

Existing Act / Rule:

Finance Act 1994 as amended

Existing Act / Rule No:

Sec 65B(10)

Analysis:

CESTAT may be converted into National Goods & Service Tax Appellate Tribunal, where there will be two president members of, where one presidnet member from central (CGST / IGST) and another will be from State (SGST) and each state may have the Appellate Tribunal. It will also help to speed up of pending litigations.

(10) "appointed day" means the date on which section 1 of this Act comes into effect;

Parallel Provision in the existing Act / Rules:

No Such Definition

Analysis:

It is expected appointed day will be 1st April 2017

(11) "appropriate Government" means the Central Government in case of the IGST and the CGST, and the State Government in case of the SGST;

Analysis:

Central Govt will be apprpriate Govt for CGST & IGST and respective State Govt will be appropriate Govt for SGST.

(12) "assessment" means determination of tax liability under this Act and includes self-assessment, re-assessment, provisional assessment, summary assessment and best judgement assessment;

Parallel Provision in the existing Act / Rules:
No Such Definition
Analysis:
Definition is self-explanatory

(13) "associated enterprise" shall have the meaning assigned to it in section 92A of the Income Tax Act, 1961;

Parallel Provision in the existing Act / Rules:
assigned to it in section 92A of the Income tax Act, 1961;
Existing Act / Rule:
Point of Taxation Rules
Existing Act / Rule No:
Rule 2(b) - Omitted
Analysis:
Supply to associate enterprise will be subject to valuation (existing custom valuation rules) since it is treated as supply to related parties

(14) "audit" means detailed examination of records, returns and other documents maintained or furnished by the taxable person under this Act or rules made thereunder or under any other law for the time being in force to verify, inter alia, the correctness of turnover declared, taxes paid, refund claimed and input tax credit availed, and to assess his compliance with the provisions of this Act or rules made thereunder;

Analysis:
Definition is self-explanatory

(15) "authorized bank" shall mean a bank or a branch of a bank authorised by the Government to collect the tax or any other amount payable to the appropriate government under this Act;

Analysis:
New insertion

(16) "Board" means the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963; (17) "business" includes –
(a) any trade, commerce, manufacture, profession, vocation or any other similar activity, whether or not it is for a pecuniary benefit;
(b) any transaction in connection with or incidental or ancillary to (a) above;
(c) any transaction in the nature of (a) above, whether or not there is volume, frequency, continuity or regularity of such transaction;
(d) supply or acquisition of goods including capital assets and services in connection with commencement or closure of business;

(e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members, as the case may be;
(f) admission, for a consideration, of persons to any premises; and
(g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;

Parallel Provision in the existing Act / Rules:
the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1 963 (54 of 1963);
Existing Act / Rule:
Finance Act 1994 as amended
Existing Act / Rule No:
Sec 65B(16)
Analysis:
Board has been defined as CBEC which will deal with law pertaining to CGST / IGST

(17) "**business**" includes –

(a) any trade, commerce, manufacture, profession, vocation or any other similar activity, whether or not it is for a pecuniary benefit;
(b) any transaction in connection with or incidental or ancillary to (a) above;
(c) any transaction in the nature of (a) above, whether or not there is volume, frequency, continuity or regularity of such transaction;
(d) supply or acquisition of goods including capital assets and services in connection with commencement or closure of business;
(e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members, as the case may be;
(f) admission, for a consideration, of persons to any premises; and
(g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;

Parallel Provision in the existing Act / Rules:
No Such Definition
Analysis:
• While the definition of 'business' does not exist in the present Excise / Service tax Law, the same has been defined under the CST Act / State VAT legislations.
• The Model law appears to have borrowed the term from the latter. This definition assumes significance as the proposed levy is qua activities undertaken in the course or furtherance of business.
• Profession and vocation has also now been included within the definition of business.

(18) "business vertical" shall have the meaning assigned to a 'business segment' in Accounting Standard 17 issued by the Institute of Chartered Accountants of India;

Analysis:
It is the option of the assessee whether to take separate registration business vertical wise or not and hence business vertical has been defined.

• The AS-17 prescribes principles for segmental reporting in the financial information for different types of products and services that an enterprise produces. The said AS defined 'business segment' to mean a distinguishable component of an enterprise that is engaged in providing an individual product or service or a group of related products or services and that is subject to risks and returns that are different from those of other business segments. The said AS further provides factors that should be considered in determining whether products or services are related.
• This definition is relevant since there may be separate registrations for different business verticals.
• This definition is also relevant in respect of input service distribution. However AS-17 is going to be replaced, for which effective date has not ben notified , however Accounting Standard is going to be replaced with IND-AS.

(19) "capital assets" shall have the meaning as assigned to it in the Income Tax Act, 1961 (43 of 1961) but the said expression shall not include jewellery held for personal use or property not connected with the business;

Parallel Provision in the existing Act / Rules:
No Such Definition
Analysis:
Capital Asset has been defined so as to include in the definition of the business as well as applicability of GST in case of take over or use for personal use.

(20) "capital goods" means: - (A) the following goods, namely:-
(i) all goods falling within Chapter 82, Chapter 84, Chapter 85, Chapter 90, heading 6805, grinding wheels and the like, and parts thereof falling under heading 6804 of the Schedule to this Act;
(ii) pollution control equipment;
(iii) components, spares and accessories of the goods specified at (i) and (ii); (iv) moulds and dies, jigs and fixtures;
(v) refractories and refractory materials; (vi) tubes and pipes and fittings thereof; (vii) storage tank; and
(viii) motor vehicles other than those falling under tariff headings 8702, 8703, 8704, 8711 and their chassis but including dumpers and tippers used-
(1) at the place of business for supply of goods; or
(2) outside the place of business for generation of electricity for captive use at theplace of business; or
(3) for supply of services,
(B) motor vehicle designed for transportation of goods including their chassis registered in the name of the supplier of service, when used for
(i) supplying the service of renting of such motor vehicle; or
(ii) transportation of inputs and capital goods used for supply of service; or
(iii) supply of courier agency service;
(C) motor vehicle designed to carry passengers including their chassis, registered in the name of the supplier of service, when used for supplying the service of-

(i) transportation of passengers; or (ii) renting of such motor vehicle; or (iii) imparting motor driving skills;
(D) Components, spares and accessories of motor vehicles which are capital goods for the taxable person.

Parallel Provision in the existing Act / Rules:
(a) "capital goods" means:-
(A) the following goods, namely:-
(i) all goods falling under Chapter 82, Chapter 84, Chapter 85, Chapter 90, heading 6805, grinding wheels and the like, and parts thereof falling under heading 6804 and wagons of sub-heading 860692 of the First Schedule to the Excise Tariff Act;
(ii) pollution control equipment;
(iii) components, spares and accessories of the goods specified at (i) and (ii);
(iv) moulds and dies, jigs and fixtures;
(v) refractories and refractory materials; (vi) tubes and pipes and fittings thereof; (vii) storage tank; and
(viii) motor vehicles other than those falling under tariff headings 8702, 8703,
8704, 8711 and their chassis but including dumpers and tippers
used-
(1) in the factory of the manufacturer of the final products, or
(1A) outside the factory of the manufacturer of the final products for generation of electricity or for pumping of water for captive use within the factory;
Existing Act / Rule:
Cenvat Credit Rules 2004
Existing Act / Rule No:
2(a)
Analysis:
In line with definition under Cenvat Credit Rules,2004

(21) "casual taxable person" means a person who occasionally undertakes transactions involving supply of goods and/or services in the course or furtherance ofbusiness whether as principal, agent or in any other capacity, in a taxable territory where he has no fixed place of business;

Parallel Provision in the existing Act / Rules:
No Such Definition
Analysis:
Casual Taxable person has been defined mainly to obtain registration for undertaking business for short period / temporary basis in different states than that of fixed place of the business

(22) "CGST" means the tax levied under the Central Goods and Services Tax Act, 2016;

Analysis:
CSGT will be replaced with following taxes
(a) Excise Duty (other than Petroleum products)
(b) Duty of Excise on Medicinal and Toilet Preparation Act,
(c) Chapter V of the Finance Act, 1994.

(23) "chartered accountant" means a chartered accountant within the meaning of the Chartered Accountants Act, 1949 (38 of 1949);

Existing Act / Rule:
Finance Act 1994 as amended
Existing Act / Rule No:
Sec 72(4)explanation
Analysis:
No change

(24) "commissioner" means the Commissioner of Central Goods and Services Tax /Commissioner of State Goods and Services Tax appointed under section 4 of the Central/State Goods and Services Tax Act, 2016;

Parallel Provision in the existing Act / Rules:
No Such Definition
Analysis:
No change

(25) "common portal" means the common GST electronic portal approved by the Central Government and State Governments, on the recommendation of the Council, for the specified purposes, as may be notified under this Act;

Analysis:
Common portal has been defined mainly to maintain electronic register and cash register

(26) "company secretary" means a company secretary within the meaning of the Company Secretaries Act, 1980 (56 of 1980);

Analysis:
New Insertion, since they are included as authorized represenntative for appearing before adjudicating authority and appeallate authority

(27) "composite supply" means a supply consisting of –
(a) two or more goods;
(b) two or more services; or
(c) a combination of goods and services provided in the course or furtherance of business, whether or not the same can be segregated;

Analysis:
- ✓ This is a new concept that has been introduced, which inter alia includes any combination of supplies of two or more goods and / or services.
- ✓ Relevance: Goods or services combined but bearing differential rates
- ✓ This provision is silent in respect of transactions which include immovable property. Though definition has been inserted this has not been used in teh present law anywhere. However, it is mainly to cover existing entry in article 269A of Constitutions of the India which will be deleted after constitutional amendments approved by Lok Sabha and to be approved in monsoon session by Rajyasabha

(28) "consideration" in relation to the supply of goods and/or services to any person, includes
(a) any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods and/or services, whether by the said person or by any other person;
(b) the monetary value of any act or forbearance, whether or not voluntary, in respect of, in response to, or for the inducement of, the supply of goods and/or services, whether by the said person or by any other person:
Provided that a deposit, whether refundable or not, given in respect of the supply of goods and/or services shall not be considered as payment made for the supply unless the supplier applies the deposit as consideration for the supply;

Parallel Provision in the existing Act / Rules:
includes any amount that is payable for the taxable services provided or to be provided
Existing Act / Rule:
Finance Act 1994 as amended
Existing Act / Rule No:
67(4)(a)
Analysis:
Consideration includes advance received even for supply of goods and taxable event, even supply of goods will be on advance payment received, which is in line with existing Finance Act 1944. Further, definition has been enhanced so as to include payment made or to be made directly or indirectly in money or kinds.

(29) "continuous journey" means a journey for which a single or more than one ticket or invoice is issued at the same time, either by a single supplier of service or through an agent acting on behalf of more than one supplier of service, and which involves no stop over between any of the legs of the journey for which one or more separate tickets or invoices are issued;

Explanation.- For the purposes of this clause, 'stopover' means a place where a passenger can disembark either to transfer to another conveyance or break his journey for a certain period in order to resume it at a later point of time.

Analysis:
No change in the definition which was defined in the Place of Provision of Supply of Service Rules 2012 as amended

(30) "continuous supply of goods" means a supply of goods which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, whether or not by means of a wire, cable, pipeline or other conduit, and for which the supplier invoices the recipient on a regular or periodic basis;

Parallel Provision in the existing Act / Rules:
No Such Definition
Analysis:
The phrase has been defined so as to cover supplies in case of continuous supply of goods, where successive statements of accounts or successive payments are involved, the time of supply shall be the date of expiry of the period to

which such successive statements of accounts or successive payments relate. If there are no successive statements of account, the date of issue of the invoice (or any other document) or the date of receipt of payment, whichever is earlier, shall be the time of supply.

(31) "continuous supply of services" means a supply of services which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, for a period exceeding three months with periodic payment obligations and includes supply of such service as the Central or a State Government may, whether or not subject to any condition, by notification, specify;

Parallel Provision in the existing Act / Rules:
(c) "continuous supply of service" means any service which is provided, or to be provided continuously or on recurrent basis, under a contract, for a period exceeding three months with the obligation for payment periodically or from time to time, or where the Central Government, by a notification in the Official Gazette, prescribes provision of a particular service to be a continuous supply of service, whether or not subject to any condition;
Existing Act / Rule:
Point of Taxation Rules, 2011
Existing Act / Rule No:
Rule 2(c)
Analysis:
No change in the definition which was already prevailing in Point of Taxtaion Rules 2011 as amended.

(32) "conveyance" includes a vessel, aircraft and a vehicle;

Analysis:
"conveyance" has been defined to attract the provision of confiscation when goods has been carried without payment of GST and conveyance also wil be the factor to decide place of provision of supply of goods where goods are taken on Board for deciding place of supply and termination of delivery for deciding destination based consumption tax for applicability of CGST / IGST, as the case may be.

(33) "cost accountant" means a cost accountant within the meaning of the Cost and Works Accountants Act, 1959 (23 of 1959);

Existing Act / Rule:
Finance Act 1994 as amended
Existing Act / Rule No:
Sec 72(4) Explanation
Analysis:
No change

(34) "Council" means the Goods and Services Tax Council established under Article 279A of the Constitution;

Parallel Provision in the existing Act / Rules:
No Such Definition
Analysis:

Newly defined so as to constitute GST Council under article 279 A for recommendation of applicability, exemption, rate of tax etc. to the parliament

(35) "credit note" means a document issued by a taxable person as referred to in sub-section (1) of section 24;

Analysis:
Newly inserted, so as to cover documents to be raised for adjustment or levy or tax and matching of the transcations of supplier & recipient. Such debit notes and credit notes to be raised on or before 30th Sept of subsequent financial year, so as to match returns with audited financial accounts.
However no such credit notes to be issued in case address on record and address on delivery is different.

(36) "debit note" means a document issued by a taxable person as referred to in sub-section (2) of section 24;

Analysis:
Newly inserted, so as to cover documents to be raised for adjustment or levy or tax and matching of the transcations of supplier & recipient. Such debit notes and credit notes to be raised on or before 30th Sept of subsequent financial year, so as to match returns with audited financial accounts

(37) "deemed exports", as notified by the Central Government/State Government on the recommendation of the Council, refer to those transactions in which the goods supplied do not leave India, and payment for such supplies is received either in Indian Rupees or in convertible foreign exchange;

Analysis:
New Insertion in Line with FTP, however, all the categories made in the FTP are not covered in the ambit of deemed exports

(38) "document" includes written or printed record of any sort and electronic record as defined in the Information Technology Act, 2000 [21 of 2000];

Parallel Provision in the existing Act / Rules:
No Such Definition
Analysis:
Newly inserted so as to cover all documents in electronic form.

(39) "earlier law" means any of the following laws, that is to say, (a) . . .
(b) . . .

(c) . . .

as amended from time to time and includes enactments which have validated anything done or omitted to be done under any of the above mentioned laws and also any law repealed by the earlier laws but continued in force under any provisions of the above enumerated laws;

Parallel Provision in the existing Act / Rules:
No Such Definition

Analysis:
Newly inserted so as to repeal old laws which will be subsumed in CGST

(40) "electronic cash ledger" means the cash ledger in electronic form maintained at the common portal for each registered taxable person in the manner as may be prescribed in this behalf;

Analysis:
New Insertion in line with Business Process Reports. Electronic cash ledger will be maintained at Common Portal and not by ***Assessee***

(41) "electronic credit ledger" means the input tax credit ledger in electronic form maintained at the common portal for each registered taxable person in the manner as may be prescribed in this behalf;

Analysis:
New Insertion in line with Business Process Reports. Electronic cash ledger will be maintained at Common Portal and not by ***Assessee***

(42) "exempt supply" means supply of any goods and/or services which are not taxable under this Act and includes such supply of goods and/or services which are specified in Schedule . . . of the Act or which may be exempt from tax under section 10;

Parallel Provision in the existing Act / Rules:
No such definition but there was a definition for exempted service
Analysis:
Self-explanatory

(43) "export of goods" with its grammatical variations and cognate expressions, means taking out of India to a place outside India;

Analysis:
Definition replced with the definition. Export of goods and export of services seperately defined. (43) "export of goods" with its grammatical variations and cognate expressions, means taking out of India to a place. In other words, supply to SEZ will not be considered as exports, since it is outside the purview of definition. It is covered under deemed exports

(44) the supply of any service shall be treated as "export of service" when
(a) the supplier of service is located in India,
(b) the recipient of service is located outside India, (c) the place of supply of service is outside India,
(d) the payment for such service has been received by the supplier of service in convertible foreign exchange, and
(e) the supplier of service and recipient of service are not merely establishments of a distinct person;
Explanation.- For the purposes of clause (e), an establishment of a person in India and any of his other establishment outside India shall be treated as establishments of distinct persons.

Parallel Provision in the existing Act / Rules:
(1) The provision of any service provided or agreed to be provided shall be treated as export of

service when,-
(a) the provider of service is located in the taxable territory ,
(b) the recipient of service is located outside India,
(c) the service is not a service specified in the section 66D of the Act,
(d) the place of provision of the service is outside India,
(e) the payment for such service has been
received by the provider of service in convertible foreign exchange, and
(f) the provider of service and recipient of service are not merely establishments of a distinct person in accordance with item
(b) of Explanation 3 of clause (44) of section 65B of the Act
(2) Where any service is exported, the Central Government may, by notification, grant rebate of service tax or duty paid on input services or inputs, as the case may be, used in providing such service and the rebate shall be allowed subject to such safeguards, conditions and limitations, as may be specified, by the Central

Existing Act / Rule:
Service tax Rules, 1994
Existing Act / Rule No:
Rule 6A
Analysis:
No Change. Simillar definition as per rule 6A of service Tax Rules, 1994

(45) "First Appellate Authority" means an authority referred to in section 79;

Analysis:
New definition (34A) "First Appellate Authority" means an authority referred to in section 79 of this Act;

(46) "fixed establishment" means a place (other than the place of business) which is characterised by a sufficient degree of permanence and suitable structure in terms of human and technical resources to supply services, or to receive and use services for its own needs;

Analysis:
Newly inserted definition which is Self-explanatory, so as to include location of place of receipient & supply of services for determination of Point of Taxtaion & Place of Provision of Service for applicability of CGST / IGST and for determining destination based consumption tax and also for obtaining the registration as regular tax payer or casual tax payer.

(47) "fund" means the Consumer Welfare Fund established under section 40;

Existing Act / Rule:
Central Excise Act 1944
Existing Act / Rule No:
2(ee)
Analysis:
No change

(48) "goods" means every kind of movable property other than actionable claim and money but includes securities, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under the contract of supply;
Explanation.– For the purpose of this clause, the term 'moveable property' shall not include any intangible property.

Parallel Provision in the existing Act / Rules:
"Goods" means every kind of movable property other than actionable claims and money; and includes stock and shares, growing crops, grass, and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale. [section 2(7)].
Existing Act / Rule:
Finance Act 1994 as amended
Existing Act / Rule No:
Sec 65(50)
Analysis:
This definition is identical to the definition of 'goods' contained in Section 2(7) of the Sales of Goods Act, 1930.
Also by way of explanation, it has been clarified that intangible properties will not fall under the category of goods.

(49) "government" means Central Government and its departments, a State Government and its departments and a Union territory and its departments, but shall not include any entity, whether created by a statute or otherwise, the accounts of which are not required to be kept in accordance with Article 150 of the Constitution or the rules made thereunder;

Parallel Provision in the existing Act / Rules:
No Such Definition
Analysis:
Government has been defined since it has been included in number of provisions in the GST Act including that of levy, exemption, reverse charge, negative list etc. etc.

(50) "IGST" means the tax levied under the Integrated Goods and Services Tax Act, 2016;

Parallel Provision in the existing Act / Rules:
No Such Definition

(51) "import of goods" with its grammatical variations and cognate expressions, means bringing into India from a place outside India;

Analysis:
New Insertion, so as to levy IGST

(52) the supply of any service shall be treated as an "import of service" if, (a) the supplier of service is located outside India,
(b) the recipient of service is located in India,
(c) the place of supply of service is in India, and
(d) the supplier of service and the recipient of service are not merely establishments of a distinct person;

Explanation 1.- An establishment of a person in India and any of his other establishment outside India shall be treated as establishments of distinct persons.
Explanation 2.- A person carrying on a business through a branch or agency or representational office in any territory shall be treated as having an establishment in that territory.

Analysis:
New Insertion, so as to levy IGST

(53) "India" means,-
(a) the territory of the Union as referred to in clauses (2) and (3) of Article 1 of the Constitution;
(b) its territorial waters, continental shelf, exclusive economic zone or any other maritime zone as defined in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 (80 of 1976);
(c) the seabed and the subsoil underlying the territorial waters; (d) the air space above its territory and territorial waters; and
(e) the installations, structures and vessels located in the continental shelf of India and the exclusive economic zone of India, for the purposes of prospecting or extraction or production of mineral oil and natural gas and supply thereof;

Parallel Provision in the existing Act / Rules:
"India" means,--
(a) the territory of the Union as referred to in clauses (2) and (3) of article 1 of the Constitution;
(b) its territorial waters, continental shelf, exclusive economic zone or any other maritime zone as defined in the Territorial Waters, Continental Shelf,
Exclusive Economic Zone and other
Maritime Zones Act, 1976;
(c) the seabed and the subsoil underlying the territorial waters;
(d) the air space above its territory and territorial waters; and
(e) the installations, structures and vessels located in the continental shelf of India and the exclusive economic zone of India, for the purposes of
prospecting or extraction or production of mineral oil and natural gas and supply thereof;
Existing Act / Rule:
Finance Act 1994 as amended
Existing Act / Rule No:
Sec 65B(27)
Analysis:
No Change. In line Finance Act 1944

(54) "input" means any goods other than capital goods, subject to exceptions as may be provided under this Act or the rules made thereunder, used or intended to be used by a supplier for making an outward supply in the course or furtherance of business;

Parallel Provision in the existing Act / Rules:
(k) "input" means-
(i) all goods used in the factory by the manufacturer of the final product; or (ii) any goods including accessories,
cleared along with the final product, the value of which is included in the value of the final product

and goods used for providing free warranty for final products; or
(iii) all goods used for generation of electricity or steam or pumping of water for captive use; or
(iv) all goods used for providing any
output service; or [OLD- output service]; (v) all capital goods which have a value upto ten thousand rupees per piece .
but excludes-
(A) light diesel oil, high speed diesel oil or motor spirit, commonly known as petrol; (B) any goods used for -
(a) construction or execution of works contract of a building or a civil structure or a part thereof; or
(b) laying of foundation or making of structures for support of capital goods, except for the provision of service portion in the execution of a works contract or
Existing Act / Rule:
CENVAT CREDIT Rules, 2004
Existing Act / Rule No:
Rule 2 (k)
Analysis:
Definition is much wider but restricted to recipts of supplies only for furtherance of business for making outward supply and also restricted to the extent of specified in Input Tax Credit

(55) "input service" means any service, subject to exceptions as may be provided under this Act or the rules made thereunder, used or intended to be used by a supplier for making an outward supply in the course or furtherance of business;

Parallel Provision in the existing Act / Rules:
(l) "input service" means any service, - (i) used by a provider of output service for providing an output service; or
(ii) used by a manufacturer, whether directly or indirectly, in or in relation to the manufacture of final products and clearance of final products upto the place of removal, and includes services used in relation to modernisation, renovation or repairs of a factory, premises of provider of output service or an office relating to such factory or premises, advertisement or sales promotion, market research, storage upto the place of removal, procurement of inputs, accounting, auditing, financing, recruitment and quality control, coaching and training, computer networking, credit rating, share registry, security, business exhibition, legal services, inward transportation of inputs or capital goods and outward transportation upto the place of removal; but excludes ,-
(A) service portion in the execution of a works contract and construction services including service listed under clause (b) of section 66E of the Finance Act
Existing Act / Rule:
CENVAT CREDIT Rules, 2004
Existing Act / Rule No:
Rule 2 (l)
Analysis:
Definition is much wider but restricted to recipts of supplies only for furtherance of business for making outward supply and also restricted to the extent of specified in Input Tax Credit

(56) "Input Service Distributor" means an office of the supplier of goods and / or services which receives tax invoices issued under section 23 towards receipt of input services and issues tax invoice or such other document as prescribed for the purposes of distributing the credit of CGST (SGST in State Acts) and / or IGST paid on the said services to a supplier of taxable goods and / or services having same PAN as that of the office referred to above;

Explanation.- For the purposes of distributing the credit of CGST (SGST in State Acts) and / or IGST, Input Service Distributor shall be deemed to be a supplier of services.

Parallel Provision in the existing Act / Rules:

"input service distributor" means an office of the manufacturer or producer of final products or provider of output service, which receives invoices issued under rule 4A of the Service Tax Rules, 1994 towards purchases of input services and issues invoice, bill or, as the case may be, challan for the purposes of distributing the credit of service tax paid on the said services to such manufacturer or producer or provider or an outsourced manufacturing unit, as the case may be;

Existing Act / Rule:

CENVAT CREDIT Rules, 2004

Existing Act / Rule No:

Rule 2 (m)

Analysis:

Newly Insertion which covers availment of input tax credit of services at the offices of recipient of supply of goods & services in the same line with existing cenvat credit rules 2004.

(57) "input tax" in relation to a taxable person, means the {IGST and CGST}/{IGST and SGST} charged on any supply of goods and/or services to him which are used, or are intended to be used, in the course or furtherance of his business and includes the tax payable under sub-section (3) of section 7;

Parallel Provision in the existing Act / Rules:

No Such Definition

Analysis:

Definition is much wider but restricted to recipts of supplies only for furtherance of business for making outward supply and also restricted to the extent of specified in Input Tax Credit

(58) "input tax credit" means credit of 'input tax' as defined in section 2(56); (59) "intangible property" means any property other than tangible property;

Parallel Provision in the existing Act / Rules:

No Such Definition

Analysis:

Drafting error input tax defined in 2(57) and not in 2(56)

(59) "intangible property" means any property other than tangible property;

Parallel Provision in the existing Act / Rules:

No Such Definition

Analysis:

Definition ammended

(60) "invoice" shall have the meaning as assigned to it under section 23;

Parallel Provision in the existing Act / Rules:
No Such Definition
Analysis:
Definition ammended

(61) "inward supply" in relation to a person, shall mean receipt of goods and/or services whether by purchase, acquisition or any other means and whether or not for any consideration;

Parallel Provision in the existing Act / Rules:
No Such Definition
Analysis:
Definitin is much wider, so as to cover FOC supply also included in the definition of inward supply and such supplies also will be eligible for Input Tax Credit

(62) "job work" means undertaking any treatment or process by a person on goods belonging to another registered taxable person and the expression "job worker" shall be construed accordingly;

Parallel Provision in the existing Act / Rules:
"job work" means processing or working upon of raw material or semi-finished goods supplied to the job worker, so as to complete a part or whole of the process resulting in the manufacture or finishing of an article or any operation which is essential for aforesaid process and the _expression "job worker" shall be construed accordingly;
Existing Act / Rule:
CENVAT CREDIT Rules, 2004
Existing Act / Rule No:
Rule 2 (n)
Analysis:
Definition has been enhanced which includes any treatement or process which will also cover repairs, caliberation, testing etc. etc.

(63) "local authority" means
(a) a "Panchayat" as defined in clause (d) of Article 243 of the Constitution;
(b) a "Municipality" as defined in clause (e) of Article 243P of the Constitution;
(c) a Municipal Committee, a Zilla Parishad, a District Board, and any other authority legally entitled to, or entrusted by the Central or any State Government with the control or management of a municipal or local fund;
(d) a Cantonment Board as defined in section 3 of the Cantonments Act, 2006;
(e) a Regional Council or a District Council constituted under the Sixth Schedule to the Constitution;
(f) a Development Board constituted under Article 371 of the Constitution; or
(g) a Regional Council constituted under Article 371A of the Constitution;

Parallel Provision in the existing Act / Rules:
"local authority" means-
(a) a Panchayat as referred to in clause (d)
of article 243 of the Constitution;

(b) a Municipality as referred to in clause
(e) of article 243P of the Constitution;
(c) a Municipal Committee and a District Board, legally entitled to, or entrusted by the Government with, the control or management of a municipal or local
fund;
(d) a Cantonment Board as defined in section 3 of the Cantonments Act, 2006; (e) a regional council or a district council constituted under the Sixth Schedule to the Constitution;
(f) a development board constituted under article 371 of the Constitution; or (g) a regional council constituted under article 371A of the Constitution;

Existing Act / Rule:
Finance Act 1994 as amended
Existing Act / Rule No:
Sec 65B(31)
Analysis:
No change in the definition. In line with definition in Finance Act 1944

(64) "location of recipient of service" means:
(i) where a supply is received at a place of business for which registration has been obtained, the location of such place of business;
(ii) where a supply is received at a place other than the place of business for which registration has been obtained, that is to say, a fixed establishment elsewhere, the location of such fixed establishment;
(iii) where a supply is received at more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the receipt of the supply; and
(iv) in absence of such places, the location of the usual place of residence of the recipient;

Parallel Provision in the existing Act / Rules:
(i) "location of the service receiver"
means:-
(a). where the recipient of service has obtained a single registration, whether centralized or otherwise, the premises for which such registration has been obtained;
(b). where the recipient of service is not covered under sub-clause (a):
(i) the location of his business establishment; or
(ii) where services are used at a place other than the business establishment, that is to say, a fixed establishment elsewhere, the location of such establishment; or
(iii) where services are used at more than one establishment, whether business or fixed, the establishment most directly concerned with the use of the service; and (iv) in the absence of such places, the
usual place of residence of the recipient of service.
Explanation:-. For the purposes of clauses (h) and (i), "usual place of residence" in case of a body corporate means the place where it is incorporated or otherwise

Existing Act / Rule:
Place of Provision of Services Rules, 2012
Existing Act / Rule No:

2(i)
Analysis:
No Change in the definition in line with Place of Provision of services 2012

(65) "location of supplier of service" means:
(i) where a supply is made from a place of business for which registration has been obtained, the location of such place of business ;
(ii) where a supply is made from a place other than the place of business for which registration has been obtained, that is to say, a fixed establishment elsewhere, the location of such fixed establishment;
(iii) where a supply is made from more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the provision of the supply; and
(iv) in absence of such places, the location of the usual place of residence of the supplier;

Parallel Provision in the existing Act / Rules:
(h) "location of the service provider"
means-
(a). where the service provider has obtained a single registration, whether centralized or otherwise, the premises for which such registration has been obtained;
(b). where the service provider is not covered under sub-clause (a):
(i) the location of his business establishment; or
(ii) where the services are provided from
a place other than the business establishment, that is to say, a fixed establishment elsewhere, the location of such establishment; or
(iii) where services are provided from more than one establishment, whether business or fixed, the establishment most directly concerned with the provision of the service; and
(iv) in the absence of such places, the usual place of residence of the service provider.
Existing Act / Rule:
Place of Provision of Services Rules, 2012
Existing Act / Rule No:
2(h)
Analysis:
No Change in the definition in line with Place of Provision of services 2012

(66) "manufacturer" shall have the meaning assigned to it by the Central Excise Act, 1944 (1 of 1944);

Parallel Provision in the existing Act / Rules:
Manufacture includes any process, - (i) incidental or ancillary to the completion of a manufactured product; (ii) which is specified in relation to any goods in the Section or Chapter notes of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986) as amounting to "manufacture; or (iii) which, in relation to the goods specified in Third Schedule involves packing or re-packing of such goods in a unit container or labeling or re-labeling of containers including the declaration or alteration of retail sale price on it or adoption of any other treatment on the goods to render the product marketable to the consumer, and the word "manufacturer" shall be construed accordingly and shall include not only a person who employs hired labour in the production or manufacture of

excisable goods, but also any person who engages in their production or manufacture on his own account;

Analysis:

No Change in line with the definition of Section 2 (f) of Central Excise Act 1944

(67) "market value" shall mean the full amount which a recipient of a supply is required to pay in order to obtain the goods and/or services of like kind and quality at or about the same time and at the same commercial level where the recipient and the supplier are not related;

Parallel Provision in the existing Act / Rules:

in relation to any goods, means the wholesale price of the goods in the ordinary course of trade in India;

Existing Act / Rule:

The Customs Act 1962

Existing Act / Rule No:

2(30)

Analysis:

No Change in line with the definition in certain State VAT legislations e.g. Delhi VAT

(68) "money" means Indian legal tender or any foreign currency, cheque, promissory note, bill of exchange, letter of credit, draft, pay order, traveller cheque, money order, postal or electronic remittance or any such similar instrument when used as consideration to settle an obligation or exchange with Indian legal tender of another denomination but shall not include any currency that is held for its numismatic value;

Parallel Provision in the existing Act / Rules:

"money" means Indian legal tender, cheque, promissory note, bill of exchange, letter of credit, draft, pay order, traveller cheque, money order, postal or electronic remittance or any such similar instrument when used as consideration to settle an obligation or exchange with Indian legal tender of another denomination but shall not include any currency that is held for its numismatic value;

Existing Act / Rule:

Finance Act 1994 as amended

Existing Act / Rule No:

Sec 65B(33)

Analysis:

No change in line with Finance Act 1944

(69) "non-resident taxable person" means a taxable person who occasionally undertakes transactions involving supply of goods and/or services whether as principal or agent or in any other capacity but who has no fixed place of business in India;

Parallel Provision in the existing Act / Rules:

No Such Definition

Analysis:

No change in accordance with Business Process Reports for registration. Non- resident taxable person also has to take registration with specific category when they do the business in India

(70) "non-taxable territory" means the territory which is outside the taxable territory;

Existing Act / Rule:
Finance Act 1994 as
Existing Act / Rule No:
Sec 65B(35)
Analysis:
No change in line with Finance Act 1944

(71) "notification" means notification published in the Official Gazette and the expressions 'notify' and 'notified' shall be construed accordingly;

Existing Act / Rule:
Finance Act 1994 as amended
Existing Act / Rule No:
Sec 65B(36)
Analysis:
No change in line with Finance Act 1944

(72) "output tax" in relation to a taxable person, means the CGST/SGST chargeable under this Act on taxable supply of goods and/or services made by him or by his agent and excludes tax payable by him on reverse charge basis;

Parallel Provision in the existing Act / Rules:
No Such Definition
Analysis:
Newly inserted and out put tax is payable by supplier of goods / services except made applicable to receipient on reverse charge basis.

(73) "outward supply" in relation to a person, shall mean supply of goods and/or services, whether by sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made by such person in the course or furtherance of business except in case of such supplies where the tax is payable on reverse charge basis;

Analysis:
Newly insertion so as to obtain registration and levy and collection of tax

(74) "person" includes— (a) an individual;
(b) a Hindu undivided family; (c) a company;
(d) a firm;
(e) a Limited Liability Partnership;
(f) an association of persons or a body of individuals, whether incorporated or not, in India or outside India;
(g) any corporation established by or under any Central, State or Provincial Act or a Government company as defined in section 2(45) of the Companies Act, 2013 (18 of 2013);
(h) any body corporate incorporated by or under the laws of a country outside India; (i) a co-operative society registered under any law relating to cooperative societies; (j) a local authority;
(k) government;

(l) society as defined under the Societies Registration Act, 1860 (21 of 1860); (m) trust; and (n) every artificial juridical person, not falling within any of the preceding sub-clauses;

Parallel Provision in the existing Act / Rules:
"person" includes,-- (i) an individual, (ii) a Hindu undivided family, (iii) a company, (iv) a society, (v) a limited liability partnership, (vi) a firm, (vii) an association of persons or body of individuals, whether incorporated or not, (viii) Government, (ix) a local authority, or (x) every artificial juridical person, not falling within any of the preceding subclauses;
Existing Act / Rule:
Finance Act 1994 as amended
Existing Act / Rule No:
Sec 65B(37)
Analysis:
No change in line with Finance Act 1944 but also includes LLP being incorporated under the law recently.

(75) "place of business" includes
(a) a place from where the business is ordinarily carried on, and includes a warehouse, a godown or any other place where a taxable person stores his goods, provides or receives goods and/or services; or
(b) a place where a taxable person maintains his books of account; or

(c) a place where a taxable person is engaged in business through an agent, by whatever name called;

Parallel Provision in the existing Act / Rules:
No Such Definition
Analysis:
Newly inserted. The definition broadly borrows from the definition of 'place of removal' under the CE Act, while expanding the same to include a place where a person maintains his books of account.

(76) "prescribed" means prescribed by the rules, regulations or by any notification issued under this Act;

Parallel Provision in the existing Act / Rules:
No Such Definition

(77) "principal" means a person on whose behalf an agent carries on the business of supply or receipt of goods and/or services;

Analysis:
Newly Insertion so as to exclude the supplies made by agent on behalf of principal. Now agent will be responsible to obtain the registration

(78) "principal place of business" means the place of business specified as the principal place of business in the certificate of registration where the taxable person keeps and maintains the accounts and records as specified under section 42 ;

Analysis:
principal place of business has been defined so as to determine place of books of account and also

to determine the place of supply of the goods in case of delivery of supply of goods to other than third person then principal plac eof business will be the place of third person, where books of accounts are kept.

(79) "proper officer" in relation to any function to be performed under this Act, means the officer of goods and services tax who is assigned that function by the Board/Commissioner of SGST;

Analysis:
No change in line with Cenral Excise Act, Finance Act and respective State VAT Act

(80) "recipient" of supply of goods and/or services means-
(a) where a consideration is payable for the supply of goods and/or services, the person who is liable to pay that consideration,
(b) where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available, and
(c) where no consideration is payable for the supply of a service, the person to whom the service is rendered,
and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply;
Explanation.- The expression "recipient" shall also include an agent acting as such on behalf of the recipient in relation to the goods and/or services supplied.

Analysis:
The term recipient has been defined for the first time. In the past there have been issues as regards who would be considered to be the service recipient where the beneficiary of services differs from the person making payment for such services. This definition puts to rest these issues, and is in line with settled judgements of the CESTAT.

(81) "regulations" means the regulations made by the Board/Commissioner under any provision of the Act on the recommendation of the Council;

Analysis:
New Insertion

(82) persons shall be deemed to be "related persons" if only - (a) they are officers or directors of one another's businesses;
(b) they are legally recognized partners in business;
(c) they are employer and employee;
(d) any person directly or indirectly owns, controls or holds five per cent or more of the outstanding voting stock or shares of both of them;
(e) one of them directly or indirectly controls the other;
(f) both of them are directly or indirectly controlled by a third person; (g) together they directly or indirectly control a third person; or
(h) they are members of the same family;
Explanation I. - The term "person" also includes legal persons.

Explanation II. - Persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire, howsoever described, of the other, shall be deemed to be related.

Analysis:
This definition has been adopted from the Customs Valuation Rules. The only modification appears to be that under the Customs Valuation Rules persons who are associated in the business of one another where one is the sole agent or sole distributor or sole concessionaire, have to meet one of the eight specified criteria to qualify as being 'related'; however, under the Model law persons associated in the business of one another shall qualify as 'related persons' merely by virtue of being the sole agent or sole distributor or sole concessionaire.

(83) "removal", in relation to goods, means -
(a) dispatch of the goods for delivery by the supplier thereof or by any other person acting on behalf of such supplier, or
(b) collection of the goods by the recipient thereof or by any other person acting on behalf of such recipient;

Parallel Provision in the existing Act / Rules:
No Such Definition
Analysis:
Newly inserted so as to include collection of goods by recipient thereof or any other persons acting on behalf of such recipient.

(84) "return" means any return prescribed or otherwise required to be furnished by or under this Act or rules made thereunder;

Parallel Provision in the existing Act / Rules:
New Insertion

(85) "reverse charge", means the liability to pay tax by the person receiving goods and / or services instead of the person supplying the goods and / or services in respect of such categories of supplies as the Central or a State Government may, on the recommendation of the Council, by notification, specify;

Parallel Provision in the existing Act / Rules:
No Such Definition
Analysis:
This term has been defined for the first time. Reverse Charge also made applicable on supply of goods

(86) "rules" means the rules made by the Central/State Government under any provision of the Act on the recommendation of the Council;

Parallel Provision in the existing Act / Rules:
New Insertion

(87) "schedule" means a schedule appended to this Act;

Parallel Provision in the existing Act / Rules:
No Such Definition

(88) "services" means anything other than goods;
Explanation: Services include intangible property and actionable claim but does not include money.

Parallel Provision in the existing Act / Rules:
means any activity carried out by a person for another for consideration, and includes a declared service, but shall not include— (a) an activity which constitutes merely,-- (i) a transfer of title in goods or immovable property, by way of sale, gift or in any other manner; or (ii) a transaction in money or actionable claim; (b) a provision of service by an employee to the employer in the course of or in relation to his employment; (c) fees taken in any Court or tribunal established under any law for the time being in force. Explanation 1. — For the removal of doubts, it is hereby declared that nothing contained in this clause shall apply to,-- (A) the functions performed by the Members of Parliament, Members of State Legislative, Members of Panchayats, Members of Municipalities and Members of other local authorities who receive any consideration in performing the functions of that office as such member; or

Analysis:
Whether a transaction in intangible property constitutes goods or services has been a recurring issue under the present indirect tax law. The Model law leaves no scope for such disputes, since the definition of 'goods' expressly excludes, and the definition of 'service's expressly includes, 'intangible property'. 'Intangible property' is defined to mean any property other than tangible property, and 'tangible property' has been defined to mean any property that can be touched or felt.

(89) "SGST" means the tax levied under the State Goods and Services Tax Act;

Parallel Provision in the existing Act / Rules:
No Such Definition

(90) "Special Economic Zone" shall have the meaning assigned to it in clause (za) of section 2 of the Special Economic Zones Act, 2005 [28 of 2005];

(91) "supplier" in relation to any goods and/or services shall mean the person supplying the said goods and/or services and shall include an agent acting as such on behalf of such supplier in relation to the goods and/or services supplied;

Parallel Provision in the existing Act / Rules:
New Insertion

(92) "supply" shall have the meaning as assigned to it in section 3;

Parallel Provision in the existing Act / Rules:
No Such Definition

(93) "tangible property" means any property that can be touched or felt;

Parallel Provision in the existing Act / Rules:
No Such Definition

(94) "tax" means goods and services tax levied on the supply of goods and/or services under this Act and includes any amount payable under section 8;

Parallel Provision in the existing Act / Rules:

No Such Definition

Analysis:

The words "except on the supply of alcoholic liquor for human consumption" has been deleted

(95) "tax period" means the period for which the tax return is required to be filed;

Analysis:

No Such Definition

(96) "taxable person" shall have the meaning as assigned to it in section 9 of this Act;

Parallel Provision in the existing Act / Rules:

No Such Definition

(97) "taxable supply" means a supply of goods and/or services which is chargeable to tax under this Act;

Parallel Provision in the existing Act / Rules:

No Such Definition

(98) "taxable territory" means the territory to which the provisions of this Act apply; (99) "Tax Return Preparer" means any person who has been approved to act as a Tax Return Preparer under the scheme framed under section 34;

Parallel Provision in the existing Act / Rules:

taxable territory" means the territory to which the provisions of this Chapter apply;

Existing Act / Rule:

Finance Act 1994 as amended

Existing Act / Rule No:

Sec 65B(52)

Analysis:

No change

(99) "Tax Return Preparer" means any person who has been approved to act as a Tax Return Preparer under the scheme framed under section 34

Parallel Provision in the existing Act / Rules:

"Service Tax Return Preparer" means any individual, who has been authorised to act as a Service Tax Return Preparer under the Scheme framed under this section;

Existing Act / Rule:

Finance Act 1994 as amended

Existing Act / Rule No:

Sec 71(3(a)

Analysis:

No change in line with Finance Act 1944

(100) "telecommunication service" means service of any description (including electronic mail, voice mail, data services, audio text services, video text services, radio paging and cellular mobile telephone services) which is made available to users by means of any transmission or reception

of signs, signals, writing, images and sounds or intelligence of any nature, by wire, radio, visual or other electro-magnetic means;

Parallel Provision in the existing Act / Rules:
internet telecommunication service" includes,— (i)internet backbone services, including carrier services of internet traffic by one Internet Service Provider to another Internet Service Provider, (ii) internet access services, including provision of a direct connection to the internet and space for the customer's web page, (iii) provision of telecommunication services, including fax, telephony, audio conferencing and video conferencing, over the internet;]
Existing Act / Rule:
Finance Act 1994 as amended
Existing Act / Rule No:
Sec 65(57(a)) & 109(a)
Analysis:
Definition Amended and made it simple

(101) "time of supply of goods" shall have the meaning as assigned to it in section 12;

Parallel Provision in the existing Act / Rules:
No Such Definition
Analysis:
Newly inserted to decide point of taxation

(102) "time of supply of services" shall have the meaning as assigned to it in section 13;

Parallel Provision in the existing Act / Rules:
No Such Definition
Analysis:
No Change in line with Point of Taxation Rules 2011

(103) "to cultivate personally" means to carry on any agricultural operation on one's own account-
(a) by one's own labour, or
(b) by the labour of one's family, or
(c) by servants on wages payable in cash or kind (but not in crop share) or by hired labour under one's personal supervision or the personal supervision of any member of one's family;
Explanation 1. - A widow or a minor or a person who is subject to any physical or mental disability or is a serving member of the armed forces of the Union, shall be deemed to cultivate land personally if it is cultivated by her or his servants or by hired labour.
Explanation 2. - In the case of a Hindu Undivided Family, land shall be deemed to be cultivated personally, if it is cultivated by any member of such family.

Parallel Provision in the existing Act / Rules:
No Such Definition
Analysis:
Newly inserted so as to cover the persons who do not cultivate personally by employeeing a labour but by awarding contract of cultivation on sharing basis which is generally called "Batai" such batai other than relation of employer-employee will be covered under the ambite of GST

(104) "turnover in a State" means the aggregate value of all taxable and non-taxable supplies, including exempt supplies and exports of goods and / or services made within a State by a taxable person and inter-state supplies of goods and / or services made from the State by the said taxable person excluding taxes, if any charged under the CGST Act, SGST Act and the IGST Act, as the case may be;

Analysis:
The definition is wide enough to include all the supplies by a person within the State and inter-state supplies.

(105) "usual place of residence" means
(a) in case of an individual, the place where he ordinarily resides;
(b) in other cases, the place where the person, as defined in sub-section (74), is incorporated or otherwise legally constituted;

Analysis:
New Insertion

(106) "valid return" shall have the meaning assigned to it under sub-section (3) of section 27.

Analysis:
New Insertion

(107) "works contract" means an agreement for carrying out for cash, deferred payment or other valuable consideration, building, construction, fabrication, erection, installation, fitting out, improvement, modification, repair, renovation or commissioning of any moveable or immovable property;

Parallel Provision in the existing Act / Rules:
a contract wherein tran sfer of property in goods involved in the execution of such contract is leviable to tax as sale of goods and such contract is for the purpose of carrying out co nstruction, erection, commissioning, installation, completion, fitting out, improvement, repair, renovation, alteration of any building or structure on land or for carrying out any other similar activity or a part thereof in relation to any building or structure on land;
Existing Act / Rule:
Finance Act 1994 as amended
Existing Act / Rule No:
Sec 65B(54)
Analysis:
The definition has been adopted from State VAT enactments. The word "movable" has been added. Wide coverage for works contract Suggestion given by us in the Business Process Reports has been adopted.

(108) "year" means the financial year; and

Parallel Provision in the existing Act / Rules:
No Such Definition
Analysis:

No Such Definition

(109) "zero-rated supply" means a supply of any goods and/or services on which no tax is payable but credit of the input tax related to that supply is admissible;
Explanation.- Exports shall be treated as zero-rated supply.

Parallel Provision in the existing Act / Rules:
No Such Definition
Analysis:
This term has been defined for the first time so as to make eligible to Input tax credit when supplies are made without payment of duty as zero-rated duty.

"Supply" - *is the 'Tax Incidence' under GST, as the point of supply will determine the 'point of consumption' since, GST in India is a 'destination-based consumption tax'.*

Section 3: Meaning and Scope of Supply

(1) Supply includes

(a) all forms of supply of goods and/or services such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business,

(b) importation of service, whether or not for a consideration and whether or not in the course or furtherance of business, and

(c) a supply specified in Schedule I, made or agreed to be made without a consideration.

(2) Schedule II, in respect of matters mentioned therein, shall apply for determining what is, or is to be treated as a supply of goods or a supply of services.

(2A) Where a person acting as an agent who, for an agreed commission or brokerage, either supplies or receives any goods and/or services on behalf of any principal, the transaction between such principal and agent shall be deemed to be a supply.

(3) Subject to sub-section (2), the Central or a State Government may, upon recommendation of the Council, specify, by notification, the transactions that are to be treated as —

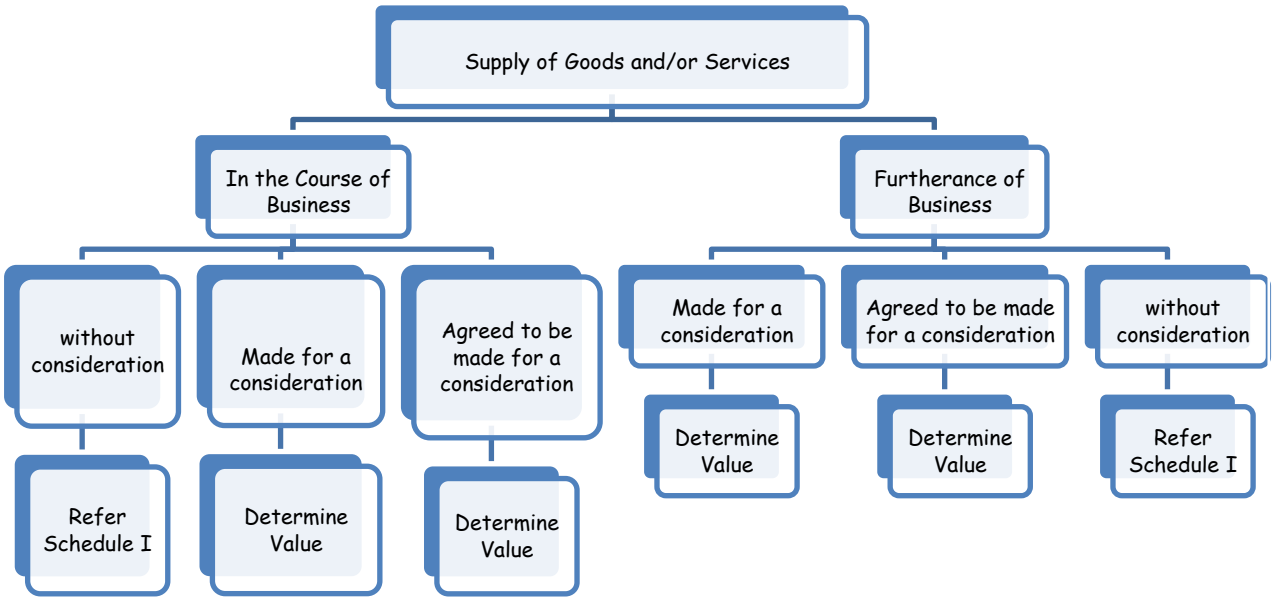
(i) a supply of goods and not as a supply of services; or

(ii) a supply of services and not as a supply of goods; or

(iii) neither a supply of goods nor a supply of services.

(4) Notwithstanding anything contained in sub-section (1), the supply of any branded service by an aggregator, as defined in section 43B, under a brand name or trade name owned by him shall be deemed to be a supply of the said service by the said aggregator.

Figure 1 : Supply of Goods and /or Services



Explanation :

In the course of business	The ordinary **course of business** covers the usual transactions, customs and practices of a certain **business** and of a certain firm.
Furtherance of business	**For use in the course of furtherance of business or commerce**' is a very broad term and again required to be interpreted liberally. A meeting with a perspective/existing client or customer in the residence can be considered as use of the residence in the course of furtherance of business or commerce. Nevertheless, manufacture of merchandise or storage thereof in the residence or use of residence as office-cum-residence is definitely a use of residence in the course of furtherance of business or commerce. Therefore, in view of the definition given above, such residence will be considered as immovable property used in the course of furtherance of business or commerce.

Figure 2 : Scope of Goods & Services Tax (GST)

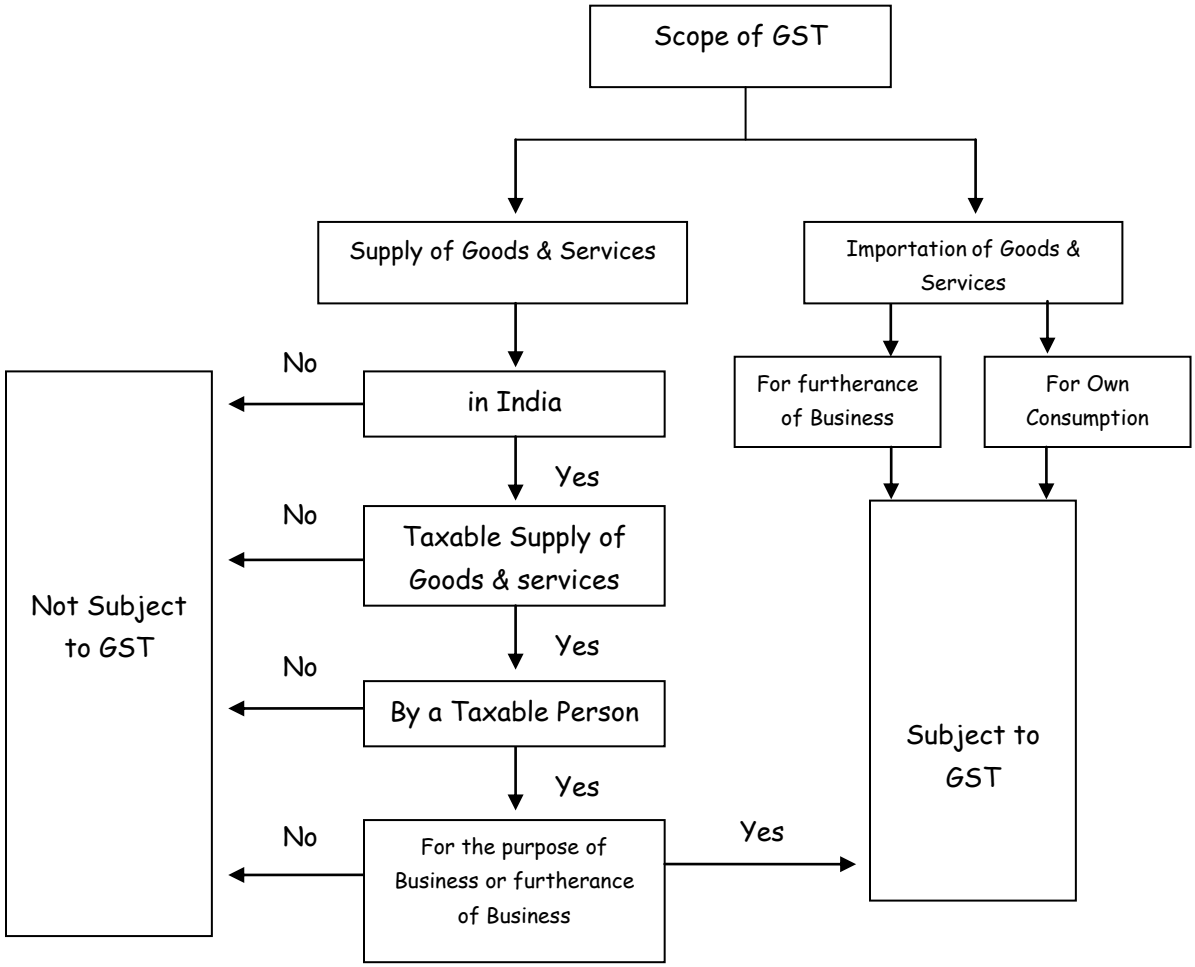
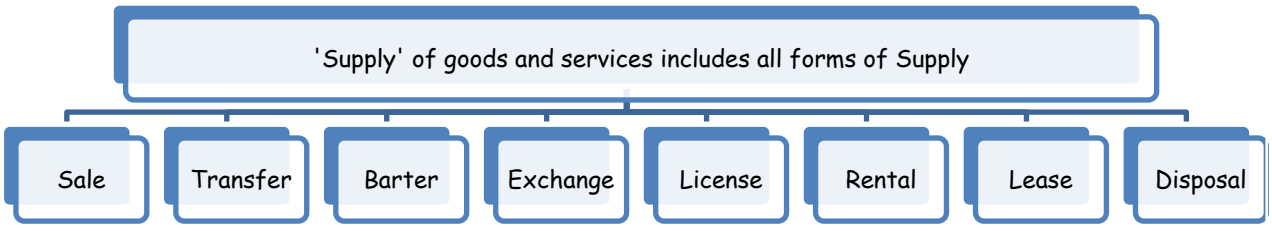


Figure 4: Supply - all forms



Explanation :

Sale : As defined in the Sale of Goods Act,1930. It is a contract whereby the seller transfers or agrees to transfer the property in the **goods** to the buyer for price.

Elements of a Sale :

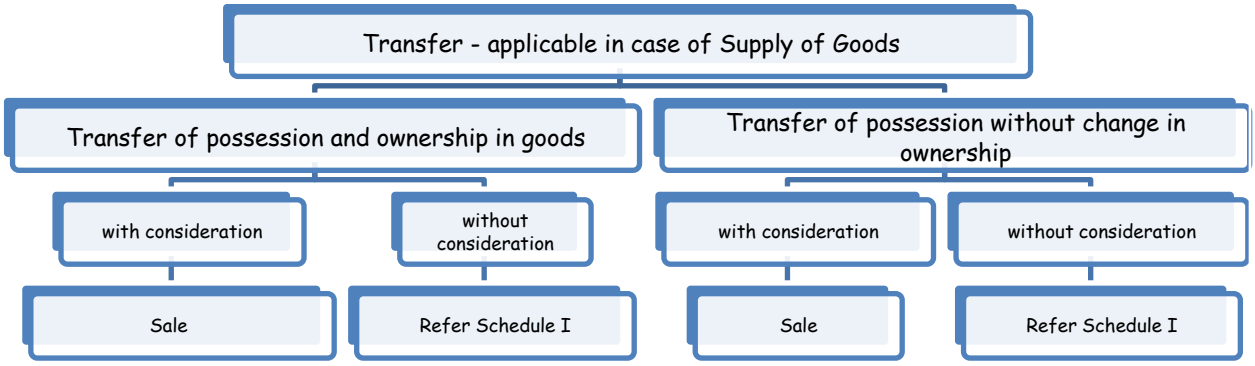
- *there should be a 'contract'*
- *between 'buyer' (recipient of taxable supply) & 'seller' (provider of taxable supply)*
- *for 'transfer of property'*

- *of 'goods'*
- *for a price (being the sole consideration, where 'buyer' and 'seller' are unrelated*

Example 1 :

Z Ltd. buys a dump truck for Rs. 2,00,000 under a hire purchase agreement with a bank. The ownership of the truck is caveat by the bank until the company makes full payment of the hire purchase loan amount. This hire purchase transaction is a supply of goods and subject to GST.

Transfer : This refers to 'Supply of goods' and includes gifts, transfer from one location to another location of the same taxable person (i.e. stock transfer). It refers to physical change of location in different states.



(i) Transfer of possession and ownership in goods

Transfer of the ownership in goods is a supply of goods.

Example 2 :

Mr. B sells a printing machine to Mr. Z. By selling the printing machine, Mr. B is transferring its ownership of the printing machine to Mr. Z. The sale of the printing machine is a supply of goods.

(ii) Transfer of possession without change in ownership of goods

The transfer of the possession of the goods is a supply of goods when the supplier agrees to transfer the possession of the goods under an agreement;

- to sell the goods ; or
- to transfer the ownership of the goods in the future.

Example 3 :

A leasing company leases out an excavator to a customer for a period of two years. The company still retains ownership of the excavator but the customer is in possession of the excavator during the rental period. Such transfer is a supply of services and subject to GST.

Barter

Barter system means goods are exchanged for goods and quantification in monetary terms is not possible. Such transactions would be outside the ambit of GST.

However, if the monetary value is ascertainable of such barter-exchange, then shall be considered as a 'taxable supply' and GST shall be levied in accordance.

Example 4:

Mr. A gives to Mr. B entire year's production of sugar and Mr. B in return leases out his sugar factory to Mr. A. Settlement is done at the Year-end by valuing sugar at government rates and lease rentals are netted. Only differential money flows from A to B or B to A. This transaction, though appears to be barter, is chargeable to GST as we can ascertain 'money consideration' for the contract.

If Total value of sugar supplied by A to B is Rs.10 crores, then GST would be levied and collected by A on Rs.10 crores at the prescribed rates. This supply of Rs.10 crores, will be an 'Outward Supply' for A and should be furnished in GSTR -1. Again, for B it is an Inward Supply, hence to be furnished in GSTR-2 at Rs.10 crores.

Again, if the lease rentals by B to A is Rs.9 crores, then GST would be levied and collected by B on Rs.9 crores. This will be an 'Outward Supply' for B, to be furnished in GSTR-1 and an 'inward supply' for A, to be furnished in GSTR-2.

Net Flow of Money = Rs.1 crore (= Rs.10 crores - Rs.9 crores) from B to A.

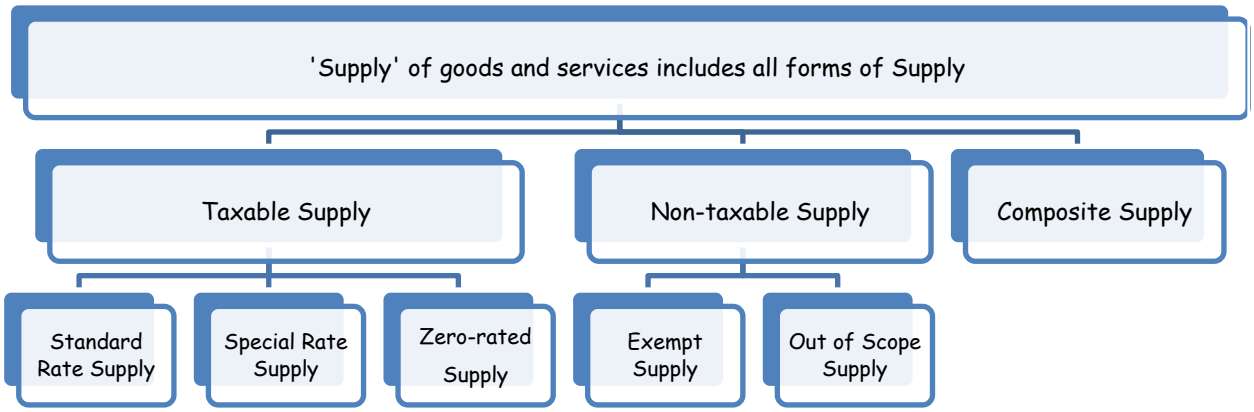
Exchange - an act of giving one thing and receiving another (especially of the same kind) in return.

Example 5:

Old car (WDV Rs.2,00,000) is exchanged for Rs.1,50,000 against a new car costing Rs.6,00,000 and the balance of Rs.4,50,000 is paid by cheque. This is a Taxable Supply for the Supplier and GST would be levied and collected on the transaction value of Rs.6,00,000, at the prescribed rates.

Licence - a permission to use any asset (tangible or otherwise) or perform/ conduct any activity whether or not for a consideration. GST is leviable on any payment, in lieu of any permission or license granted by the Government or a local authority.
Rental - a contract (oral or written) between a owner of an asset and user of the asset that provides for a *tenancy* for a short period of time, in exchange of consideration, termed as rent / rental charges
Lease - Finance Lease or Operating Lease - as per AS-19 / Ind AS - 17 (Special reference may be made to : Sale and Lease-back transactions)
Disposal - act of disposing ; transferring to the care or possession of another. It refers to the parting with, alienation of, or giving up of property.

Figure 3: Supply of goods and services includes all forms of 'Supply'



Taxable Supply	means a supply of goods or services which is either standard rated or special rated or zero rated. An exempt supply is not a taxable supply.

Non-taxable supply :

Non-taxable supply	- means a supply of goods or services which is not subject to GST.	
- exempt supply of services	Examples	Domestic transportation of passengers for mass public transports (rail, bus, ship, boat, ferry, private education, private health services, toll highway)
- exempt supply of goods	Examples	Residential properties, land for agricultural and land for general use (government building and burial ground)
- out of scope supply	- which is not within the ambit or boundary of GST. - non business supply - supply of services made by a person who does not belong to India other than the supply of imported services - business below threshold	
Zero rated supply	Examples	supply of goods made outside India

Composite supply

- refers to a single supply with more than one component. where a supply appears to consist of more than one component, the supply is still a single supply if there is clearly one overall supply being made to which the remaining components can be seen as incidental, integral or tie-in arrangements.

Indicators suggesting determination of a 'Composite supply': (- these indicators are not exhaustive or conclusive proof of a composite supply, but if the transaction has more of these indicators, it is likely to be considered as a composite supply)

(a) The components are sold as a package at a single price.
(b) The components are advertised as a package.
(c) The different components are not available separately.
(d) Goods are physically packaged together (e.g. a plastic toy enclosed in a packet of cereal).
(e) It would not normally make sense to supply part of the package independently (e.g. a new refrigerator and its delivery from the warehouse).
(f) Although components are separately priced, the value of each component is arbitrarily assigned.
(g) The customer perceives what they receive as a single supply, not independent components
(h) The different components are aspects of the quality or grade of the overall supply
(i) The different components are integral to one main supply. If one or more of the components is removed, the nature of the main supply would be affected.
(j) Some components are clearly incidental or ancillary to an identifiable main supply.
(k) The separation of components, on an invoice or otherwise, is artificial.

Explanation and examples:

Integral Elements	- essential or necessary to the supply as a whole.
Example 1	Air India supplies standard rated flights for a single price. This includes the provision of in-flight catering. The catering is provided for the comfort and convenience of passengers in the same way as magazines, cushions etc. Therefore, the catering is integral to the main supply of the flight and a single composite supply is being made. (Note: If the flight ticket sold to the passenger by the airlines company is exclusive of the meals provided to him during the flight, the supply of flight services and the supply of meals by the company to the passenger are treated as two separate supplies).
Example 2	An agent supplies a tourism package consisting of air-ticket, hotel room, transport, tourist guide and tour to various sites and he charges a single price. The supply is a composite supply where the main supply is the tour and the other components are seen as integral or incidental to the main supply.
Incidental elements	Refers to components of a supply that naturally accompany a main supply, but generally are not a significant part of supply.
Example 1	Mr. A buys a car from a car dealer. The contract for the purchase of the car is inclusive of its delivery. In this case, the principal supply is the goods (the car) and the incidental supply is the services (its delivery). The dealer is making a

	composite supply.
Example 2	A supplier charges a single price for the supply of rice and its delivery (transport) from the warehouse. The supply is a composite supply where the delivery component is seen as incidental to the main supply of rice.
Tie-in elements	This is a component of low value that accompanies a main supply. The tie-in component is always given as a free item.
Examples	Tooth brush (free item) sold with a toothpaste (main supply), a plate (free item), sold with a packet of rice (main supply) and a plastic toy (free item), enclosed in a box of cereal (main supply)

Supply of Services

A supply of services is something done for with or without a consideration, other than supply of goods. For example, a person is making a supply of services if he:

(a) lends his goods to another person;
(b) rents his goods to another person;
(c) hires goods to another person;
(d) applies treatment or process on another person's goods;
(e) uses goods owned by the business other than for the purpose of business;
(f) grants, assigns or surrenders a right for a consideration;
(g) assigns the right to use his patent or copyright to another person;
(h) provides telecommunication, consultancy, health and education, repair and maintenance and renovation services;
(i) provides hotel accommodation;

In addition to the above examples, the following matters are also treated as supply of services:

(a) Transfer of undivided share of property - refers to a property that can be owned by more than one person. When one owner of the property decides to sell his share in the property, it is a supply of services. When all the owners of the property sell the property, it is a supply of goods.

Example 6:

John, Rony and Dondo co-owned a shop lot under one title. John sold his part of the shop lot to Dondo. Therefore, John has transferred the undivided share of the property to Dondo. Such transfer is a supply of services.

(b) Transfer of possession of goods not involving transfer of title

"Possession" means having control over the goods and having immediate facility for their use. Possession is transferred when the use of goods is given to another party, for example when goods are hired. After an agreed period, the goods will be returned to the owner, who has retained title to the goods during the period of use. In other words, if there is no transfer of title to a property, it is a supply of services.

Example 7 :
A leasing company leased out a bulldozer to a customer for a period of two years. The company still retains ownership of the bulldozer but the customer is in possession of the bulldozer during the leasing period. Such leasing activity is a supply of services because it only involves a transfer of possession and not a transfer of title.

Example 8 :
Avira Property Ltd.. enters into an agreement to lease a commercial property to Greene Lakes Ltd.. for a period of 5 years. The leasing of commercial property is a supply of services.

(c) Treatment or Process
Any treatment or process which is being applied to another person's goods is a supply of services.
Treatment involves changing the nature of goods, for example, heat treatment and sand-blasting. Whereas, process involves a continuous action, operation, or series of changes taking place in a definite manner in the production of goods, for example, varnishing, painting, moulding and assembling. As long as the treatment or process activity is done on someone's goods, it is a supply of services.

Example 9:
XYZ Tools Ltd. sent their tools to Mercury Ltd. for heat treatment to harden them. The heat treatment done by Mercury Ltd. is a supply of services.

Example 10:
New Glass Ltd. sent their glass to Banyan Ltd. for heat treatment to produce tempered glass. The heat treatment done by Banyan Ltd. is a supply of services.

Example 11:
Iron Works Ltd.. sent their wrought iron gates to Chemical Works Ltd. for chemical treatment to produce rust-resistant gates. The chemical treatment done by Chemical Works Ltd. is a supply of services.

2. Importation of Services for a consideration or without consideration, and whether or not in the course or furtherance of business

"Importation of services" means any services by a supplier who belongs in a country other than India or who carries on business outside India, to a recipient who belongs in India, and the services are consumed in India.

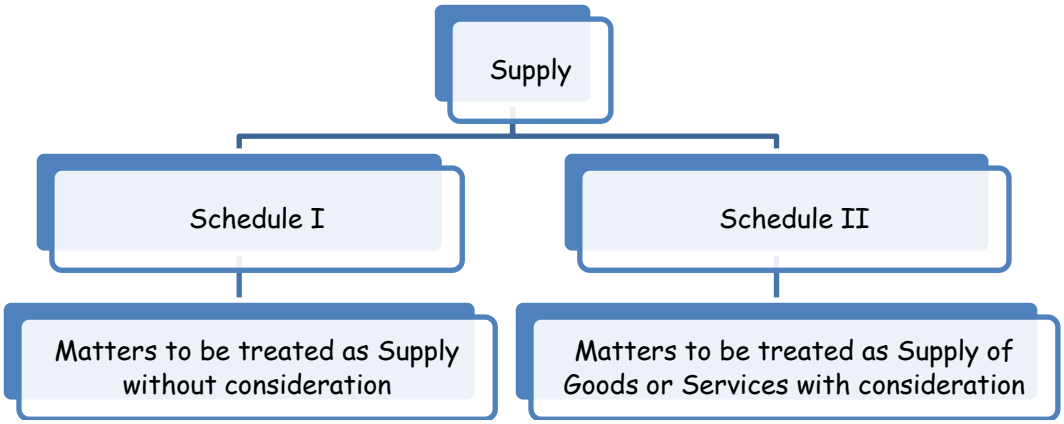
Under the GST Act, "imported services" means services that are made by a supplier who belongs in a country other than India or who carries on business outside India to a recipient who belongs to India and such services are consumed in India. When services are imported from outside India and supplied to a recipient in India, being taxable supplies if made in India, the recipient of the supply shall account and pay GST if such imported services are for the business purposes and consumed in India.

Generally, the GST legislation provides for the supplier to charge GST on taxable supplies he makes to the recipient. However, in the case of imported services, the GST liability shifts from the supplier to the recipient if the recipient's fixed or business establishment or his usual place of residence is in India. Hence, the recipient is liable to account GST on the supply made for the purpose of any business carried on by him.

- Services acquired from overseas which is directly connected to services (e.g. financial services) and benefits a person in India even though the services are consumed overseas, it is to be treated as imported services.
- Services acquired from overseas which is directly connected to goods or land overseas and consumed overseas, although it benefits a person in India, it is to be treated as an out of scope supply. For example, the foreign ship owner bills demurrage charges due to a delay in loading of cargo into the ship by the Indian cargo owner.

- In the case of imported services, the GST liability shifts from the supplier to the recipient if the recipient's fixed or business establishment or his usual place of residence is in India.
- Hence, the recipient is liable to account GST on the supply made for the purpose of any business carried on by him.

Figure 4 : Supply defined in Schedules of the Model GST Law:



"Goods" as per Sec 2(48) of the Draft Model Law means every kind of movable property other than actionable claim and money but includes securities, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under the contract of supply; Explanation.– For the purpose of this clause, the term 'moveable property' shall not include any intangible property.
"Services" as per Sec.2(88) means anything other than goods Explanation: Services include intangible property and actionable claim but does not include money.

3. A Supply **specified in Schedule I,** made or agreed to be **made without consideration**.

SCHEDULE I : Matters to be treated as supply without consideration
1. Permanent transfer / disposal of business assets.
2. Temporary application of business assets to a private or non-business use.
3. Services put to a private or non-business use.
4. Assets retained after deregistration.
5. Supply of goods and / or services by a taxable person to another taxable or non-taxable person in the course or furtherance of business.
Provided that the supply of goods by a registered taxable person to a job-worker in terms of section 43A shall not be treated as supply of goods.

Explanation and Interpretation :

1. Permanent Transfer / Disposal of Business Assets

Generally, the transfer or disposal of business assets is a supply of goods. The transfer or disposal can be made to any person including to himself. It may or may not involve a consideration.

Example 12:

An insurance company disposes its used computer (its book value is more than Rs. 25,000) by giving it to a charitable organisation. The disposal of the computer is a supply of goods and subject to GST.

Example 13:

Star Furniture Enterprise, a sole proprietor, is in the business of selling furniture. Its owner took a set of furniture to furnish his bedroom permanently. The transfer of the furniture by the owner, whether or not for a consideration, is a supply of goods and subject to GST.

Example 14:

Mr. Karan , a GST registered person, loans 1 million litres of diesel to HLP Ltd., another GST registered person, on condition that the same quantity of diesel of similar quality will be returned to Mr.Karan one week later. Although Mr. Karan supplies the diesel to HLP Ltd. without a consideration, it is still a supply of goods which is subject to GST. Similarly, when HLP Ltd. returns 1 million litres of diesel to Mr. Karan, without a consideration, it is also a supply of goods which is subject to GST.

(ii) The transfer or disposal of business assets by the person carrying on the business either to himself or to any other party, not for a consideration, is a supply of goods if he is entitled to a credit. If he is not entitled to a credit, then it is not a supply of goods.

Example 15:

A stage bus company is making an exempt supply of stage bus transportation services. The company is not allowed to claim input tax incurred on the acquisition of its buses since it is a wholly exempt supplier of services. When the company later disposes of the buses without consideration, i.e. giving them away free of charge, it is not a supply of goods.

Example 16:

An insurance company is a mixed supplier, i.e. it supplies both general insurance (standard rated) and life insurance (exempt). The company purchased computer equipments to supply equally both the general insurance and life insurance policies and, therefore, was entitled to claim part (50%) of the input tax on the acquisition of the equipments. A few years later, the company disposes the computer equipments. The disposal of the equipments, whether or not for a consideration, is a supply of goods and subject to GST.

Example 17:

S Ltd., a GST registered person, bought a set of furniture from a non taxable person. Since the non taxable person does not charge him GST, the company does not incur any input tax on the purchase of the furniture. When S Ltd. subsequently disposes the furniture, without a consideration, it is a not supply of goods and is not subject to GST. If S Ltd. disposes the furniture with a consideration, it is a supply of goods and subject to GST.

(iii)The transfer or disposal business assets involving goods for personal consumption is a supply of goods.

Example 18:

A GST registered retailer is in the business of supplying mineral water. His family is consuming 100 bottles of mineral water regularly every month. The disposal of the mineral water for his family's consumption is a supply of goods and subject to GST.

2. Temporary application of business assets to a private or non-business use -

Generally, there is no supply when goods acquired by a person are used for his own business purposes. However, if the goods are:
(i) put to private or personal use; or
(ii) used for the purpose other than business; or
(iii) made available for another person's use but not done in the course or furtherance of the business of the owner of the goods.

It is a supply of services whether or not there is a consideration.

If the usage or making available of goods as stated in (i), (ii) and (iii) are made without a consideration and at the same time, the person is not entitled to input tax credit, then it is not a supply of services.

Similarly, where a business is carried on by an individual and the same goods are used or made available for use by himself personally, whether or not for a consideration, it is a supply of services.

(i) Private or personal use

Example 19:

KA Enterprise is a supplier of tents for its business. The company lends a few tents to its manager for his son's wedding. The private usage of the tents by the manager (with or without a consideration) is deemed as a supply of services by the company to him.

Example 20:

Nirmal Udyog Ltd. bought a pool car for its business. One of the drivers borrowed the car for private usage. The input tax on the acquisition of the car is disallowed because it is a blocked input under GST. If the private usage involves a consideration, then it is deemed as a supply of services by the company. However, if the usage is without a consideration, then it is not deemed as a supply of services.

Example 21:

MB Enterprise, a sole proprietor, is in the business of selling furniture. Its owner took a set of furniture to furnish his house's verandah temporarily for 3 months. The personal use of the furniture by the owner, whether or not for a consideration, is deemed as a supply of services by the company to him.

(ii) Used for the purpose other than business

Example 22:
Oil Generation Ltd., an oil palm plantation company, organized an international golf tournament and invited a few international players to join the event. The company provides the secretariat the usage of its office equipment such as the scanner and photocopier. The usage of the office equipment is not for the purpose of the company's plantation business.

The usage of Oil Generation Ltd.'s office equipment for any purpose other than its own business purpose, whether or not for a consideration, is a supply of services by Oil Generation Ltd.'s to the players.

(iii) Made available for another person's use but not done in the course or furtherance of the business of the goods' owner

Example 23:
Globe Ltd. bought a bulldozer to be used in its own construction business. However, it made the bulldozer available to be used in the construction business of its sister company, Star Ltd. In this case, the usage of Globe Ltd.'s bulldozer for any purpose other than its own business purpose, whether or not for a consideration, is a supply of services by Globe Ltd. to Star Ltd.

Services put to a private or non-business use

Example 24: Services / supplies is engaged as per contract, for business purposes. Assuming a significant portion of the said supply is enjoyed and consumed by an employee, then, there shall arise a taxable event, and GST shall be levied as per prescribed rates on such services.

Assets retained after deregistration

Example 25:
Mr. Q, an employee of P Ltd. retires from employment but on the basis of an undertaking, retains and uses the laptop / car which were provided for office purpose, for a time period, post-retirement. Thereafter, those were returned.
The expenses incurred including depreciation thereof, for that specified time period, for use of the laptop/ car would be the value of taxable supply and GST shall be levied in accordance.

Supply of goods and / or services by a taxable person to another taxable or non-taxable person in the course or furtherance of business - is a supply or services

Example 26:
Anish, a sole owner of CWB Enterprise, is a GST registered person. He is in the business of renting out air filtering machines. Anish rented out two units of the machines to his brother, Alvin, without imposing any rental charges.

4. **Schedule II to be referred to for** – determining with respect to Transactions specified therein whether it is supply of goods or services.

Schedule II ; Matters to be treated as supply of Goods or Services

1. Transfer

(i) Supply of goods – Transfer of Title

* Immediate

* In future such as under an agreement of hire purchase / purchase under installment is a supply of goods.

(ii) Supply of service - No Transfer of Title - Transfer of goods or Transfer of right in goods or Transfer of undivided share in goods

2. Land and Building

(i) Lease, tenancy, easement, license to occupy land is a supply of services.

(ii) Lease or letting out of the building including a commercial, industrial or residential complex for business or commerce, either wholly or partly, is a supply of services.

3. Treatment or process

Any treatment or process which is being applied to another person's goods is a supply of services.

4. Transfer of business assets

1. Supply of goods:
   - Business assets transferred or disposed of, whether or not for a consideration
   - Business assets of a taxable person, are sold by any creditors to recover any debt owed by the taxable person
   - Person ceases to be a taxable person, deemed supply immediately before he ceases to be a taxable person, unless:

   (a) the business is transferred as a going concern to another person; or

   (b) the business is carried on by a personal representative who is deemed to be a taxable person.

2. Supply of services - Business assets put to any private use or are used, whether or not for a consideration.

5. Declared Services : will be considered as supply of services.

a. renting of immovable property ;
b. construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or before its first occupation, whichever is earlier,
c. temporary transfer or permitting the use or enjoyment of any intellectual property right;
d. development, design, programming, customisation, adaptation, up-gradation, enhancement, implementation of information technology software;
e. agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act;
f. works contract including transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract;
g. transfer of the right to use any goods for any purpose (whether or not for a specified

period) for cash, deferred payment or other valuable consideration;

h. supply, by way of goods, being food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption) where such supply or service is for cash, deferred payment or other valuable consideration.

6. Supply of goods by any unincorporated association or body of persons to a member

Supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration to be treated as supply of goods.

5. Where a person is acting as an agent for an agreed commission or brokerage, the transaction between such principal and agent shall be deemed to be a supply.

6. The supply of any branded service by an aggregator under a brand name or trade name owned by him shall be deemed to be a supply of the said service by the said aggregator.

7. Transactions specified by the Central or a State Government, upon recommendations of the Council as a supply of goods and not as a supply of services / a supply of services and not as a supply of goods / neither a supply of goods nor a supply of services.

Conclusion:

'Supply' being the 'Taxable Event' under GST, there shall arise interpretational issues - whether a transaction is a 'supply' or not, and identifying the place of such supply, which will determine both the nature of GST (depending upon - inter-state or intra-state), imposition and levy of tax liability.

Administration : in post - GST era

The GST framework is depending upon the robust GSTN. Interface between the Tax Payer and the Tax Administrator for compliance would be governed through the IT-enabled system.

- The Central Board of Excise & Customs (CBEC) through the DGGST (Directorate General of Goods and Services Tax) shall be responsible for implementing the CGST and the State Tax Administrations will be separately responsible for implementing the SGST.
- The Central Government shall establish a Common IT Infrastructure, which will serve the needs of both CGST and SGST. (GST Network - GSTN).
- The basis for division could be turnover or any other criteria which is considered reasonable so that the compliance and administrative burden is minimized.
- The administration of this levy should be based on audited accounts and not on the basis of any form of physical controls.
- Uniform Procedures for CGST and SGST.
- PAN based Taxpayer Identification Number.
- The unit of taxation for GST should be the persons as defined under the Income Tax Act.
- Establishing Taxpayers Information Network (TIN).
- TIN will be shared between Centre and States.
- The GST registration number should be Permanent Account Number (PAN) - based.
- The various tax administrative functions such as assessment, enforcement, scrutiny and audit should be undertaken by the CBEC in respect of the CGST and by the State tax administration in respect of the SGST subject to recommendation on small-scale industries.
- The jurisdiction between the CBEC and the State Administration may be divided between the two in such manner that the interface of the taxpayer is confined to one tax administration only, to note the above point is contradictory to this.
- In order to inspire confidence of the Small Scale Industry in the new GST framework, the scrutiny / audit of the small scale industry should be conducted only by the State Tax Administration.
- Common Appellate Authority as the tax base is common.
- Authority for Advance Ruling will also be common.
- Dispute Resolution Scheme will also be common.

- Best international practices should be embedded in the CGST, in respect of laws relating to levy of penalties, and circumstances and method of prosecution.
- No authority should have power to make preventive detention for the purpose of CGST and SGST.
- Upto 1.5 Crore, assessment of CGST & SGST will be done by State Govt. where the registration takes place. If there are any dispute related to CGST then it will refer to CBEC officials to initiate further action

CHAPTER III

LEVY OF, AND EXEMPTION FROM, TAX

7. Levy and Collection of Central/State Goods and Services Tax

(1) 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.

(2) The CGST/SGST shall be paid by every taxable person in accordance with the provisions of this Act.

(3) Notwithstanding anything contained in sub-section (2), the Central or a State Government may, on the recommendation of the Council, by notification, specify categories of supply of goods and/or services the tax on which is payable on reverse charge basis and the tax thereon shall be paid by the person receiving such goods and/or services and all the provisions of this Act shall apply to such person as if he is the person liable for paying the tax in relation to such goods and/or services.

Parallel Provision in the existing Act / Rules: Levy on excisable goods produced or manufactured in India
Existing Act / Rule: Central Excise Act, 1944
Existing Act / Rule No: Section 3
Analysis:
1. All supplies of goods & services intra-state wil be attracted CGST & SGST.
2. Tax will also be leviable under reverse charge on supply of goods.
3. Rate of GST will be recommended by GST council and notified by Central & State Govt for CGST & SGST respectively and also will specify categories of supply of goods and/or services the tax on which is payable on reverse charge basis 4. The reverse charge mechanism for goods marks an important deviation, whereby businesses may be required to discharge a levy akin to the 'purchase tax' imposed by certain States under the extant VAT laws.

8. Composition Levy

(1) Notwithstanding anything to the contrary contained in the Act but subject to sub-section (3) of section 7, on the recommendation of the Council, the proper officer of the Central or a State Government may, subject to such conditions and restrictions as may be prescribed, permit 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:

Provided that no such permission shall be granted to a taxable person who effects any inter-State supplies of goods and/or services.

Provided further that no such permission shall be granted to a taxable person unless all the registered taxable persons, having the same PAN as held by the said taxable person, also opt to pay tax under the provisions of this sub-section.

(2) A taxable person to whom the provisions of sub-section (1) apply shall not collect any tax from the recipient on supplies made by him nor shall he be entitled to any credit of input tax.

(3) If the proper officer has reasons to believe that a taxable person was not eligible to pay tax under sub-section (1), such person shall, in addition to any tax that may be payable by him under other provisions of this Act, be liable to a penalty equivalent to the amount of tax payable as aforesaid:

Provided that no penalty shall be imposed without giving a notice to show cause and without affording a reasonable opportunity of being heard to the person proceeded against.

Parallel Provision in the existing Act / Rules: Compounded levy for specified products
Existing Act / Rule: Central Excise Act, 1944
Existing Act / Rule No: Section 3A & Rule 15
Analysis:

Composition scheme continues for only intra-state supplies and debarred to taxable person having inter-state supplies. In other words, separate registration to be taken by taxable person whose turnover is less than aggregate Rs. 50 lacs. and does not have any inter-state supplies.

Composition levy will not be applicable for taxability under reverse charge

Such composition rate will be recommended by GST council and notified by central / state govt but will not be less than 1%. Such composition levy cannot be recovered from the recipient and no input tax credit will be available to the recipient and also the tax payer.

No penalty can be imposed without giving SCN and providing natural justice of personal hearing.

9. Taxable person

(1) Taxable Person means a person who carries on any business at any place in India /State of ____ and who is registered or required to be registered under Schedule III of this Act:

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

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 ten lakh]

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 five lakh]

[This threshold of 5 lacs will apply only if a taxable person conducts his business in any of the NE States including Sikkim.]

(2) The Central Government, a State Government or any local authority shall be regarded as a taxable person in respect of activities or transactions in which they are engaged as public authorities other than the activities or transactions as specified in Schedule IV to this Act.

(3) The following persons shall not be considered as taxable persons for the purposes of this Act –

(a) any person who provides services as an employee to his employer in the course of, or in relation to his employment, or by any other legal ties creating the relationship of employer and employee as regards working conditions, remunerations and employer's liability;

(b) any person engaged in the business of exclusively supplying goods and/or services that are not liable to tax under this Act;

(c) any person, liable to pay tax under sub-section (3) of section 7, receiving services of value not exceeding _____ rupees in a year for personal use, other than for use in the course or furtherance of his business.

Parallel Provision in the existing Act / Rules: Manufacturer
Existing Act / Rule: Central Excise Act, 1944 / Central Excise Rules, 2002
Existing Act / Rule No: Section 2(f)(iii)
Analysis:

1. Agriculturist, who cultivates personally are exempted from GST
2. Threshold limit Rs. 10 Lacs of aggregate turnover has been prescribed to taxable person located other than north State
3. The threshold limit of Rs. 5 lacs will for a taxable person conducts his business in any to taxable person located of north state including Sikkim
4. Schedule III Specifies the persons required to obtain registration and the taxable person is accordingly defined. Under the existing provisions, the taxable event differs and accordingly the taxable persons are defined.

5. Further following persons will have to be obtained registration.

* Existing Registered Unit either with Central Excise, Service Tax or under any State VAT

Authorities

* The Person who has crossed the turnover of above threshold limit
* Transfer on account of succession otherwise
* Scheme of amalgamation & demerger
* Casual Taxable person,
* Person required to pay tax under reverse charge
* Person making inter-state supply irrespective of taxable threshold

6. Registration needs to be taken before achieving the turnover of threshold limit less than Rs. 1 lac.

7. No registration to be obtained by such person which has not achieved the aggregate turnover as specified in the threshold limit.

8. The aggregate turnover includes supplies received on behalf of principal also.

9. Job worker will have to be registered as job worker and principal have to add the place of job worker in his registration as place of business

10. The exclusion for services provided by an employee to employer, which was previously under the definition of 'service', now finds place under the concept of 'taxable person'.

11 Various other exclusions from the requirement to register, such as the threshold exemption and exemptions for persons engaged solely in non-taxable activity, have been continued under the concept of 'taxable person'.

Our suggestion of goods & services under reverse charge to the recipient which is not used for furtherance of the business should be excluded is partially accepted and GST council to recommend threshold limit for such recipient.

10. Power to grant exemption from tax

(1) If the Central or a State Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendation of the Council, by notification, exempt generally either absolutely or subject to such conditions as may be specified in the notification, goods and/or services of any specified description from the whole or any part of the tax leviable thereon.

Explanation.- Where an exemption under sub-section (1) in respect of any goods and/or services from the whole of the tax leviable thereon has been granted absolutely, the taxable person providing such goods and/or services shall not pay the tax on such goods and/or services.

Existing Act / Rule: Central Excise Act, 1944
Existing Act / Rule No: Section 5A
Analysis:

- The mandate under Section 5A of the CE Act has been extended to this law to ensure that no tax is collected and paid on certain goods/ services enjoying absolute exemption (i.e. such exemptions will have to be compulsorily availed).
- The power to insert an Explanation within one year of issuance of a Notification, which would apply ab initio, runs counter to the law declared by the Supreme Court case, which is to the effect that an Explanation does not automatically take effect retrospectively even if it is stated to be "for the removal of doubts". On the contrary, where an Explanation effects a substantive alteration of the provision, it can only apply prospectively. This amendment has similarly been enacted vide the Finance Act, 2016.

(2) If the Central or a State Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendation of the Council, by special order in each case, exempt from payment of tax, under circumstances of an exceptional nature to be stated in such order, any goods and/or services on which tax is leviable.

Existing Act / Rule: Finance Act, 1994
Existing Act / Rule No: Section 93(1) / Section 66D (Specific provision of negative list)

(3) The Central or a State Government may, if it considers necessary or expedient so to do for the purpose of clarifying the scope or applicability of any notification issued under sub-section (1) or order issued under sub-section (2), insert an explanation in such notification or order, as the case may be, by notification at any time within one year of issue of the notification under sub-section (1) or order under sub-section (2), and every such explanation shall have effect as if it had always been the part of the first such notification or order, as the case may be.

Existing Act / Rule: Customs Act, 1962
Existing Act / Rule No: Section 25

(4) Every notification issued under sub-section (1) or sub-section (3)and every order issued under sub-section (2) shall

(a) unless otherwise provided, come into force on the date of its issue by the Central or a State Government for publication in the Official Gazette; and

(b) be made available on the official website of the department of the Central or a State Government.

Existing Act / Rule: MVAT Act, 2005
Existing Act / Rule No: Section 8 (4) / Section 9 (for amendment to Schedule w.r.t. NIL rates)

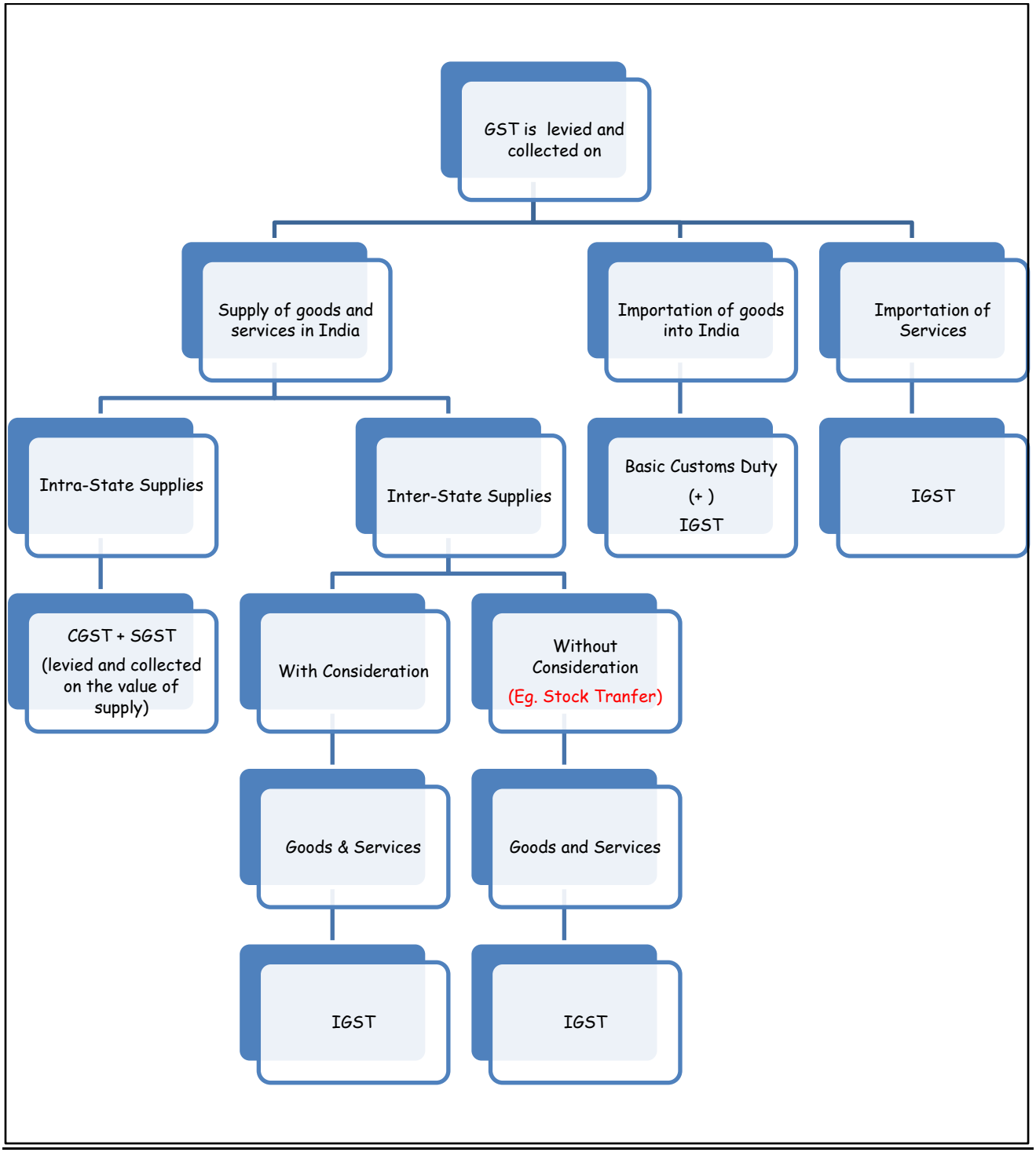
11. Remission of tax on supplies found deficient in quantity

(1) The Central or a State Government may, by rules made under this sub-section, provide for remission of tax on such supplies which are found to be deficient in quantity due to any natural causes.

Parallel Provision in the existing Act / Rules: Where it is shown to the satisfaction of the Principal Commissioner or Commissioner, as the case may be that goods have been lost or destroyed by natural causes or by unavoidable accident or are claimed by the manufacturer as unfit for consumption or for marketing, at any time before removal, he may remit the duty payable on such goods, subject to such conditions as may be imposed by him by order in writing.
Existing Act / Rule: Central excise rules, 2002
Existing Act / Rule No: 21
Analysis: Covered under section 11

(2) Any rules made under sub-section (1) may, having regard to the nature of the supply, fix the limit or limits of percentage beyond which no such remission shall be allowed.

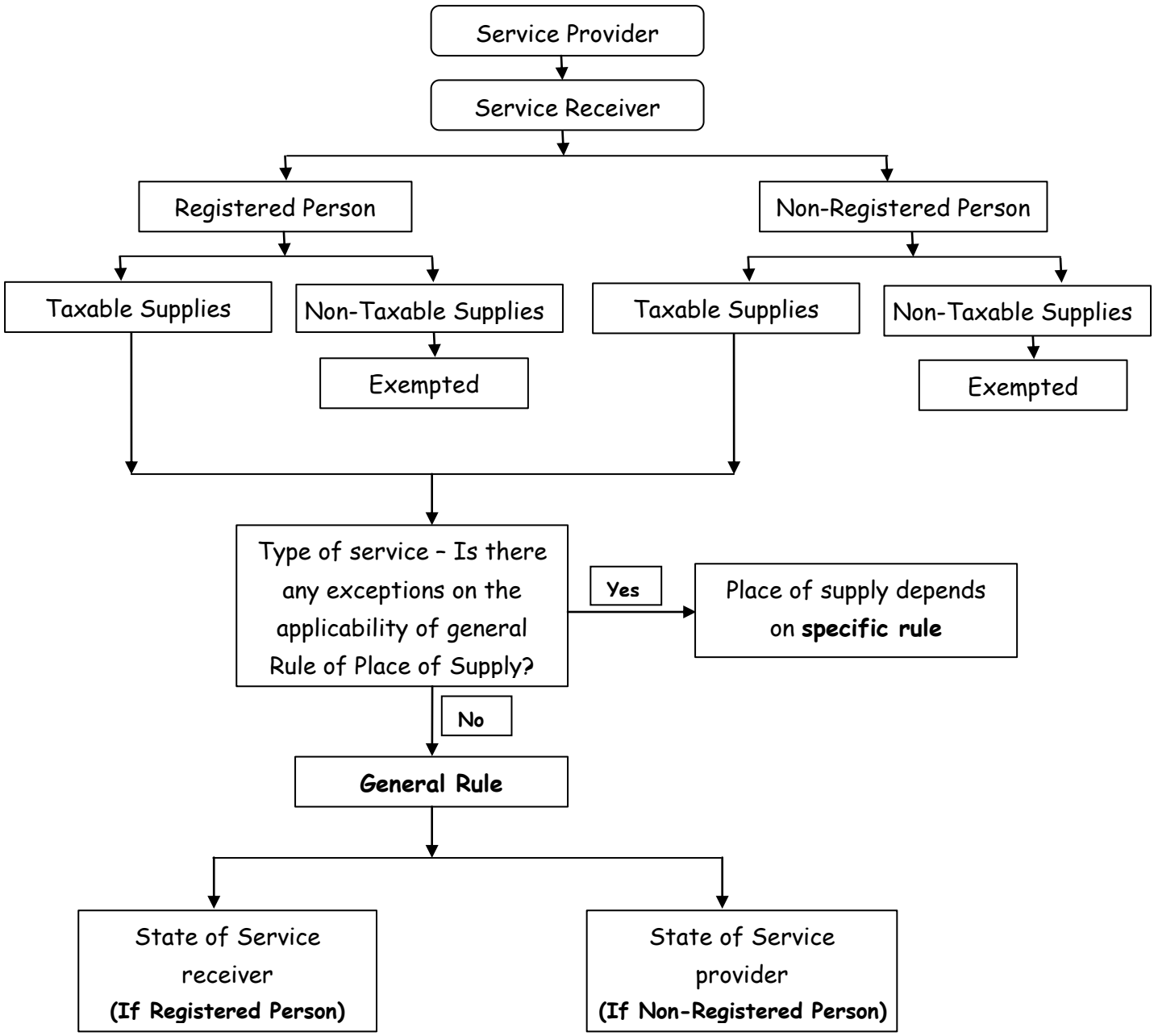
Levy and Chargeability:

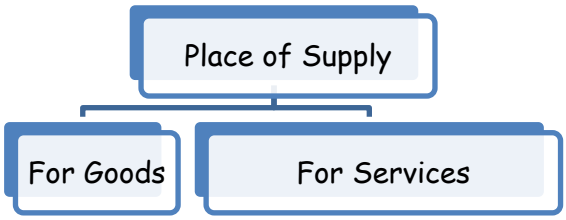


Place of Supply Rules

Goods and Services Tax (GST) is a destination-based consumption tax, where the Taxable Event is "Supply". Hence, "Place of Supply" is the most important factor for determining the nature of transaction - whether 'intra-state' or 'inter-state'. Accordingly, for 'intra-state' transaction of taxable supply, there shall be levied CGST & SGST. Further, for 'inter-state transaction' of taxable supply, there shall be levied "IGST" (= CGST + SGST). Accordingly, the tax revenue shall get levied, accrued and collected by the respective state, being the 'place of supply'.

1: To determine where the supply is to be taxed





[Note: Important for deciding 'appropriate State' to receive tax and place where tax to be paid]

2.Important concepts

Continuous Supply

Any service which is provided, or agreed to be provided continuously or on recurrent basis under a contract for a **period exceeding a specified time period** with the obligation for payment periodically or from time to time, or where the Central government, by a notification in the official Gazette prescribes provision of a particular service to be a continuous supply of service, whether or not subject to any condition.

Some illustration on 'continuous supply of service' and their place of supply

Services supplied	Place of Supply
(1) Telecommunication services like Internet, Telephone Connection	• **Fixed Line** – State where fixed line is provided. • **Post-paid mobile & internet** – State of address of service recipient. • **Pre-paid mobile & internet** – State of sale of pre-paid vouchers or where pre-payment is received.
(2) Radio and Television Broadcasting services	**To Registered persons-** • **Identifiable State** – Each state in proportion to amount attributable to service provided; • **Un-identifiable State** – Location of registered service receiver. **To Un-registered persons-** • Location of service provider.
(3) Electronically Supplied Services i.e. online services	The place of provision shall be the location where goods are situated at the time of provision of

	service.
(4) Supply of Electricity or Gas	State where gas or electricity is used and consumed.
(5) Service portion in execution of works contract	State in which such property is located.
(6) Renting of immovable property	State in which such property is located.
(7) Hiring of goods services	State where goods are given for hiring.
(8) Banking Services like Online fund transfer, ATM services etc,	**Account Based Banking -** Location of service receiver on record of service provider. **Non-Account Based Banking** – Location of service provider.

Identifiable State – Identifiable state means a state where services are provided and identifiable by service receiver/ service provider.

Un-Identifiable State – Un-identifiable state means a state where services are provided but not identifiable by service receiver/ service provider.

Electronically supplied services

Electronically supplied services include services relating to website supply, web-hosting, distance maintenance of programs and equipment, supply of software and update thereof, supply of images, text and information, and making available of databases, supply of music, films and games, including games of chance and gambling games, and of political, cultural, artistic, sporting, scientific and entertainment broadcasts and events, and the supply of distance teaching.

3. Place of Supply Rules - Service

General Rule

- Supply to a registered person or public authority shall be the State of service recipient
- Supply to Non-registered person shall be the State of service provider,

Type of Service	Proposed Place of Supply	Related Reference
Services in relation/incidental to immovable property including general insurance	State in which such property is located	Rule – 5 [Place of Provisions of Service Rule,2012]

Exception of General Rule – **Specific Rule**

With exceptions to certain services as notified:

Case 1:

'Immovable property' has not been defined in the Finance Act, 1994. However, in terms of section 4 of the General Clauses Act, 1897, the definition of immovable property provided in section 3(26) of the general clauses will apply, which states as under:

Immovable property' shall include land, benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth. It may be noted that the definition is inclusive and thus properties such as buildings and fixed structures on land would be covered by the definition of immovable property. The property must be attached to some part of earth even if underwater."

Place of supply provided directly in relation to an immovable property, including services provided in this regard by experts and estate agents, provision of hotel accommodation by a hotel, inn, guest house, club or campsite, by whatever, name called, grant of rights to use immovable property, services for carrying out or coordination of construction work, including architects or interior decorators, shall be the place where the immovable property is located or intended to be located.

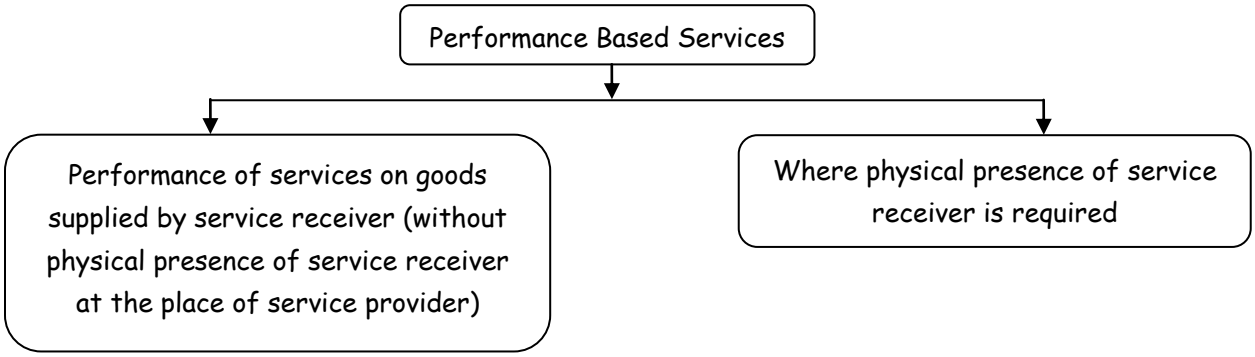
Maintenance of immovable property, security, architectural services, legal services in respect of transfer, renting, survey, hotel accommodation etc. should also be covered under this rule.

Illustration:

	Location of			Place of Supply	Taxability	Justification
	Service provider	**Service recipient**	**Immovable property**			
1.	Delhi	UK	Mumbai	Mumbai	Yes	**Service provided in respect of immovable property is at Mumbai. Hence, Service is taxable.**
2.	Delhi	UK	Canada	Canada	Yes [**Zero rated**]	**Service provided in respect of immovable property is at Canada. Since this leads to export of services and export being zero rated.**
3.	UK	Delhi	Mumbai	Mumbai	Yes	**Service provided in respect of immovable property is at Mumbai. Hence, Service is taxable.**
4.	UK	Delhi	Canada	Canada	No	**Service provided in respect of immovable property is at Canada & service provider is from UK (Since this is not an export), it would be outside the ambit of GST.**
2.	Delhi	Mumbai	Chennai	Chennai	Yes	**Service provided in respect of immovable property is at Chennai. Hence, Service is taxable.**
6.	UK	Canada	Mumbai	Mumbai	Yes	**Service provided in respect of immovable property is at Mumbai. Hence, Service is taxable. An authorised agent/ representative of service provider will pay GST.**
7.	UK	Canada	Australia	Australia	No	**Service provided in respect of immovable property is in outside India and service provider/service receive are also not in India.**

Case 2

Type of Service	Place of Supply	Related Reference
Performance based services	State where services are actually performed	Rule – 4 [Place of Provisions of Service Rule,2012]



Performance of services on goods supplied by service receiver should include services like repairs, reconditioning, storage, warehousing, courier, cargo handling, technical testing, dry cleaning, erection, commissioning, annual maintenance contract.

Services like cosmetic surgery, treatment in beauty parlour, training should be covered under this rule as physical presence of service receiver or person acting on behalf of service receiver is required.

Illustration:

Mr. R of Delhi temporarily imports machinery of Mr. K of Nepal and exports the same after repairs. In this case, repair work done in India would be taxable, as PoPs = Location of service actually performed

	Location of			Place of provision of service (pops)	Taxable	Justification
	Service provider	Service recipient	Place of execution of service			
1.	Delhi	UK	Chennai	Chennai	Yes	**Service is performed in Chennai, hence PoPs = Chennai.**
2.	Delhi	UK	Canada	Canada	No	**Service is performed in Canada i.e. outside India. Hence, service is not taxable.**
3.	UK	Delhi	Chennai	Chennai	Yes	**Service is performed in Chennai, hence PoPs = Chennai.**
4.	UK	Delhi	Canada	Canada	No	**Service is performed in Canada i.e. outside India. Hence, service is not taxable.**

5.	Delhi	Mumbai	Chennai	Chennai	yes	**Service is performed in Chennai, hence PoPs = Chennai.**
6.	UK	Canada	Chennai	Chennai	Yes	**Service is performed in Chennai, hence PoPs = Chennai.**
7.	UK	Canada	Australia	Australia	No	**Service is performed in Australia i.e. outside India. Hence, service is not taxable.**

Case 3:

Type of Service	Place of Supply	Reference
Services relating to events	State where the event is actually held	Rule – 6 [Place of Provisions of Service Rule,2012]

Service relating to "EVENTS", should include admission as well as organization of conventions, conferences, exhibitions, fairs, seminars, workshops, weddings, sports and cultural events.

Illustration:

- An Indian fashion design firm hosts a show at Toronto, Canada. The firm receives the services of a Canadian event organizer. The place of provision of this service is the location of the event hence not taxable in India.
- A management school located in USA intends to organize a road show in Mumbai and New Delhi for prospective students. Any service provided by an event manager, or the right to entry (say, participation fee for prospective students) will be taxable in India &in that respective state where event takes place.

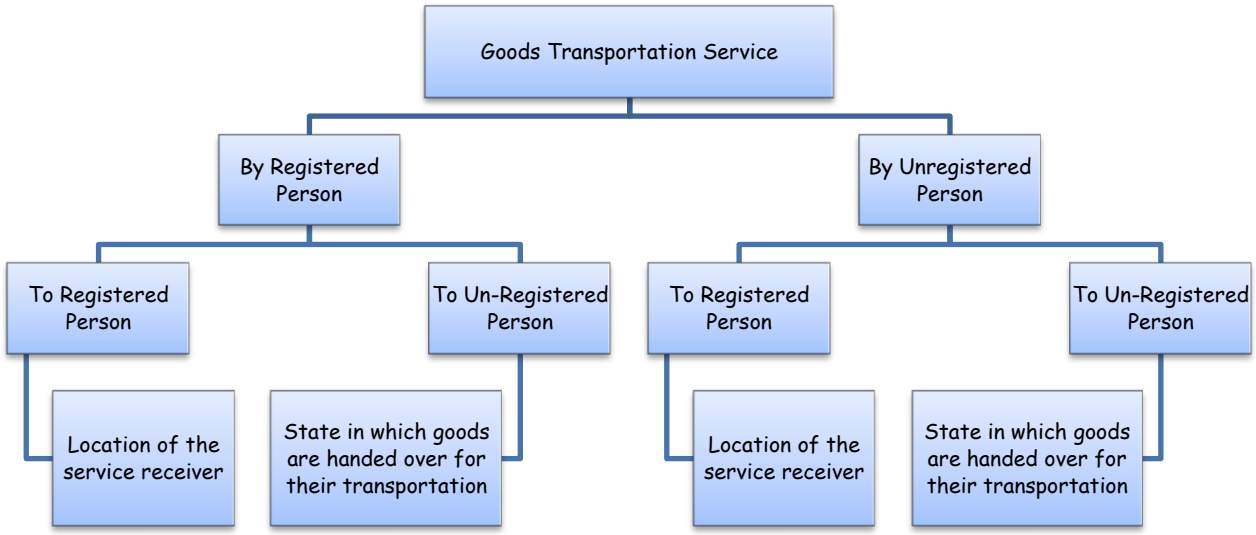
	Location of			**Place of provision of service (pops)**	**Taxable**	**Justification**
	Service provider	**Service recipient**	**Place of execution of event/service**			
1.	Delhi	UK	Mumbai	Mumbai	Yes	**Place where the service is executed is Mumbai. Hence service is taxable.**
2.	Delhi	UK	Canada	Canada	No	**Place where the service is executed is Canada i.e. outside India. Hence service is not taxable.**
3.	UK	Delhi	Mumbai	Mumbai	Yes	**Place where the service is executed is Mumbai. Hence service is taxable.**
4.	UK	Delhi	Canada	Canada	No	**Place where the service is executed is Canada i.e., outside India. Hence service is not taxable.**
5.	Delhi	Chennai	Mumbai	Mumbai	Yes	**Place where the service is executed is Mumbai. Hence service is taxable.**

6.	UK	Canada	Mumbai	Mumbai	Yes	**Place where the service is executed is Mumbai. Hence service is taxable.**
7.	UK	Canada	Australia	Australia	No	**Occurrence of event is at Australia i.e., outside India and also service provider and service receiver are also not in India.**

Case 4:

Type of Service	Place of Supply	Reference
Goods transportation services to registered person	Location of the service receiver	Rule – 10 [Place of Provisions of Service Rule,2012]

Registered Person means every person who gets registered himself either voluntarily or compulsorily under the act.



Location of			Place of provision of service (pops)	Taxable	Justification
Service provider	**Service recipient (Registered person)**	**State in which goods are handed over for their transportation**			
Delhi	Chennai	Mumbai	Chennai	Yes	**As service recipient is a registered person then Location of Service recipient should be Place of Supply**

Case 5

Type of Service	Place of Supply	Reference
Goods transportation services to unregistered person	State in which goods are handed over for their transportation	Rule – 10 [Place of Provisions of Service Rule,2012]

Location of			Place of provision of service (pops)	Taxable	Justification
Service provider	**Service recipient (un – registered person)**	**State in which goods are handed over for their transportation**			
Kolkata	Chennai	Mumbai	Mumbai	Yes	**As service recipient is not a registered person then State in which goods are handed over for their transportation should be Place of Supply**

Case 6:

Type of Service	Place of Supply	Reference
Passenger Transportation Service	State where passenger starts journey	Rule – 11 [Place of Provisions of Service Rule,2012]

Passenger transportation service is a shared passenger transport service which is available for use by the general public, as distinct from modes such as buses, train, ship, Aeroplane.

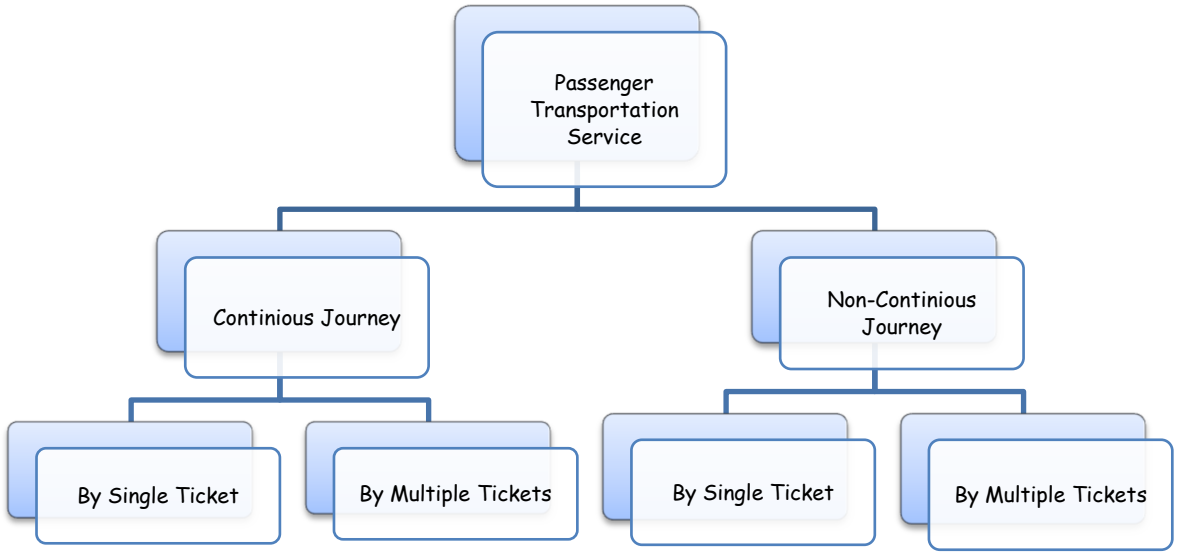


Illustration:

In case of **continuous journey**:

	Journey	Location where start journey	Location where disembarks	POPS - Location where passenger start journey	Taxability	Justification
A	Delhi – Mumbai	Delhi	Mumbai	Delhi	Yes	Delhi being the place from where passenger starts journey.
B	Delhi - UK – Mumbai	Delhi	Mumbai	Delhi	Yes	Delhi being the place from where passenger starts journey.
C	UK - Delhi – UK	UK	UK	UK	No	UK being the place from where passenger starts journey.

In case of **Non-continuous journey**

	Journey	Location where passenger starts journey	Place of provision of service - Location where passenger starts journey	Taxability	Justification
A	(a)Delhi – Mumbai (b)Mumbai – Chennai	(a) Delhi (b) Mumbai	(a) Delhi (b) Mumbai	Yes	(a) Delhi (b) Mumbai being the place from where passenger starts journey.
B	(a)Delhi - J&K (b)J&K – Mumbai	(a) Delhi (b) J&K	(a) Delhi (b) J&K	Yes	(a) Delhi (b) J&K being the place from where passenger starts journey.
C	(a)Mumbai - Singapore - Bangkok (b)Bangkok - Bali – Delhi	(a) Mumbai (b) Bangkok	(a) Mumbai (b) Bangkok	Yes No	(a) Mumbai (b) Bangkok being the place from where passenger starts journey.

In case of **Single Ticket** (No stopover)

	Journey	POP	Taxability	Justification
1	Mumbai-Del	Mumbai	Yes	Mumbai being the place from where passenger starts journey.
2	Mumbai-Del-Jaipur	Mumbai	Yes	Mumbai being the place from where passenger starts journey.
3	Mumbai-Del-London-Del-London	Mumbai	Yes	Mumbai being the place from where passenger starts journey.
4	Delhi-London-New York-London-New York	Delhi	Yes	Delhi being the place from where passenger starts journey.
5	Delhi-London-New York	Delhi	Yes	Delhi being the place from where passenger starts journey.
6	New York-London-Del	New York	No	New York being the place from where passenger starts journey.
7	NY-London-Del-Mumbai- Del-London- NY	NY	No	NY being the place from where passenger starts journey.
8	Del-Jammu-Del	Del	Yes	Delhi being the place from where passenger starts journey.

More than one ticket for a journey (issued by a single service provider)

	Journey	POP	Taxability	Justification
1	(a)Del-Bangkok-Del (b)Bangkok-Bali- Bangkok	Del is POP for (a); Bangkok is POP for (b)	(a) taxable, (b) not taxable.	(a) Delhi (b) Bangkok being the place from where passenger starts journey.
2	(a)Del-NY-Del	Del is POP for (a);	(a) taxable.	(a) Delhi (b) NY

	(b)NY- Boston- NY	New York is POP for(b)	(b) not taxable	being the place from where passenger starts journey.
3	(a)London- Del-London (b)Del- Chandigarh (c)Chandigarh-Amritsar (d)Amritsar- Del	London is POP for (a);Del is POP for (b); Chandigarh is POP for (c); Amritsar is POP for (d).	(a) not taxable. (b), (c) and (d) taxable.	(a) London (b) Delhi (c) Chandigarh (d) Amritsar being the place from where passenger starts journey.
4	(a)Del- Jammu (b) Jammu-Del	Del is POP for (a), Jammu is POP for (b).	(a) taxable. (b) not taxable.	(a) Delhi (b) Jammu being the place from where passenger starts journey.
5	(a) Jammu- Del- Jammu (b) Del- Bangkok- Del	Jammu is POP for (a); Del is POP for (b).	(a) not taxable. (b) taxable,	(a) Jammu (b) Delhi being the place from where passenger starts journey.

Case 7

Type of Service	Place of Supply	Reference
Services provided on board a conveyance	State of the first scheduled point of departure	Rule – 12 [Place of Provisions of Service Rule,2012]

Any service provided on board a conveyance aircraft, vessel, rail, or roadways bus) will be covered here. Some examples are on board service of movies/music/video/software games on demand, beauty treatment etc. If only when provided against a specific charge, and not supplied as a part of fare.

Illustration:

A video game or a movie on demand is provided as on-board entertainment during the Kolkata-Delhi-Bangkok-Jakarta flight. The place of provision of service will be Bangkok (outside India hence not liable to tax)

If the above service is provided on a Delhi-Kolkata-Bangkok-Jakarta flight, then place of provision will be Delhi (in India hence liable to tax)

	Journey	First point of departure of conveyance	Location where the passenger start journey	POP of service - First point of departure of the conveyance	Taxability
A	Delhi – Mumbai	Delhi	Delhi	Delhi	Yes
B	Delhi - Mumbai -J&K	Delhi	Mumbai	Delhi	Yes
C	Delhi - UK -Mumbai	Delhi	Delhi	Delhi	Yes
D	UK - Delhi –UK	UK	UK	UK	No

Case 8

Type of Service	Place of Supply
Telecom Services	
- Fixed Line	State where fixed line is provided
- Post paid mobile & internet	State of address of service recipient
- Pre paid mobile & internet	State of sale of pre-paid vouchers or where pre-payment is received

Illustration

	Telecom Services recipient	Nature of connection	Place of Supply	Tax to be levied by the State of
A	Kolkata	Fixed line	Kolkata	West Bengal
B	Kolkata	Post Paid mobile and internet	Mumbai	West Bengal (assuming post-paid address of the service recipient is in West Bengal)
C	Kolkata	Pre paid mobile and internet	Punjab - place where pre-paid voucher is purchased by the service recipient	Punjab (being the state of sale of pre-paid voucher or where pre-payment is received)

Case 9

Type of Service	Place of Supply
Broadcast services	
- to registered persons in identifiable state	Each state in proportion to amount attributable to service provided
- to registered persons in un-identifiable state	Location of registered service receiver
- to non-registered persons	Location of service provider

Illustration

	Broadcast Services recipient	Total Quantum of Supply	**Place of Supply**	**Tax to be levied by the State of**
A	Registered persons in Identifiable States	Rs.10,000	3 States involved: West Bengal (40%) ; Bihar (35%) and Odissa (25%)	West Bengal - 40% = Rs.4,000 Bihar - 35% = Rs.3,500 Odissa - 25% = Rs.2,500
B	Registered persons in un-identifiable states	Rs.2,000	State could not be identified during the course of supply of services	State in which the Service Receiver is registered
C	Non-registered persons from Rajasthan	Rs.3,000	Punjab - being the location of service provider	Punjab (being the state of location of service provider)

Case 10

Type of Service	Place of Supply
Advertisement services to Central Govt., State Govt. or local authority	Each state in proportion to amount attributable to service provided

Illustration

	Advertisement Services recipient	Total Quantum of Supply	**Place of Supply**	**Tax to be levied by the State of**
A	Advertisement services to Govt	Rs.10,000	CG = 45% State A - 35% State B - 20%	CG = Rs.4,500 (Delhi) State A = Rs.3,500 State B = Rs.2,000

Case 11

Type of Service	Place of Supply
Legal Services	
- involving representations	Location of forum at which the litigation is going on
- involving representation to unregistered persons	Location of service provider

Illustration

	Legal Services	Total Quantum of Supply	**Place of Supply**	**Tax to be levied by the State of**
A	Representation at an appellate forum at Chennai for a client (being registered person) of Pune	Rs.10,000	Chennai	Tamilnadu (State / location of the forum where the litigation is in progress)
B	Representation for legal services at Chennai to unregistered person of Pune, provided by service provider of West Bengal	Rs.2,000	Chennai	West Bengal (being the state/ location of the service provider)

Case 12

Type of Service	Place of Supply
Banking & other financial services	
- Account based	Location of service receiver on record of service provider
- Non-account based	Location of service provider

Illustration

	Banking and other financial services availed in	State of the Account Holder	**Place of Supply**	**Tax to be levied by the State of**
A	Bihar - Account based services	West Bengal	West Bengal	West Bengal - being the location of service receiver on record of service provider
B	Bihar - Non-Account based services	West Bengal	Bihar	Bihar - being the location of service provider

Case 13

Type of Service	Place of Supply
Insurance services	
- to Registered Person	Location of service receiver
- to Non-registered Person	Location of service receiver on record of service provider

Illustration:

	Insurance services	Location of Service Receiver	**Place of Supply**	**Tax to be levied by the State of**
A	To Registered Persons	West Bengal	West Bengal	West Bengal - being the location of service receiver
B	To Non-registered persons	West Bengal	Bihar	West Bengal - being the location of service receiver on record of Service Provider

4. Place of Supply Rules - Goods

Type of Goods	Place of Supply
With movement of goods	State where goods are delivered to the receiver
Without movement of goods	State where goods are located at the time
Goods Installed	State in which installation has actually taken place
Goods on board a conveyance	State where goods are taken on board
Electricity or Gas	State where gas or electricity is used and consumed

Time of Supply of Goods (Section 12) - WHEN TAX IS TO BE PAID

General Rule - Goods

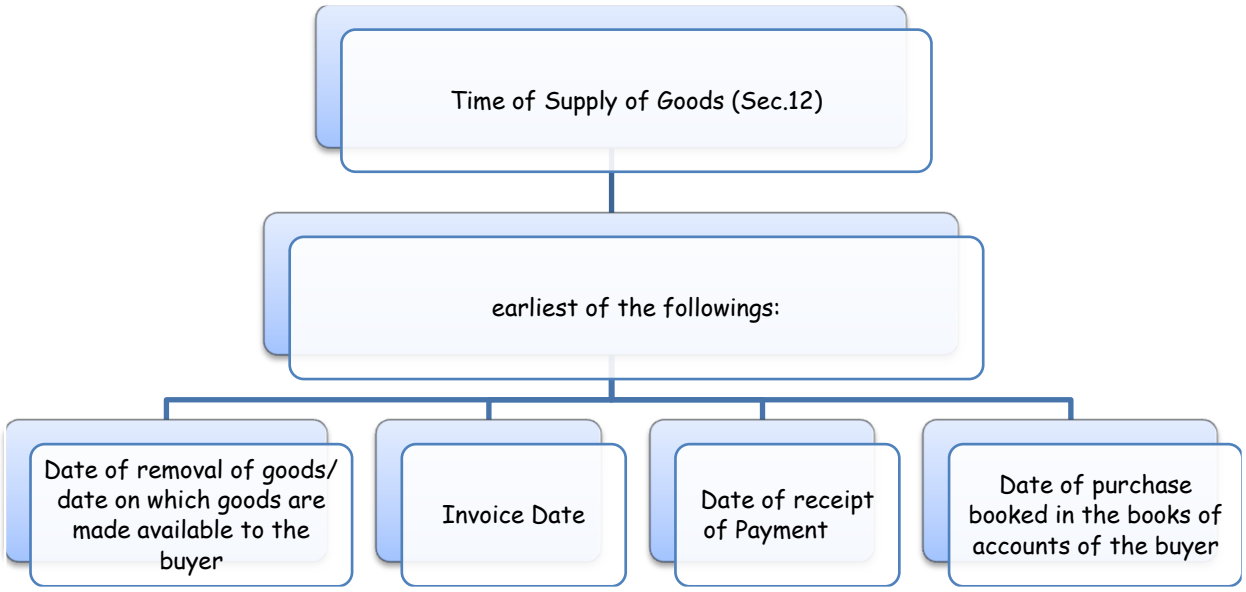


Illustration:

Sl No.	Date of removal of goods	Invoice date	Date of receipt of payment	Date of purchase booked in the books of accounts	Time of Supply (Point of Taxation)
1.	10/08/2016	08/08/2016	16/08/2016	19/08/2016	08/08/2016
2.	10/08/2016	10/08/2016	09/08/2016	19/08/2016	09/08/2016
3.	10/08/2016	12/08/2016	Till Pending	16/08/2016	10/10/2016
4.	02/08/2016	1/08/2016	30/07/2016	Till pending	30/07/2016

Continuous Supply of Goods

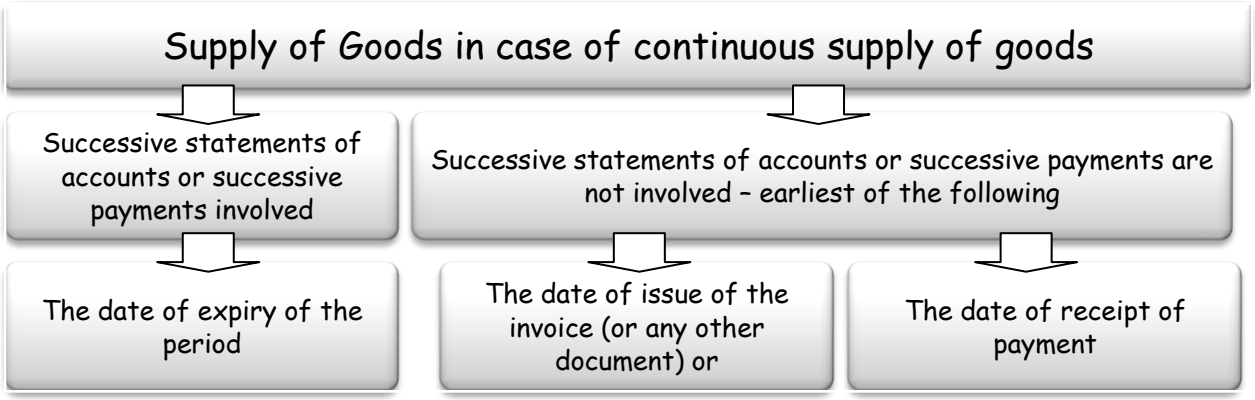


Illustration:

Sl No.	Successive statements of accounts or successive payments involved	The date of expiry of the period	The date of issue of the invoice (or any other document) or	The date of receipt of payment	Time of Supply (Point of Taxation)
1.	Yes	31/07/2016	25/07/2016	10/08/2016	31/07/2016
2.	No	22/07/2016	25/07/2016	15/08/2016	25/07/2016
3.	Yes	18/08/2016	25/07/2016	Pending	18/08/2016
4.	No	31/07/2016	Pending	05/08/2016	05/08/2016

Sale on approval basis – Goods

Supply of Goods in case of sale on approval basis – the time of supply shall be earliest of the followings:

- when it becomes known that the supply has taken place
- Six months from the date of removal

Sl No.	Date of removal of goods	Invoice date	when it becomes known that the supply has taken place	Six months from the date of removal	Time of Supply (Point of Taxation)
1.	05/02/2016	08/08/2016	02/07/2016	05/08/2016	02/07/2016
2.	17/02/2016	Not issued	Still Not known	17/08/2016	17/08/2016
3.	15/03/2016	05/04/2016	31/03/2016	15/09/2016	31/03/2016
4.	22/01/2016	16/08/2016	15/08/2016	22/07/2016	22/07/2016

Reverse Charge – Goods

Supply shall be the earliest of..

- Date of Receipt of Goods
- Date on which Payment has been made
- Date of receipt of invoice
- Date of debit in books of accounts of the buyer

Sl. No.	Date of removal of goods	Invoice date	Date of receipt of payment	Date of debit in books of accounts of the buyer	Time of Supply (Point of Taxation)
1.	10/07/2016	08/07/2016	16/07/2016	19/07/2016	08/07/2016
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3.	10/07/2016	12/07/2016	Till Pending	16/07/2016	10/07/2016
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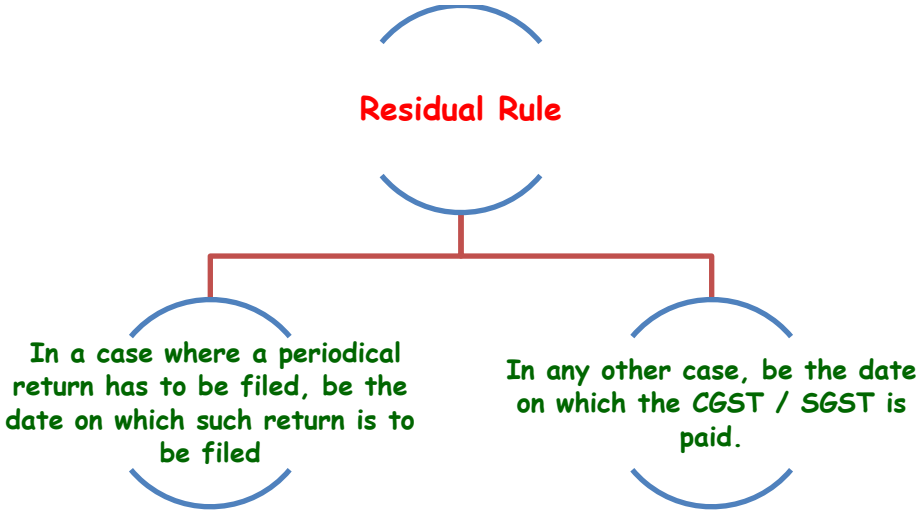
Residual Rule – Goods



Time of Supply of Goods (Section 13)

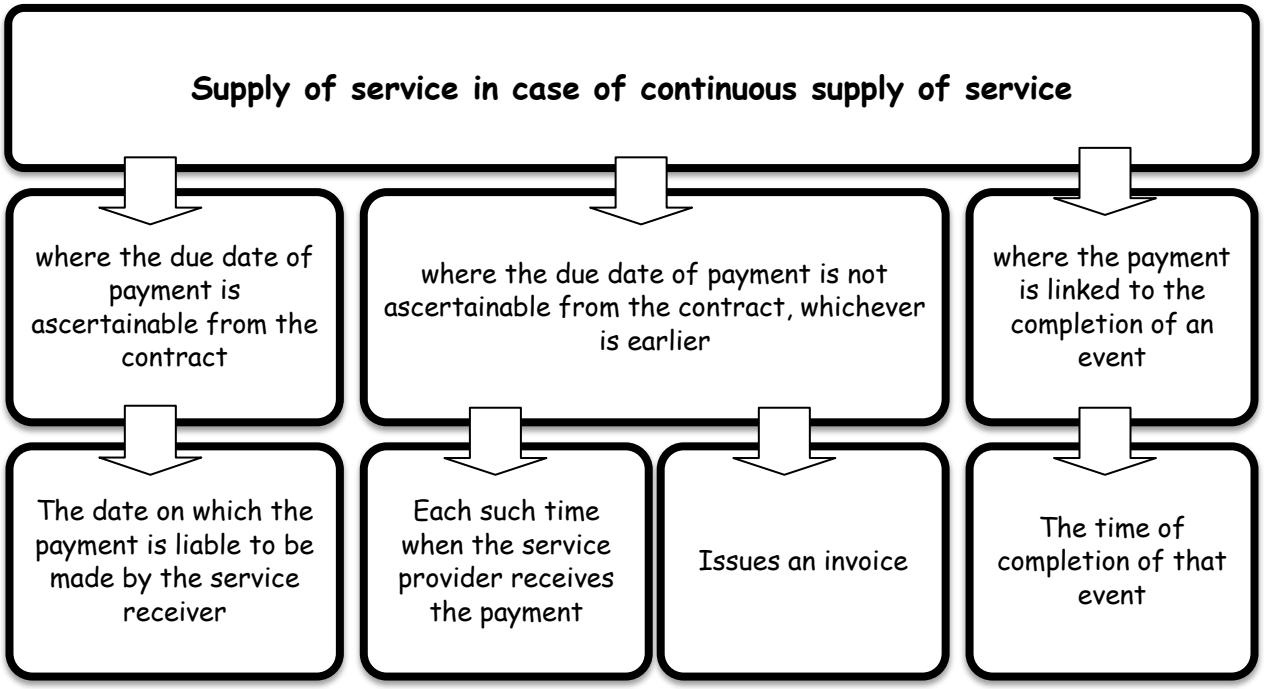
General Rule – Services

Supply of Services shall be the earliest

If the invoice is issued within the prescribed period		If the invoice is not issued within the prescribed period		Residual Rule
Date of Invoice	Date of receipt of payment	The date of completion of service	The date of receipt of payment	Date of Invoice booked in the books of accounts of recipient of service

Sl No.	Invoice is issued within Prescribed Limit	Invoice date	Date of receipt of payment	The date of completion of service	Date of booked in the books of accounts	Time of Supply (Point of Taxation)
1.	Yes	10/08/2016	08/08/2016	16/08/2016	Till pending	08/08/2016
2.	Yes	10/07/2016	13/08/2016	Till pending	19/08/2016	10/07/2016
3.	Yes	10/08/2016	Till Pending	05/08/2016	16/08/2016	10/08/2016
4.	No	Till pending	08/08/2016	31/07/2016	05/08/2016	31/07/2016
5.	No	12/08/2016	13/07/2016	Till pending	19/08/2016	13/07/2016
6.	No	10/08/2016	Till Pending	01/08/2016	16/08/2016	01/08/2016
7.	Residual Rule Applied	10/08/2016	08/08/2016	16/08/2016	18/08/2016	18/08/2016

Continuous supply of Service



Sl No.	Nature of Service	where the due date of payment is ascertainable from the contract	The date on which the payment is liable to be made by the service receiver	The date of issue of the invoice (or any other document)	The date of receipt of payment	The time of completion of that event	Time of Supply (Point of Taxation)
1.	Telecommunication services like Internet, Telephone Connection	Yes	31/07/2016	25/07/2016	10/08/2016	02/08/2016	31/07/2016
2.	Electronically Supplied Services i.e. online services	No	22/07/2016	25/07/2016	15/08/2016	Pending	25/07/2016
3.	Supply of Electricity or Gas	Yes	18/08/2016	25/07/2016	Pending	18/07/2016	18/08/2016
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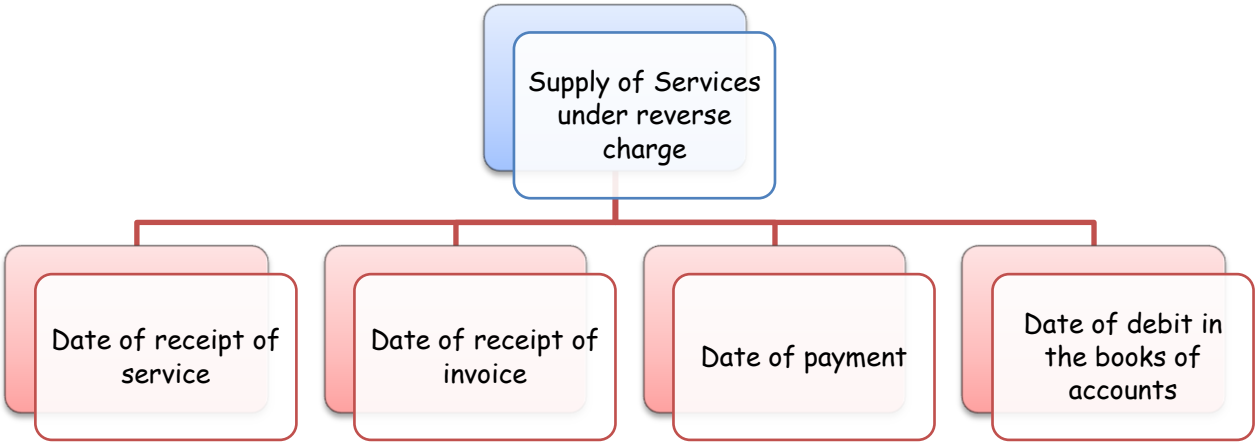
	transfer, ATM services etc,						
5.	Hiring of goods services	payment is linked to the completion of an event	31/07/2016	25/07/2016	10/08/2016	02/08/2016	02/08/2016

Reverse charge - Services



Sl. No.	Nature of Service	Date of removal of goods	Invoice date	Date of receipt of payment	Date of debit in books of accounts of the buyer	Time of Supply (Point of Taxation)
1.	Service Provided or agreed to be provided by way of support service by Govt. or Local Authorities	10/07/2016	08/07/2016	16/07/2016	19/07/2016	08/07/2016
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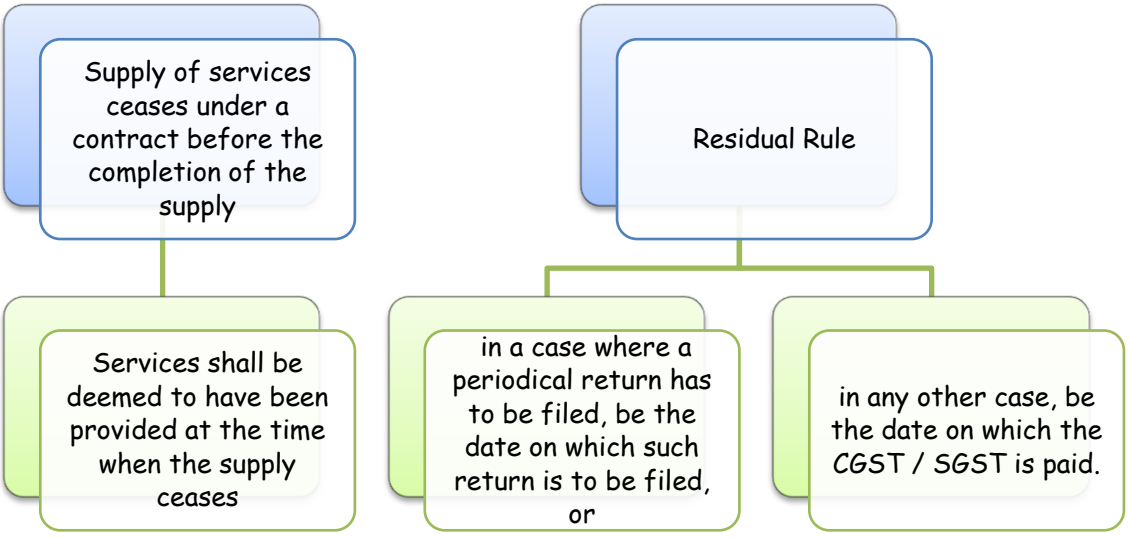
Services Ceased / Residual Rule



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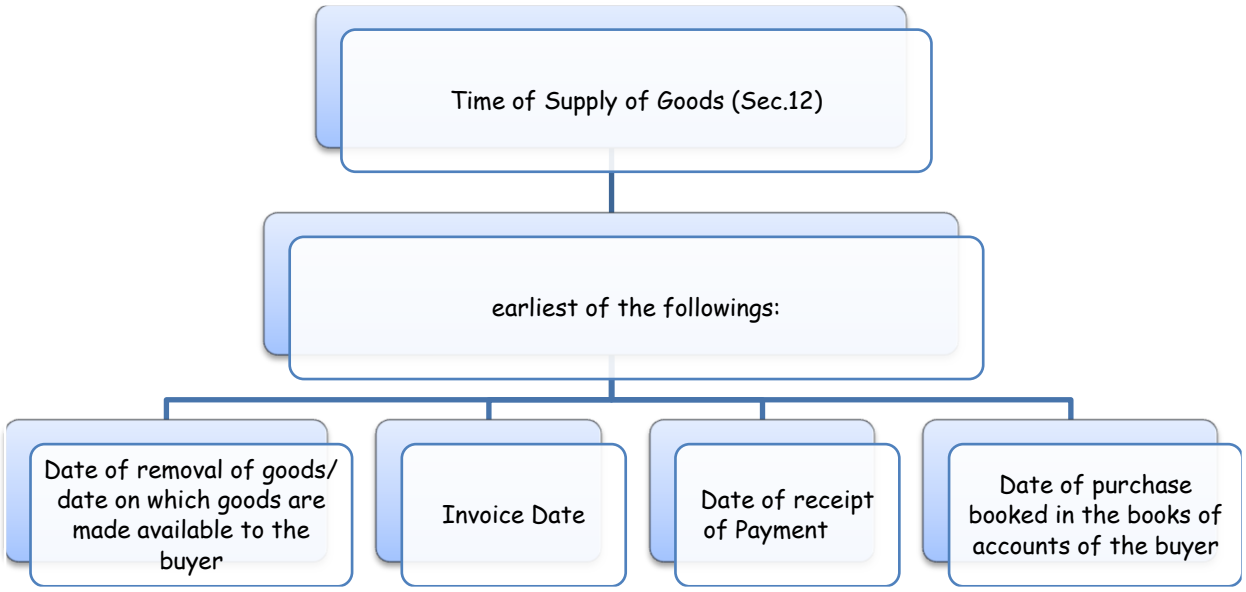

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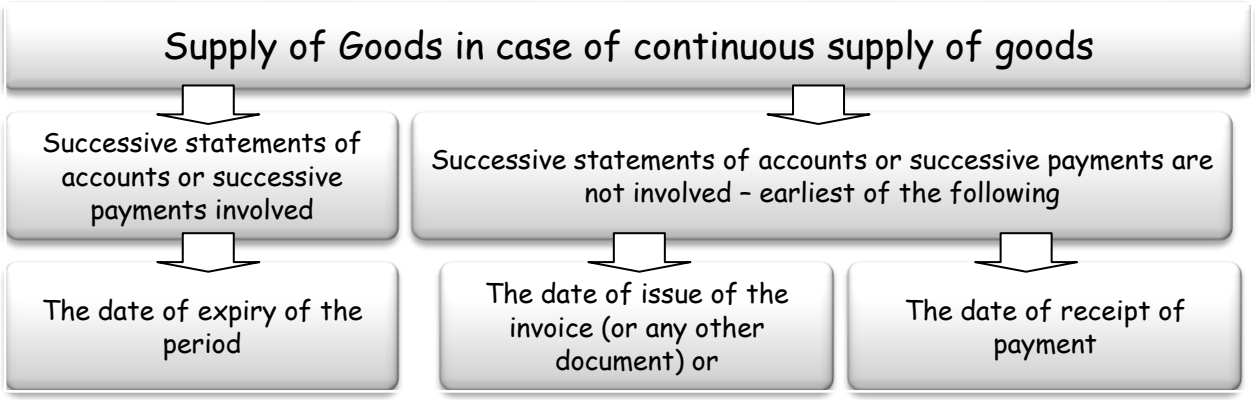

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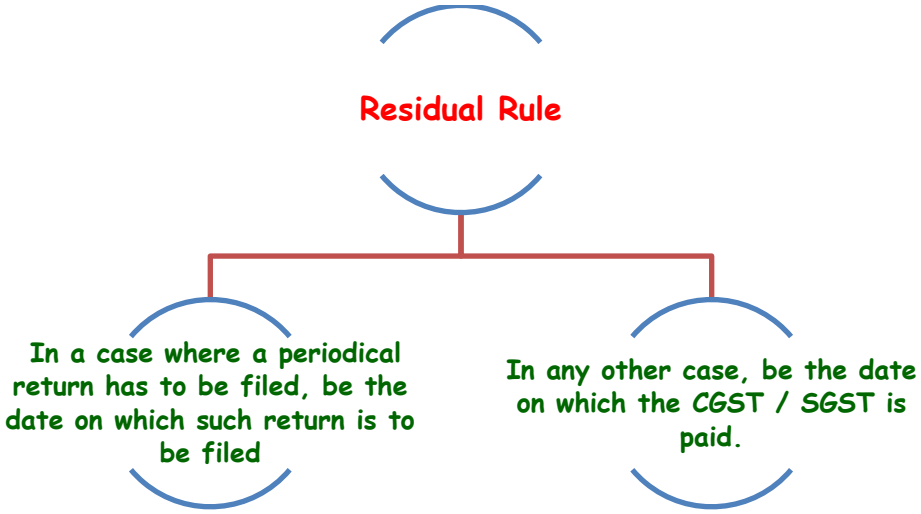

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4.	No	Till pending	08/08/2016	31/07/2016	05/08/2016	31/07/2016
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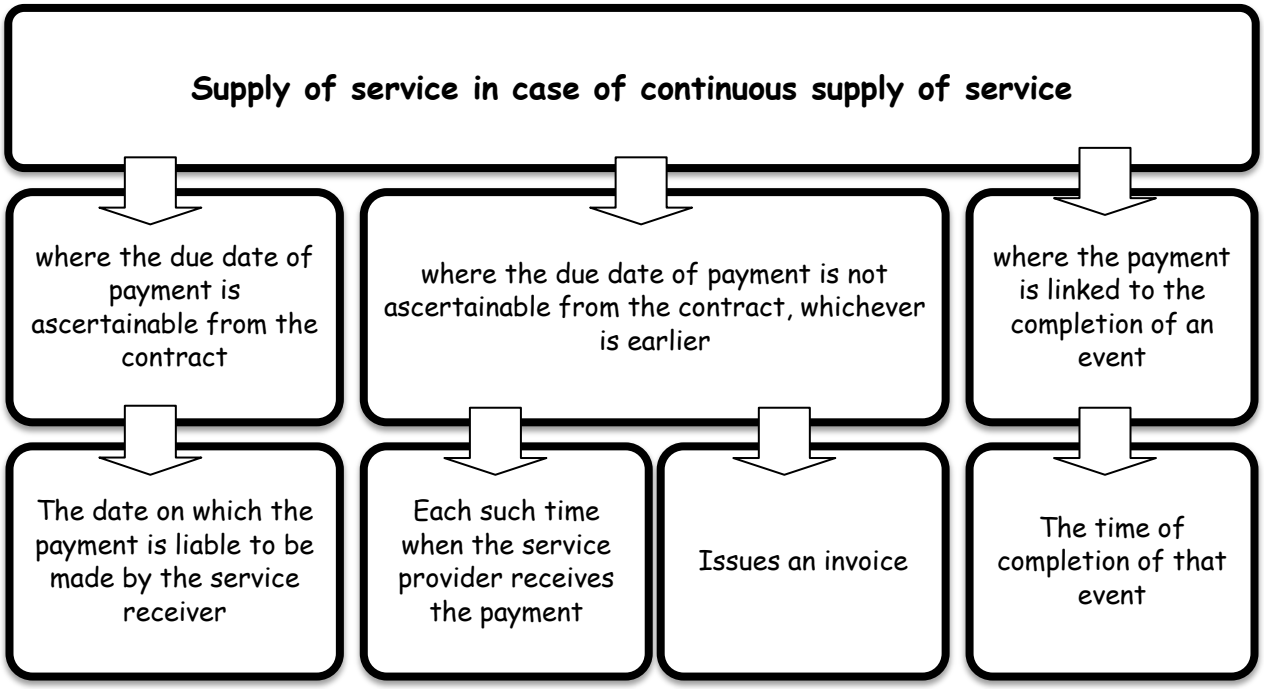
Continuous supply of Service



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	transfer, ATM services etc,						
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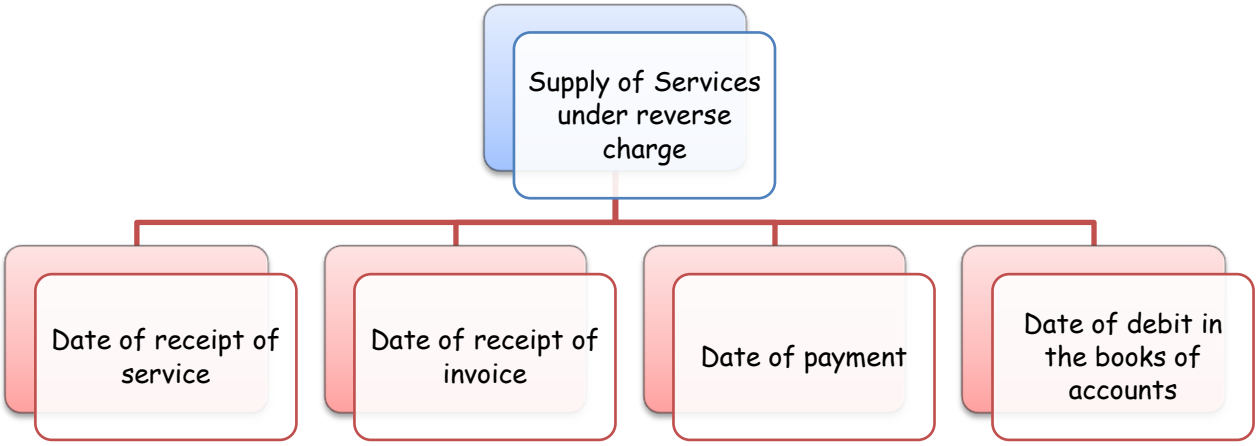
Reverse charge - Services



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2.	Service provided or agreed to be provided by a director to Body Corporate	10/07/2016	10/07/2016	09/07/2016	19/07/2016	09/07/2016
3.	Service provided by an Arbitral Tribunal	10/07/2016	12/07/2016	Till Pending	16/07/2016	10/07/2016
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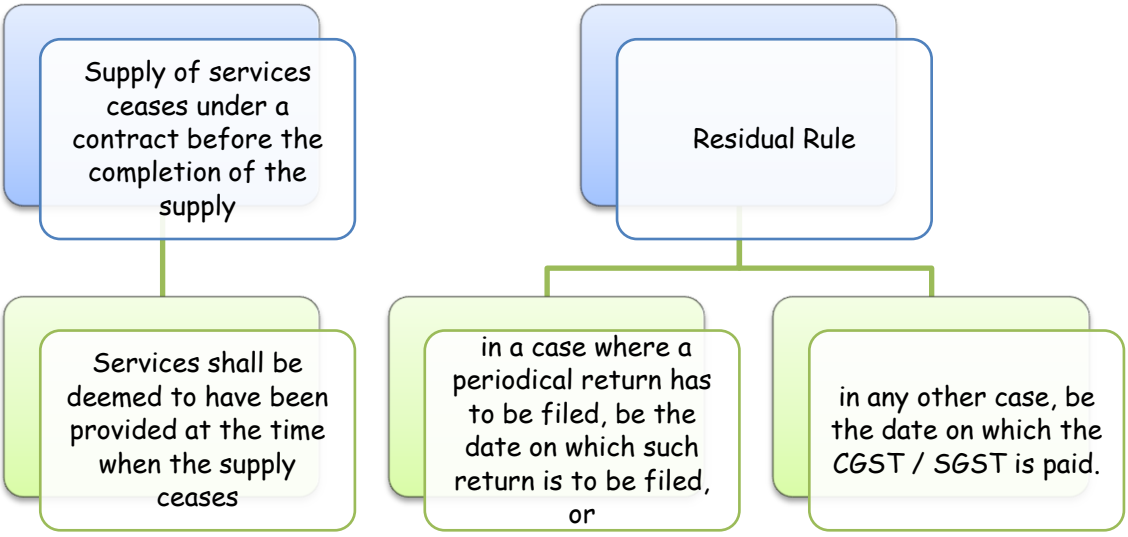
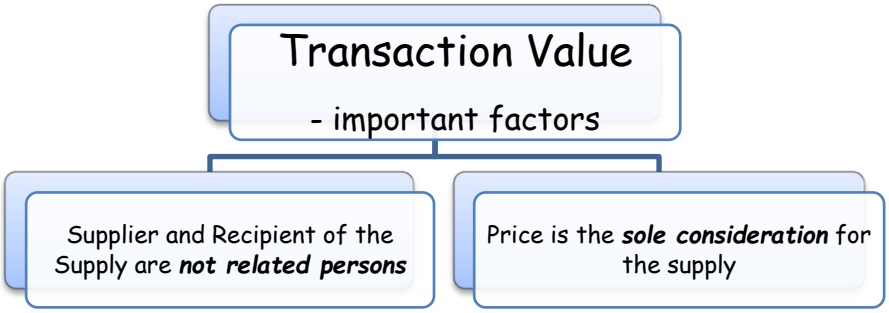
Services Ceased / Residual Rule



VALUATION

[Section 15 / GST Valuation (Determination of the Value of Supply of Goods and Services) Rules, 2016]

Sec 15 (1): Valuation, where supplier and recipient of the supply are not related and the price is the sole consideration for the supply, shall be transaction value :



Note: Transaction Value has an 'inclusive' definition. Hence, the factors and financial items mentioned under the statute are **informative in nature and not exclusive.**

TRANSACTION VALUE shall INCLUDE:

a. Amount that the supplier is liable to pay but which has been incurred by the recipient of the supply and not included in the price
b. Value of supply of goods and service free of charge or at reduced cost for use in connection with the supply of goods and / or services
c. Royalties and license fees related to the supply of goods and /or services to the extent not included in the price
d. Any taxes, duties, fees and charges levied under any Statute other than the SGST Act or the CGST Act or the IGST Act
e. Incidental expenses such as commission, 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
f. Subsidies provided in any form or manner, linked to the supply
g. Any reimbursable expenditure or cost incurred by or on behalf of the supplier
h. Any discount or incentive that may be allowed after the supply has been effected except for discount known at / before the time of supply and which can be linked to Invoice shall not be included.

Transaction Value - EXCLUDES :

Any discount **allowed before or at the time of supply** which is allowed in the course of normal trade practice and the same should be separately **recorded in the invoice** issued in respect of the supply.

Analysis:

- it is in the similar line of the valuation u/s 14 of the Customs Act,1962 read with Rule 9 of Customs (Determination of Value of Import Goods) Rules, 2007
- identical goods and similar goods has been combined in the aforesaid provision as goods of like kind and quality and similarly identical value and similar value has been merged u/r 4 of the Valuation Rules
- any subsidies which are linked with the supplies or any reimbursement or cost incurred by or on behalf of the supplier will also be part of the transaction value. Therefore, the terms of contract has to be neatly drafted and to be spelt out in clear terms and the same should be followed while invoicing.
- Related person has been defined as ...This is also borrowed from Customs Act, 1962 and it has been made more widened than that of existing under Central Excise Law and there was no such provision under the State VAT laws.

Situations under which value cannot be determined under sub-section (1), to be determined as prescribed in the rules:

(i)	the consideration, whether paid or payable, is not money, wholly or partly
(ii)	the supplier and the recipient of the supply are related
(iii)	there is reason to doubt the truth or accuracy of the transaction value declared by the supplier
(iv)	business transactions in the nature of pure agent, money changer, insurer, air travel agent and distributor or selling agent of lottery
(v)	such other supplies as may be notified by the Central or a State Government in this behalf

Valuation Rules:

- **Rule 1 : Short title, commencement and application**

  Apply to the supply of goods and/or services under the IGST / CGST / SGST Act

- **Rule 2 : Definitions**

- "goods of like kind and quality" means goods which are identical or similar in physical characteristics, quality and reputation as the goods being valued, and perform the same functions or are commercially interchangeable with the goods being valued and supplied by the same person or by a different person
- "services of like kind and quality" means services which are identical or similar in nature, quality and reputation as the services being valued and supplied by the same person or by a different person

Valuation Rules - application procedure (to be applied in seriatim)

Rule 3
- Transaction Value of taxable supply shall be the value for levy of tax ;
- or
- When transaction value is not ascertainable then Value as per Rule 7 (rejection of declared value)

Rule 4
- If Valuation cannot be determined under Rule 3, and ;
- if valuation of taxable supply does not attract provisions of Rule 7, then apply Rule 4 - value of supply by comparison
- Valuation on the basis of Transaction Value of goods and/or services of 'like kind and quality'

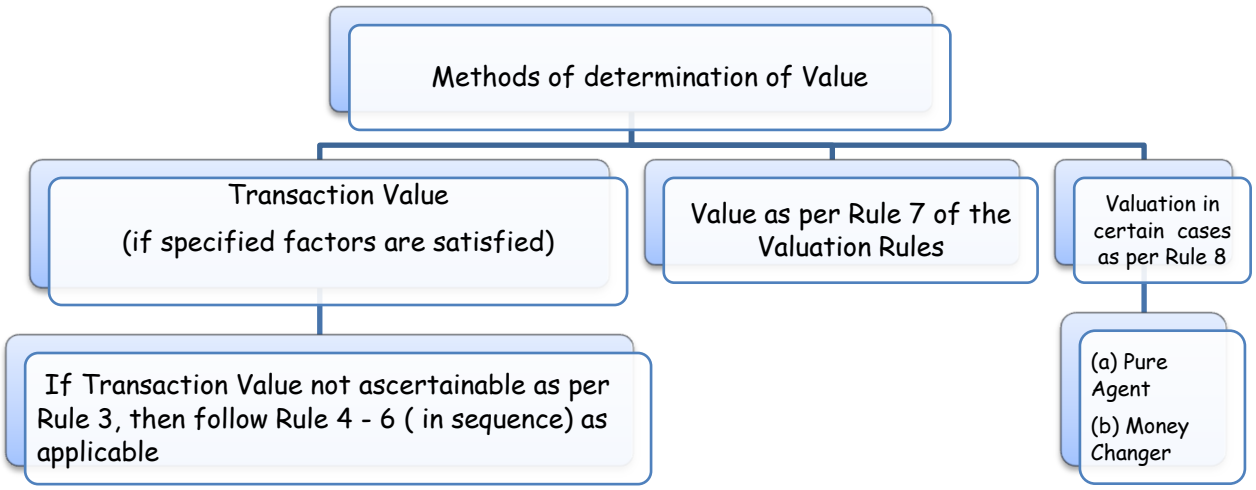
Rule 5
- If Valuation cannot be determined under Rule 4, and;
- if valuation of taxable supply does not attract provisions of Rule 7, then apply Rule 5 - Computed Value Method
- Value to be computed based on factors

Rule 6
- If Valuation cannot be determined under Rule 5, and ;
- if valuation of taxable supply does not attract provisions of Rule 7, then apply Rule 6 - Residual Value Method
- Valuation to be done using reasonable means consistent with the principles and general provisions of these rules

Rule 7
- 'reason to doubt' the truth or accuracy of the value declared
- reasons to doubt the truth or accuracy of the value of supply declared - includes several factors

Rule 8
- Valuation in Certain Cases - (a) Pure Agent (b) Money Changer

❑ **Rule 3 : Methods of determination of value —**



1. Subject to rule 7, the value of goods and / or services shall be the transaction value.
2. The "transaction value" shall be the value determined in monetary terms.
3. Where the supply consists of both taxable and non-taxable supply, the taxable supply shall be deemed to be for such part of the monetary consideration as is attributable thereto.
4. The transaction value shall be accepted even where the supplier and recipient of supply are related, provided that the relationship has not influenced the price.

5. Where goods are transferred from —
   a. one place of business to another place of the same business,
   b. the principal to an agent or from an agent to the principal, whether or not situated in the same State,

   the value of such supply shall be the transaction value.
6. The value of supplies specified in sub-section (4) of section 15 of the Act (i.e. which cannot be determined based on transaction value) shall be determined by proceeding sequentially through rules 4 to 6.

- **Rule 4 : Determination of value of supply by comparison —**

1. Where the value of a supply cannot be determined under rule 3, the value shall be determined on the basis of the transaction value of goods and / or services of like kind and quality supplied at or about the same time to other customers, adjusted in accordance with the provisions of sub-rule (2).

2. In determining the value of goods and / or services under sub-rule (1), the proper officer shall make such adjustments as appear to him reasonable, taking into consideration the relevant factors, including -
   a) difference in the dates of supply,
   b) difference in commercial levels and quantity levels,
   c) difference in composition, quality and design between the goods and / or services being valued and the goods and / or services with which they are compared,
   d) difference in freight and insurance charges depending on the place of supply

Analysis:

Free gifts, quantity schemes, etc. will be valued in terms of identical value/ similar value of like goods. At the same time, subject to adjustment of difference in rate of supply/ commercial level and quantity, difference in quantity, quality and design and freight and insurance. A Cost Accountant is conducting the cost audit service of a Rs.1000 crores company and charge the fees of Rs.10 lacs, and it may be considered as similar kind of services for conducting the audit of similar type of industry of similar turnover and GST may be payable on the same. It will be very difficult to determine the value of identical/similar nature of like kind and quality since differences will be always argued on quality and reputation.

- **Rule 5 : Computed Value Method —**

If the value cannot be determined under rule 4, it shall be based on a computed value which shall include the following:-
a) the cost of production, manufacture or processing of the goods or, the cost of provision of the services;
b) charges, if any, for the design or brand;
c) an amount towards profit and general expenses equal to that usually reflected in supply of goods and / or services of the same class or kind as the goods and / or services being valued which are made by other suppliers.

Analysis:

Branch transfers or material transfer or goods transfer from one location to another location of the same taxable person will have to adopt computed value and therefore the cost upto the place of supply and general expenses and profit also will be considered while calculating computed value. Institute of Cost Accountants of India will definitely issue the guidance note for the benefit of industry and members.

- **Rule 6: Residual method —**

Where the value of the goods and / or services cannot be determined under the provisions of rule 5, the value shall be determined using reasonable means consistent with the principles and general provisions of these rules.

- **Rule 7: Rejection of declared value —**

(1)(a) When the proper officer has reason to doubt the truth or accuracy of the value declared in relation to any goods and / or services, he may ask the supplier to furnish further information, including documents or other evidence and if, after receiving such further information, or in the absence of any response from such supplier, the proper officer still has reasonable doubt about the truth or accuracy of the value so declared, it shall be deemed that the transaction value of such goods and / or services cannot be determined under the provisions of sub-rule (1) of rule 3.

(b) The reasons to doubt the truth or accuracy of the value of the supply declared by the supplier shall include, but not be limited to the following:

(i) the significantly higher value at which goods and / or services of like kind or quality supplied at or about the same time in comparable quantities in a comparable commercial transaction were assessed;

(ii) the significantly lower or higher value of the supply of goods and / or services compared to the market value of goods and / or services of like kind and quality at the time of supply; or

(iii) Any mis-declaration of goods and / or services in parameters such as description, quality, quantity, year of manufacture or production.

(2) The proper officer shall intimate the supplier in writing the grounds for doubting the truth or accuracy of the value declared in relation to the supply of goods and / or services by such supplier and provide a reasonable opportunity of being heard, before taking a final decision under sub-rule (1).

(3) If after hearing the supplier as aforesaid, the proper officer is, for reasons to be recorded in writing, not satisfied with the value declared, he shall proceed to determine the value in accordance with the provisions of rule 4 or rule 5 or rule 6, proceeding sequentially.

Explanation: For removal of doubts, it is hereby declared that this rule by itself does not provide a method for determination of value. It provides a mechanism and procedure for rejection of declared value in cases where there is reasonable doubt that the declared value

does not represent the transaction value.

- **Rule 8: Valuation in certain cases**

(1) Pure Agent

Notwithstanding anything contained in these rules, the expenditure or costs incurred by the service provider as a pure agent of the recipient of service, shall be excluded from the value of the taxable service if all the following conditions are satisfied, namely:-

(i) the service provider acts as a pure agent of the recipient of service when he makes payment to third party for the goods and / or services procured;

(ii) the recipient of service receives and uses the goods and / or services so procured by the service provider in his capacity as pure agent of the recipient of service;

(iii) the recipient of service is liable to make payment to the third party;

(iv) the recipient of service authorises the service provider to make payment on his behalf;

(v) the recipient of service knows that the goods and / or services for which payment has been made by the service provider shall be provided by the third party;

(vi) the payment made by the service provider on behalf of the recipient of service has been separately indicated in the invoice issued by the service provider to the recipient of service;

(vii) the service provider recovers from the recipient of service only such amount as has been paid by him to the third party; and

(viii) the goods and / or services procured by the service provider from the third party as a pure agent of the recipient of service are in addition to the services he provides on his own account.

Explanation: For the purposes of this sub-rule, "pure agent" means a person who–

(a) enters into a contractual agreement with the recipient of service to act as his pure agent to incur expenditure or costs in the course of providing taxable service;

(b) neither intends to hold nor holds any title to the goods and / or services so procured or provided as pure agent of the recipient of service;

(c) does not use such goods and / or services so procured; and

(d) receives only the actual amount incurred to procure such goods and / or services.

(2) Money Changer

The value of taxable service provided for the services in so far as it pertains to purchase or sale of foreign currency, including money changing, shall be determined by the service provider in the following manner:-For a currency, when exchanged from, or to, Indian Rupees (INR), the value shall be equal to the difference in the buying rate or the selling rate, as the case may be, and the Reserve Bank of India (RBI) reference rate for that currency at that time, multiplied by the total units of currency.

CHAPTER V

INPUT TAX CREDIT – Clause wise Analysis

16. Manner of taking input tax credit

(1) 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.

Parallel Provision in the existing Act / Rules: A manufacturer or producer of final products or a provider of taxable service shall be allowed to take credit

Existing Act / Rule: CENVAT credit rules, 2004

Existing Act / Rule No: 3(1)

Analysis:

1. Input tax credit can be taken only when such amount of input tax is paid by the supplier.
2. The provision of input tax credit on registration within 30 days of becoming tax payable can be taken and including that on stocks on input and input contents in semi finished and finished goods.
3. Similar provision of restriction to take credit within one year has been retained in GST Law.
4. Input tax credit will not be allowed for the goods / services used for private use or personal use. In other words, input tax credit will be litigated for supplies of goods and services for captive purpose.
5. Input tax credit will be allowed for zero rated supplies but will not be allowed for exempt supplies and non-taxable supplies.

(2) A person who has applied for registration under the Act within thirty days from the date on which he becomes liable to registration and has been granted such registration shall, subject to such conditions and restrictions as may be prescribed, be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date from which he becomes liable to pay tax under the provisions of this Act.

Parallel Provision in the existing Act / Rules: Input credit is available as per the definitions of "Input", "Capital goods" and "Input Services".

1) "Input" and "Capital goods" used by manufacturer, whether directly or indirectly in or in relation to manufacture of final products and clearance of final products up to the place of removal

2) "Input Services" used by a provider of output service for providing an output service.

Existing Act / Rule: CENVAT credit rules, 2004

Existing Act / Rule No: 2(a),(k),(l) & Rule 6

Analysis:

1. Transitional provisions in case of sale, merger, amalgamation, lease, transfer of business are also in line with existing central excise law.
2. Input tax credit is restricted in the similar line of definition of input & input service
3. Input Tax Credit allowed to take in installments as specified by Govt for capital goods
4. Input tax credit will be allowed only upto annual return is filed.
5. New insertion. Provision for Transfer of credit at the time of transition from existing regime to GST
6. Now input tax credit even on capital goods which are used for both taxable and non-taxable goods/services need to be proportionately availed.

(2A) A person, who takes registration under sub-section (3) of section 19, shall, subject to such conditions and restrictions as may be prescribed, be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date of registration.

(3) Where any registered taxable person ceases to pay tax under section 8, he shall, subject to such conditions and restrictions as may be prescribed, be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date from which he becomes liable to pay tax under section 7.

Parallel Provision in the existing Act / Rules: The CENVAT credit shall not be allowed on such quantity of input or input service which is used in the manufacture of exempted goods or for provision of exempted services, except in the circumstances mentioned and rules for options & reversal of proportionate credit in sub-rule (2).

Existing Act / Rule: CENVAT credit rules, 2004

Existing Act / Rule No: 6

Analysis:

1. The following clause for petroleum products has been deleted :

   (a) high speed diesel oil, motor spirit (commonly known as petrol), aviation turbine fuel, petroleum crude oil and aviation gasoline;][the goods not liable to pay GST] In sub clause

   (b), the goods and / or services are being covered and also ITC on goods and / or services in relation to "food and beverages" cannot be availed
2. provisions w.r.t. switch over to composition levy or at the time of granting of exemption to

goods/services has been introduced

3. Input Service credit was allowed to the works contractor involved in construction of renovation of property but now input tax credit will not be allowed and hence real estate sectors will be adversely affected

(3A) 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 one year from the date of issue of tax invoice relating to such supply.

(4) The amount of credit under sub-section (2), (2A) or sub-section (3) shall be calculated in accordance with generally accepted accounting principles in such manner as may be prescribed.

(5) Where the goods and/or services are used by the registered taxable person partly for the purpose of any business and partly for other purposes, the amount of credit shall be restricted to so much of the input tax as is attributable to the purposes of his business.

Parallel Provision in the existing Act / Rules:

The CENVAT credit may be utilized for payment of –

a) any duty of excise on any final product; or

b) an amount equal to CENVAT credit taken on inputs if such inputs are removed as such or after being partially processed; or

c) an amount equal to the CENVAT credit taken on capital goods if such capital goods are removed as such; or

d) an amount under sub rule (2) of rule 16 of Central Excise Rules, 2002; or

e) service tax on any output service

Existing Act / Rule: CENVAT credit rules, 2004

Existing Act / Rule No: 4

(6) Where the goods and / or services are used by the registered taxable person partly for effecting taxable supplies and partly for effecting non-taxable supplies, including exempt supplies but excluding zero-rated supplies, the amount of credit shall be restricted to so much of the input tax as is attributable to the taxable supplies including zero-rated supplies.

Parallel Provision in the existing Act / Rules: Excess credit may be carried forward and utilized in manner specified above.

Existing Act / Rule: CENVAT credit rules, 2004

Existing Act / Rule No: 4

(7) The Central or a State Government may, by notification issued in this behalf, prescribe the manner in which the credit referred to in sub-sections (5) and (6) above may be attributed.

Parallel Provision in the existing Act / Rules:

A manufacturer who clears a final product or an intermediate product for export without payment of duty under bond or letter of undertaking, or a service provider who provides an output service which is exported without payment of service tax, shall be allowed refund of CENVAT credit as determined by the following formula subject to procedure, safeguards, conditions and limitations, as may be specified by way of notification.

Refund Amount= (Export TO of goods + Export TO of services)/ Total turnover * Net CENVAT credit

Existing Act / Rule: CENVAT credit rules, 2004

Existing Act / Rule No: 5

(8) Where there is a change in the constitution of a registered taxable person on account of sale, merger, demerger, amalgamation, lease or transfer of the business with the specific provision for transfer of liabilities, the said registered taxable person shall be allowed to transfer the input tax credit that remains unutilized in its books of accounts to such sold, merged, demerged, amalgamated, leased or transferred business in the manner prescribed.

Parallel Provision in the existing Act / Rules:

No such parallel provision in the existing act/rules; Refund amount has been derived by using above mention formula and any due, tax or penalty which is due on account of any default may be recovered in different manner and not from the amount of the refund claim.

Existing Act / Rule: CENVAT credit rules, 2004

Existing Act / Rule No: 5

(9) Notwithstanding anything contained in sub-section (1), (2), (2A) or (3) input tax credit shall not be available in respect of the following:

(a) motor vehicles, except when they are supplied in the usual course of business or are used for providing the following taxable services—

(i) transportation of passengers, or

(ii) transportation of goods, or

(iii) imparting training on motor driving skills;

(b) goods and / or services provided in relation to food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, membership of a club, health and fitness centre, life insurance, health insurance and travel benefits extended to employees on vacation such as leave or home travel concession, when such goods and/or services are used primarily for personal use or consumption of any employee;

(c) goods and/or services acquired by the principal in the execution of works contract when such contract results in construction of immovable property, other than plant and machinery;

(d) goods acquired by a principal, the property in which is not transferred (whether as goods or in some other form) to any other person, which are used in the construction of immovable property, other than plant and machinery;

(e) goods and/or services on which tax has been paid under section 8; and

(f) goods and/or services used for private or personal consumption, to the extent they are so consumed.

Parallel Provision in the existing Act / Rules: Exclusion part of definitions of "Input", "Capital goods" and "Input Services".
Existing Act / Rule: CENVAT credit rules, 2004
Existing Act / Rule No: 2(a),(k),(l)

(10) Where the registered taxable person has claimed depreciation on the tax component of the cost of capital goods under the provisions of the Income Tax Act, 1961, the input tax credit shall not be allowed on the said tax component.

Parallel Provision in the existing Act / Rules:
The CENVAT credit shall be taken by the manufacturer or the provider of output service or input service distributor, as the case may be, on the basis of any of the following documents, namely :-
a) an invoice issued by a manufacturer, importer, importer from his depot, first stage or second stage dealer.
b) Supplementary invoice
c) Bill of entry
d) a certificate issued by an appraiser of customs in respect of goods imported through a Foreign Post Office
e) a challan evidencing payment of service tax
f) an invoice, a bill or challan issued by provider of input service
g) a service tax certificate for transportation of goods by rail
h) an invoice bill or challan issued by an input service distributor
Existing Act / Rule: CENVAT credit rules, 2004
Existing Act / Rule No: 9 (1)

(11) Notwithstanding anything contained in this section, but subject to the provisions of section 28, no registered taxable person shall be entitled to the credit of any input tax in respect of any supply of goods and/or services to him unless

(a) he is in possession of a tax invoice, debit note, supplementary invoice or such other taxpaying document as may be prescribed, issued by a supplier registered under this Act or the IGST Act;

(b) he has received the goods and/or services;

(c) the tax charged in respect of such supply has been actually paid to the credit of the appropriate Government, either in cash or through utilization of input tax credit admissible in respect of the said supply; and

(d) he has furnished the return under section 27:

Provided that where the goods against an invoice are received in lots or instalments, the registered taxable person shall be entitled to the credit upon receipt of the last lot or instalment.

Explanation.—For the purpose of clause (b), it shall be deemed that the taxable person has received the goods where the goods are delivered by the supplier to a recipient or any other person on the direction of such taxable person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise.

Parallel Provision in the existing Act / Rules: Transfer of cenvat credit balance in certain cases

Existing Act / Rule: CENVAT credit rules, 2004

Existing Act / Rule No: 10

(12) Where any registered taxable person who has availed of input tax credit switches over as a taxable person for paying tax under section 8 or, where the goods and / or services supplied by him become exempt absolutely under section 10, he shall pay an amount, by way of debit in the electronic credit or cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date of such switch over or, as the case may be, the date of such exemption:

Provided that after payment of such amount, the balance of input tax credit, if any, lying in his electronic credit ledger shall lapse.

Parallel Provision in the existing Act / Rules: Recovery of CENVAT credit wrongly taken or erroneously refunded

Existing Act / Rule: CENVAT credit rules, 2004

Existing Act / Rule No: 14

(13) The amount payable under sub-section (12) shall be calculated in accordance with generally accepted accounting principles in such manner as may be prescribed.

(14) In case of supply of capital goods on which input tax credit has been taken, the registered taxable person shall pay an amount equal to the input tax credit taken on the said capital goods reduced by the percentage points as may be specified in this behalf or the tax on the transaction value of such capital goods under sub-section (1) of section 15, whichever is higher.

(15) A taxable person shall not be entitled to take input tax credit in respect of any invoice for supply of goods and/or services, after the filing of the return under section 27 for the month of September following the end of financial year to which such invoice pertains or filing of the relevant annual return, whichever is earlier.

(16) Where credit has been taken wrongly, the same shall be recovered from the registered taxable person in the manner as may be prescribed in this behalf.

16A. Taking input tax credit in respect of inputs sent for job work

(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 one hundred and eighty days of their being sent out:

Provided that the "principal" shall be entitled to take credit of input tax on inputs even if the inputs are directly sent to a job worker for job-work without their being first brought to his place of business, and in such a case, the period of one hundred and eighty days shall be counted from the date of receipt of the inputs by the job worker.

(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:

Provided that the "principal" shall be entitled to take credit of input tax on capital goods even if the capital goods are directly sent to a job worker for job-work without their being first brought to his place of business, and in such a case, the period of two years shall be counted from the date of receipt of the capital goods by the job worker.

(3) Where the inputs or capital goods, as the case may be, are not received back by the "principal" within the time specified under sub-section (1) or under sub-section (2), as the

case may be, he shall pay an amount equivalent to the input tax credit availed of on the said inputs or capital goods, as the case may be, along with interest specified under sub-section (1) of section 36:

Provided that the said "principal" may reclaim the input tax credit and interest paid earlier when the inputs or capital goods, as the case may be, are received back by him at his place of business.

17. Manner of distribution of credit by Input Service Distributor

(1) The Input Service Distributor may distribute, in such manner as may be prescribed, the credit of CGST as IGST and IGST as IGST, by way of issue of a prescribed document containing, inter alia, the amount of input tax credit being distributed or being reduced thereafter, where the Distributor and the recipient of credit are located in different States.

(CGST ACT)

Existing Act / Rule: CENVAR Credit Rules, 2004
Existing Act / Rule No: Rule 7
Analysis:
Existing provisions of ISD under Rule 7 & 7A of Cenvat Credit Rules 2004 has been modified so as to cover services and it has been modified to the extent of distribution of CGST & IGST to all locations whereas distribution of SGST and IGST to all locations in the state but excluding locations outside the state.
Distribution of credits by an input service distributor is subject to the following key conditions:

- ✓ Credit of input services attributable to a supplier shall be distributed only to that supplier
- ✓ Credit of input services attributable to more than one supplier shall be distributed on pro-rata basis amongst such supplier(s) to whom the input service is attributable

(1) The Input Service Distributor may distribute, in such manner as may be prescribed, the credit of SGST as IGST, by way of issue of a prescribed document containing, inter alia, the amount of input tax credit being distributed or being reduced thereafter, where the Distributor and the recipient of credit are located in different States.

(SGST Act)

Existing Act / Rule: CENVAR Credit Rules, 2004
Existing Act / Rule No: Rule 7 & 7A

(2) The Input Service Distributor may distribute, in such manner as may be prescribed, the credit of CGST and IGST as CGST, by way of issue of a prescribed document

containing, inter alia, the amount of input tax credit being distributed or being reduced thereafter, where the Distributor and the recipient of credit, being a business vertical, are located in the same State.

(CGST Act)

Existing Act / Rule: CENVAR Credit Rules, 2004
Existing Act / Rule No: Rule 7 & 7A

(2) The Input Service Distributor may distribute, in such manner as may be prescribed, the credit of SGST and IGST as SGST, by way of issue of a prescribed document containing, inter alia, the amount of input tax credit being distributed or being reduced thereafter, where the Distributor and the recipient of credit, being a business vertical, are located in the same State.

(SGST Act)

Existing Act / Rule: CENVAR Credit Rules, 2004
Existing Act / Rule No: Rule 7 & 7A

(3) The Input Service Distributor may distribute the credit subject to the following conditions, namely:

(a) the credit can be distributed against a prescribed document issued to each of the recipients of the credit so distributed, and such invoice or other document shall contain such details as may be prescribed;

(b) the amount of the credit distributed shall not exceed the amount of credit available for distribution;

(c) the credit of tax paid on input services attributable to a supplier shall be distributed only to that supplier;

(d) the credit of tax paid on input services attributable to more than one supplier shall be distributed only amongst such supplier(s) to whom the input service is attributable and such distribution shall be *pro rata* on the basis of the turnover in a State of such supplier, during the relevant period, to the aggregate of the turnover of all such suppliers to whom such input service is attributable and which are operational in the current year, during the said relevant period.

Existing Act / Rule: CENVAR Credit Rules, 2004
Existing Act / Rule No: Rule 7 & 7A

18. Manner of recovery of credit distributed in excess

(1) Where the credit distributed by the Input Service Distributor is in excess of the credit available for distribution by him, the excess credit so distributed shall be recovered from

such distributor along with interest, and the provisions of section 51 shall apply *mutatis mutandis* for effecting such recovery.

(2) Where the Input Service Distributor distributes the credit in contravention of the provisions contained in section 17 resulting in excess distribution of credit to one or more suppliers, the excess credit so distributed shall be recovered from such supplier(s) along with interest, and the provisions of section 51 shall apply *mutatis mutandis* for effecting such recovery.

Explanation: For the purposes of section 17 and this section, the relevant period shall be-

(a) if the recipients of the credit have turnover in their States in the financial year preceding the year during which credit is to be distributed, the said financial year; or

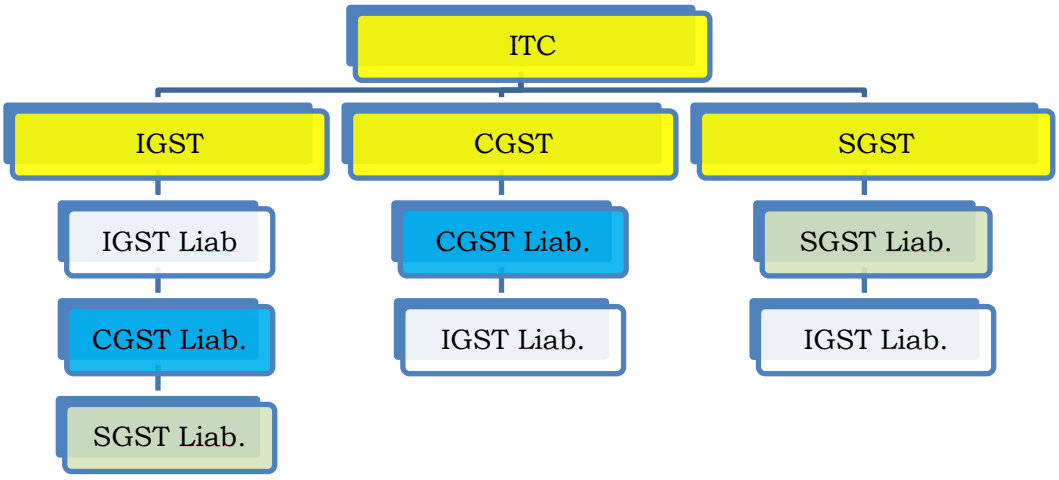
(b) if some or all recipients of the credit do not have any turnover in their States in the financial year preceding the year during which the credit is to be distributed, the last quarter for which details of such turnover of all the recipients are available, previous to the month during which credit is to be distributed.

Input Tax Credit – Detailed Analysis

Goods and Service Tax (GST) is embedded with the mechanism of allowing tax credit available at every point of procurement of goods and services. The Input Tax Credit (ITC) available with the Tax Payer shall be utilized for payment of Output Tax Liability levied and determined on the value at the prescribed rate/s on the basis of 'place of supply of goods and services'.

1) Input tax credit is allowed to every taxable person irrespective of a manufacturer or producer of final products or a provider of taxable service .
2) Input tax credit can be availed when the goods and/or services are used for any business of taxable person
3) Entitled to take credit of input tax in respect of goods held in stock on the day immediately preceding the day with effect from date on which liable to pay tax.
4) Where any registered taxable person ceases to pay tax under section 8, he shall be entitled to take credit of input tax in respect of goods held in stock on the day immediately preceding the from which he becomes liable to pay tax under section 7.
5) Input tax credit will be allowed for zero rated supplies but will not be allowed for exempt supplies and non-taxable supplies.
6) In case of a change in the constitution of a registered taxable person on account of sale, merger, demerger, amalgamation, lease or transfer of the business with the specific provision for transfer of liabilities, the said registered taxable person shall be allowed to transfer the input tax credit that remains unutilized.

The procedure for availing the ITC is represented as follows:

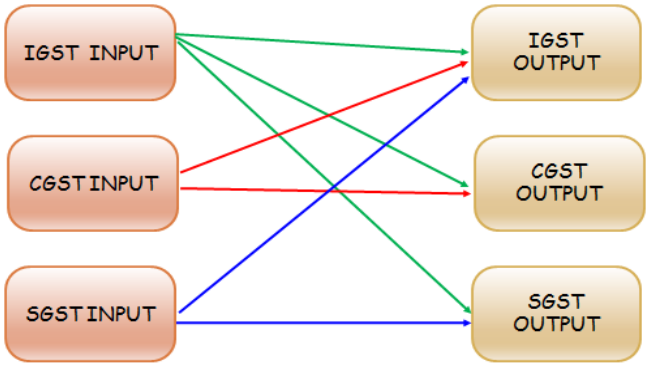


There shall be no cross utilization between CGST & SGST.

Gist: CGST can be set off against CGST & IGST but cannot be set off with SGST

SGST can be set off against SGST & IGST but cannot be set off with CGST

IGST can be set off with both CGST & SGST



Sequence of using the credit of IGST/CGST/SGST:

- ITC of IGST to be utilized for payment of IGST liability then CGST liability and thereafter SGST liability.
- ITC of CGST to be utilized for payment of CGST liability and then IGST Liability
- ITC of SGST to be utilized for payment of SGST Liability and then IGST Liability.

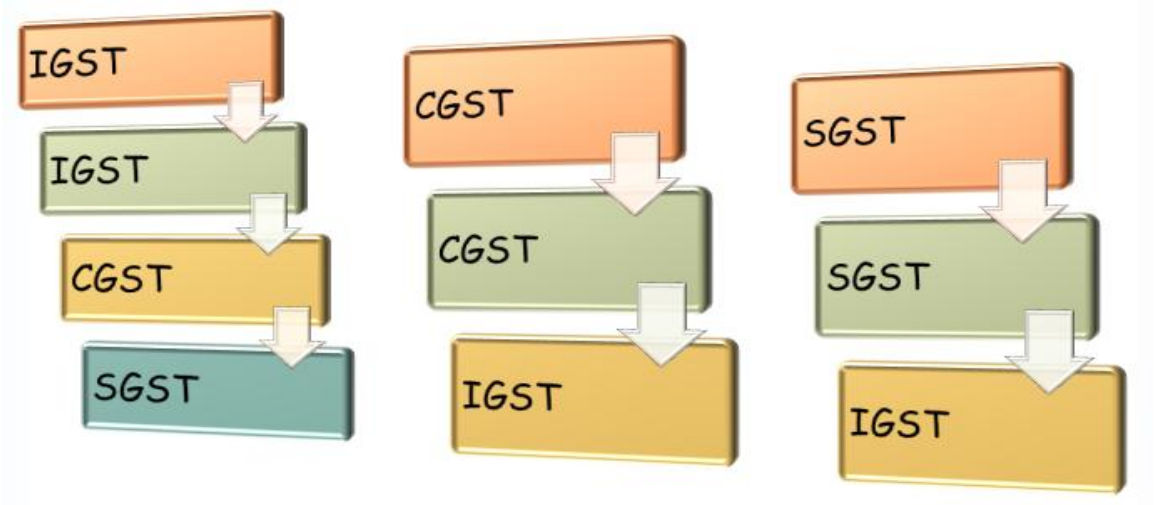


Illustration:

Case 1: A trader has paid CGST & SGST at the time of purchase of goods within the state and subsequently he is going to sell the goods within the state then he has to pay CGST & SGST. At the time of payment of CGST, he can claim the set off of CGST (input) credit and also at the time of payment of SGST, he can claim the set off of SGST (input) credit. But CGST (input) credit cannot be set off with SGST and vice versa.

Case 2: A trader has paid CGST & SGST at the time of purchase of goods within the state and subsequently he is going to sell the goods outside the state then he has to pay IGST. At the time of payment of IGST he can claim the set off of CGST&SGST (input) credit.

Case 3: A trader has paid IGST at the time of purchase of goods from outside the state and subsequently he is going to sell the goods within the state then he has to pay CGST & SGST. At the time of payment of CGST & SGST he can claim the set off IGST (input) credit.

Case 4: A trader has paid IGST & at the time of purchase of goods from outside the state and subsequently he is going to sell to outside the state so he has to pays IGST. At the time of payment of IGST he can set off the earlier IGST credit.

In-eligible Input Tax Credit:

a) Motor vehicles with few exceptions

b) outdoor catering,

c) Beauty treatment,

d) Health services,

e) Cosmetic and plastic surgery,

f) Membership of a club,

g) Health and fitness centre,

h) Life insurance, health insurance

i) travel benefits extended to employees on vacation used primarily for personal use or consumption of any employee;

j) goods and/or services acquired in execution of works contract when such contract results in construction of immovable property (other than P&M).

k) goods acquired by a principal, the property in which is not transferred to any other person, which are used in the construction of immovable property. (Other than P&M).

l) goods and/or services on which tax has been paid under Compounding Levy Scheme

m) goods and/or services used for private or personal consumption, to the extent they are so consumed.

n) If depreciation on the tax component of the cost of capital goods under the provisions of the Income Tax is claimed.

Conditions for availment and utilization of ITC:

- Supplier Invoice or any other tax paying documents
- Received the goods / services
- The tax has been paid to the credit of the appropriate Government
- Return has been filed under the act.
- ITC will be allowed upon receipt of last lot or installment where goods received in lots against an invoice.
- ITC to be availed within period of one year from the date of invoice.
- ITC will not be allowed on any invoices after the filing of the return for the month of September following the end of financial year to which such invoice pertains or filing of the relevant annual return, whichever is earlier.
- At the time of removal of capital goods, taxable person shall pay an amount equal to the input tax credit taken on the said capital goods reduced by the percentage points (as specified) or the tax on the transaction value of such capital goods, whichever is higher.
- Where a taxable person switches to compounded levy or switches to exemptions, he shall pay ITC on the in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on such day.

Conditions for availment in respect of inputs sent for job work:

- Input tax Credit is allowed on inputs sent to a job-worker for job-work if the inputs, after completion of job-work, are received back by him within one hundred and eighty days of their being sent out
- ITC will be allowed even if the inputs/ capital goods are directly sent to a job worker for job-work without their being first brought to his place of business
- ITC is allowed on capital goods sent to a job-worker for job-work if the capital goods, after completion of job-work, are received back by him within two years of their being sent out
- It the inputs or capital goods are not received with in specified time limit, the ITC availed on the same to be paid back along with interest.
- Upon receipt of such goods from the place of job-worker, input tax credit and interest paid earlier shall be reclaimed.

Important Issues:

- Conditions for availing credit : from the date of registration or from the date when he becomes liable for payment of tax (Input credit on stocks subject to correlation of duty paying documents)
- Input Tax Credit will be available to the recipient of goods / services only upon payment of tax by the supplier.
- Input tax credit can be taken only when such amount of input tax is paid by the supplier.
- Input tax credit will not be allowed for the goods / services used for private use or personal use. In other words, input tax credit will be litigated for supplies of goods and services for captive purpose.
- Now input tax credit even on capital goods which are used for both taxable and non-taxable goods/services need to be proportionately availed.
- Input tax credit will be allowed only upto annual return is filed.
- No Input Service Credit is allowed on goods & services used for construction of property.

Registration

- **Persons required to obtain registration:**

  - Every supplier having aggregate turnover more than Rs. 9 Lacs :Threshold limit Rs.10 L
  - Every supplier in NE States including Sikkim having aggregate turnover more than Rs. 4 Lacs - Threshold limit Rs. 5 Lacs

  *"**Aggregate Turnover"** means the aggregate value of all taxable and non- taxable supplies, exempt supplies and exports of goods and/or services of a person having the same PAN, to be computed on all India basis and excludes taxes, if any, charged under the CGST Act, SGST Act and the IGST Act, as the case may be;*

  Explanation.- Aggregate turnover does not include the value of supplies on which tax is levied on reverse charge basis and the value of inward supplies.

  - Every person who holds a registration under an earlier law
  - A person having multiple business verticals in state may obtain separate registration for each business vertical

  ***"Business Vertical"** shall have the meaning assigned to a 'business segment' in Accounting Standard 17 issued by the Institute of Chartered Accountants of India;*

  - The transferee, or the successor upon transfer of business as a Going Concern
  - The transferee in a case of transfer on account of amalgamation or de-merger of two or more companies by an order of a High Court
  - Any person may voluntarily get himself registered.
  - A person having multiple business verticals in state may obtain separate registration for each business vertical

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  - Any person may voluntarily get himself registered.

- **Persons required to obtain registration irrespective of threshold limit**

  - persons making any inter-State taxable supply
  - casual taxable persons & non-resident taxable persons

  "Casual Taxable Person / Non-Resident Taxable Person" means a person who occasionally undertakes transactions involving supply of goods and/or services in the

course or furtherance of business whether as principal, agent or in any other capacity, in a taxable territory where he has no fixed place of business;

- persons who are required to pay tax under reverse charge
- persons who are required to deduct tax under section 37 (Tax deduction at source)
- persons who supply goods and/or services on behalf of other registered taxable persons whether as an agent or otherwise
- Input Service Distributor

"***Input Service Distributor"*** *means an office of the supplier of goods and/or services which receives tax invoices issued under section 23 towards receipt of input services and issues tax invoice or such other document as prescribed for the purposes of distributing the credit of CGST (SGST in State Acts) and / or IGST paid on the said services to a supplier of taxable goods and / or services having same PAN as that of the office referred to above;*

- persons who supply goods and/or services, other than branded services, through electronic commerce operator
- every Electronic Commerce Operator
- an aggregator who supplies services under his brand name or his trade name
- such other person or class of persons notified by the Central Government or a State Government on the recommendations of the Council

- **Time limit for registration**

  - Person liable to take registration under this act shall be liable to take registration within thirty days from the date on which he becomes liable to registration.
  - Input service distributor, registered in the erstwhile law is not required to re-register subject to the procedure to be followed by it as prescribed.

- **Procedure for application of registration**

  - Person having multiple business verticals in a state may opt for separate registration for each business vertical.
  - Voluntary registration permissible.
  - PAN is mandatory for registration.
  - The registration is deemed to be granted if no communication is made with in prescribe period.
  - Rejection/ approval of application under the CGST shall deemed to be rejection under SGST and vis-a-versa.

- **Procedure of Amendment of registration**

- Any changes in the information furnished at the time of registration, or that furnished subsequently to be informed to proper officer
- The manner and period will be prescribed for making amendment in registration.
- The particular for which no approval required from proper officer will be prescribed.
- No request for amendment in the registration will be rejected without giving a notice to show cause and without giving the person a reasonable opportunity of being heard.
- Rejection/ approval of application for amendment under the CGST shall deemed to be rejection under SGST and vis-a-versa.

❑ **Procedure for Cancellation of registration**

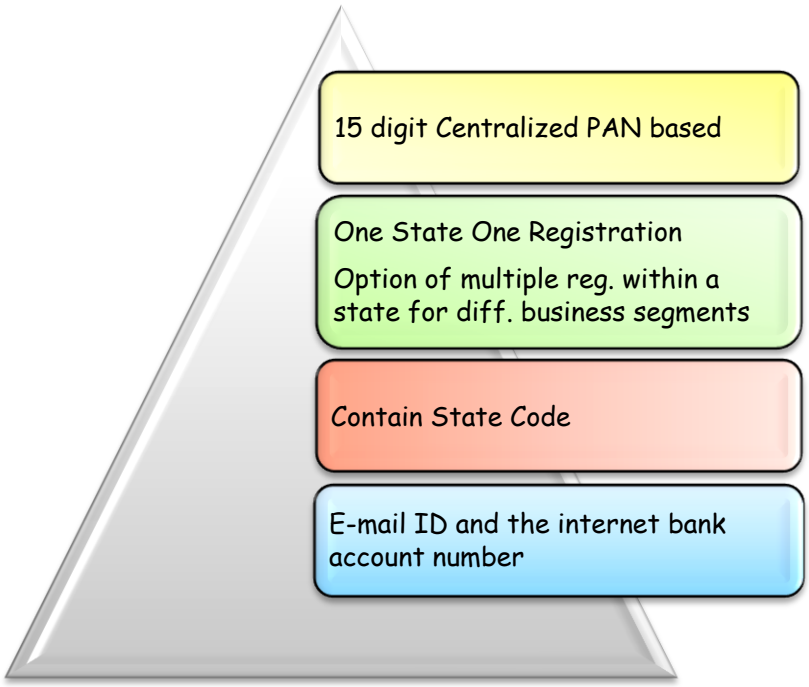
- **Cancellation of registration by registered person**
  - ✓ Discontinuation of business
  - ✓ Change in constitution of business
  - ✓ Transfer of business
  - ✓ Where person is no longer liable for registration.
- **Cancellation of registration by proper officer**
  - ✓ contravened the provisions of the Act or the rules made thereunder
  - ✓ Non filing of return for continuous period of 6 months
  - ✓ Non filing of return for 3 consecutive tax periods in case of persons opting for compounding levy
  - ✓ Voluntary registration and business not commence with in 6 months.
  - ✓ Any registration has been obtained by means of fraud, willful misstatement or suppression of facts

❑ **Casual Taxable Person & Registration – Non-Resident Taxable Person**

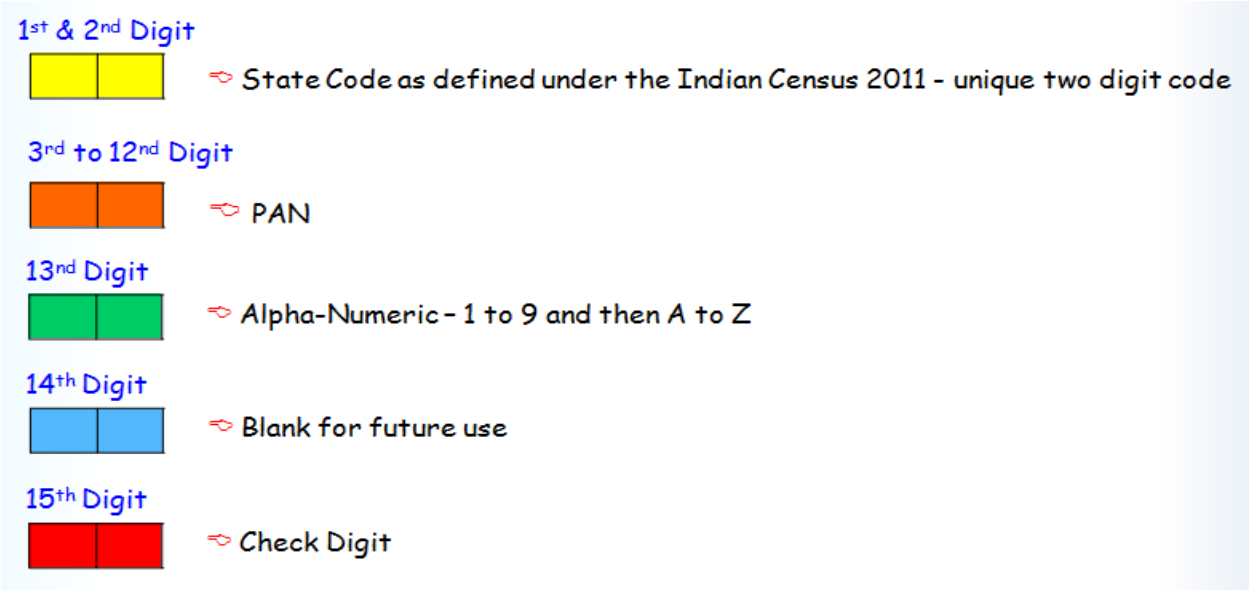
- "Casual Taxable Person" means a person who occasionally undertakes transactions involving supply of goods and/or services in the course or furtherance of business whether as principal, agent or in any other capacity, in a taxable territory where he has no fixed place of business;
- "non-resident taxable person" means a taxable person who occasionally undertakes transactions involving supply of goods and/or services whether as principal or agent or in any other capacity but who has no fixed place of business in India;

- The certificate of registration in this case will be valid for 90 Days and will be extended maximum upto further 90 days.
- Casual taxable persons & non-resident taxable person needs to deposit advance tax on the basis of estimated tax liability at the time of registration.

❑ **Registration Number would be -**



❑ **State wise PAN-based 15-digit GSTIN:**



- **Black listing Provision (Business Process Reports)**
  - Only for regulating ITC by others
  - Will be based on dealer rating
  - Will be put in public domain
  - Notified (auto-SMS) to all dealers who have pre-registered this dealer (black listed now) as their supplier
  - Prospective only (from month next to blacklisting)
  - Blacklisted GSTINs cannot be uploaded in purchase details
  - Corresponding denial of ITC to be supported by suitable provision in the law
  - ITC reversal in hands of the buyer should take place for disowning of any tax invoice with date prior to effect of blacklisting of the seller
  - Once blacklisting is lifted, buyers can avail unclaimed ITC subject to this dealer uploading sales details along with tax and interest.

PROPOSED REGISTRATION PROCESS

Registration of Taxable Persons under GST

- To give a unique identification to every taxable person
- Link all GST related transactions of every person
- Enable proper accounting of taxes paid on input goods and services
- Enable passing of tax credit on supply of goods and services
- Ease in compliance verification

Who are liable to be registered?

- Persons registered to pay existing taxes that will be subsumed under GST
- Persons with All-India Gross Turnover more than a threshold
- Persons making interstate supplies
- Casual and non-resident suppliers
- Voluntary Registration below threshold
- Unique-id for specific class of persons

Salient Features of Registration Process

- PAN based Registration: PAN will be mandatory
- Unified application to both tax authorities
- To be filed within 30 days
- State-wise registration for entities having presence in more than one State
  - Need not apply separately for each State
- Deemed approval within three days
- Within a PAN, separate registration for separate business verticals within a State possible

Structure of GSTIN

State				PAN								Entity	Blank	Check
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15

- 15 digit Alphanumeric structure
- State-wise
- Based on PAN
- 13th Digit for Business Verticals of entities with same PAN in same State
- 14th digit left blank for future use
- 15th digit – Checksum

Suppliers under Composition Scheme

- Suppliers with turnover below a particular threshold eligible for composition scheme
- To pay tax on turnover with no input tax credit
- To opt at the beginning of the year – applicable till eligibility or opting out
- Switch from composition to regular scheme voluntarily or on crossing threshold
- Suppliers making interstate supplies not elligible

Obtaining Registration

- Migration of existing tax payers to the GSTN database
  - Taxpayers with valid PAN
- Online application form through Common Portal
- Documents to be filed for
  - Constitution of Business
  - Principal Place of Business
  - Bank Accounts
  - Authorised Signatory
  - Photograph

Obtaining Registration

- Applications not submitted through Digital Signature to be supported by sending a signed copy of summary extract of the form
  - Processing of application and grant of registration even before signed copy received
  - Cancellation to be initiated if no signed copy received
- Email and SMS based alerts to the applicants
- No application fee (advance tax in case of casual suppliers)
- Applications can be filed through Facilitation Centres (FCs) or through Tax Return Preparers (TRPs)

Approval process

- Online verification of certain details like PAN, CIN, Bank Account (if possible) and Adhaar
- Online communication of application to jurisdictional authority by the backend modules of tax authorities
- 3 common working days for tax authorities to respond
- Deemed approval after 3 days
- Single opportunity to tax authorities to raise query, if any – 7 days for response and 7 days for action
- Mostly post registration visits based on risk profile

Approval process

- Online grant of registration
- Log-in id and temporary password communicated to the tax payer
- Downloadable Registration Certificate to be provided by GSTN
- Refusal to register by one tax authority deemed as refusal by both
- Communication of reason for refusal of registration

Migration of Existing Tax Payers

- Existing registrants either with States or with Centre to be migrated to GSTIN - Process already initiated
  - VAT registration data to be used for migration of dealers in goods
  - Service Tax registration data to be used for migration of service providers
- Validation of existing registration information by GSTN
- Verification /updation of migrated data by existing registrants within a specified period
- Issuance of GSTIN by GSTN
- Verification by Centre/State Authorities after issuance of GSTIN

Amendment to Registration Details

- On-time amendment essential for efficient tax administration
- Most of the details to be amended by the tax payer on self service basis
- Some of them like mobile number and email address through online verification
- Some critical details like name, principal place of business to be amended after approval from tax authorities

Surrender and Cancellation

- Registration can be surrendered or can be cancelled on
  - Closure of business of tax payer
  - Gross Annual Turnover falling below threshold for registration
  - Transfer of business
  - Amalgamation of taxable person with other legal entities or de-merger
  - Non commencement of business by tax payer within the stipulated time period prescribed under GST law

Surrender and Cancellation

- Cancellation by Tax authorities:
  - Signed copy of the summary extract of submitted application form not received even after a reminder
  - Tax payer contravenes specified provision of the GST law
  - Taxpayer has not filed any return at all during a prescribed period as prescribed under GST Law
- Cancellation of registration to be prospective
- A person, whose registration was cancelled by tax authority on his own motion, may apply for revocation of registration
- Substantial penalty in case registration obtained with fraudulent intentions

REPORT

OF

THE JOINT COMMITTEE ON BUSINESS PROCESSES FOR GST

ON

GST REGISTRATION

Empowered Committee of State Finance Ministers

New Delhi

July, 2015

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ANNEXURE-III

Form GST –

[See Rule __]

Application for Registration under Goods and Services Tax Act, Year

1	Legal Name of Business*	
1A	Trade Name (optional)	

2	Constitution of Business (Please Select the Appropriate)*

Proprietorship	O	Partnership	O
Hindu Undivided Family	O	Private Limited Company	O
Public Limited Company	O	Society/Club/Trust/Association of Persons	O
Government Department	O	Public Sector Undertaking	O
Unlimited Company	O	LLP's	O
Local Authority	O	Statutory Body	O
Others (Please Specify)	O		

In case of Proprietorship*

3	Name of Proprietor										
4	PAN of the proprietor										

In case of other Businesses*

4A	PAN of the **Business**										

5	Name of the State and its Code*	Drop down for Name of State & Codes	⏏

6	Option For Composition	Yes O	No	O

7	Date of commencement of business									
		D	D	M	M	Y	Y	Y	Y	
8	Date on which liability to pay tax arises	D	D	M	M	Y	Y	Y	Y	
9	Estimated supplies (in case of casual dealers)									
	Period for which registration is required – From									
	To									
10	Reason of liability to obtain registration (from the dropdown)	⏏								

(1) Due to crossing the Threshold

(2) Due to inter-State supply
(3) Due to liability to pay as recipient of services
(4) Due to being Input Service Distributor (ISD)
(5) UN bodies for allotment of Unique Identification Number (ID)
(6) Due to transfer of Business which includes change in the ownership of business (if transferee is not a registered entity)
(7) Due to death of the Proprietor (if the successor is not a registered entity)
(8) Due to de-merger
(9) Due to change in constitution of business
(10) Due to Merger /Amalgamation of two or more registered taxpayers
(11) Being casual Dealer
(12) Being Non resident Dealer
(13) None of the above – on voluntary basis

11 Indicate Existing Registrations

	Yes/No	**Registration Details**
Central Excise		
Service Tax		
State VAT Registration (TIN)		
CST Registration No		
IEC No.(Importer Exporter Code Number)		
Corporate Identity Number (CIN)		
GSTIN		

12 Details of Principal Place of Business*

ADDRESS			
Building No/Flat No/Door No		**Floor No**	
Name of the Premises/Building		**Road/Street/Lane**	
Locality/Area/Village		**District/Town/City**	
Latitude (optional)		**Longitude (optional)**	
PIN Code			
CONTACT DETAILS			
Telephone number		**Fax Number**	
Mobile Number			
Email Address			
Nature of possession of premises			

Owned	O	**Leased**	O	**Rented**	O	**Consent**	O	**Shared**	O

Please Tick the Nature of Business Activity being carried out at above mentioned Premises					
Factory / Manufacturing	O	Wholesale Business	O	Retail Business	O
Warehouse/Deport	O	Bonded Warehouse	O	Service Provision	O
Office/Sale Office	O	Leasing Business	O	Service Recipient	O
EOU/ STP/ EHTP	O	SEZ	O	Input Service Distributor (ISD)	O

Works Contract	O				

13. Details of Bank Accounts (s)

Total number of Bank Accounts maintained by the applicant for conducting business	

Details of Bank Account 1

Account Number			
Type of Account		IFSC	
Name of the Bank			
Branch and Address of the Bank & Branch	To be auto-populated (Edit mode)		
PIN Code		**State**	

Details of Bank Account 2

Account Number			
Type of Account			
Name of the Bank			
Branch and Address of the Bank & Branch	To be auto-populated (Edit mode)		
PIN Code		**State**	

Details 3…n (Multiple fields will be available to capture the details of all the additional Bank A/c)

14 Details of the **Goods/Commodities** supplied by the Business

Please specify top 5 Commodities		
S.No.	Description of Goods	HSN Code (4 digit code)
1		
2		
…		
5		

15 Details of **Services** supplied by the Business.

Please specify top 5 Services		
S. No.	Description of Services	Service Accounting Code
1		

2		

5		

16 Details of Additional Place of Business

Number of additional places	

Premises 1

Details of Additional Place of Business

ADDRESS									
Building No/Flat No/Door No					**Floor No**				
Name of the Premises/Building					**Road/Street/Lane**				
Locality/Area/Village					**District/Town/City**				
PIN Code									
CONTACT DETAILS									
Telephone number					**Fax Number**				
Mobile Number									
Email Address									
Nature of possessionof premises									
Owned	O	**Leased**	O	**Rented**	O	**Consent**	O	**Shared**	O

Please Tick the Nature of Business Acti ity being carried out at above mentioned Premises					
Factory / Manufacturing	O	Wholesale Business	O	Retail Business	O
Warehouse/Deport	O	Bonded Warehouse	O	Service Provision	O
Office/Sale Office	O	Leasing Business	O	Service Recipient	O
EOU/ STP/ EHTP	O	SEZ	O	Input Service Distributor (ISD)	O
Works Contract	O				

Premises 2…..n (Multiple fields will be available to capture the details of all the additional places of business within the state)

17 Details of Proprietor/all Partners/Karta/Managing Directors and whole time Director/Members of Managing Committee of Associations/Board of Trustees etc. *

Total Number of Persons

Please provide details in the table below. In case you need more tables, click on add table

- In case of **Proprietorship**: Details of Owner/Proprietor
- In case of **Partnership**: Details of **all Managing/ Authorized Partners** (personal details of all partners but photos of only ten partners including that of Managing Partner is to be submitted)
- In case of **Companies** registered under Companies Act: **Managing Director and whole time directors**
- In case of **HUF**: Details of **Karta of HUF**

- In case of **Trust**: Details of **Managing Trustee**
- In case of **Association of Persons**: Details of Members of Managing Committee(personal details of all members but photos of only ten members including that of Chairman is to be submitted)
- In case of Local Authority: Details of CEO or equivalent
- In case of Statutory Body: Details of CEO or equivalent
- In case of others: Details of person responsible for day to day affairs of the business

	First Name	**Middle Name**	**Surname**
Name of Person			
Name of Father /Husband			
Designation		Date of Birth	DD MM YYYY
PAN			
Passport No (in case of foreigners)			
UID No			
DIN No. (if any)			

Mobile Number			
E-mail address		Gender	M ○ F ○
Telephone No		FAX No	

Residential Address			
Building No/Flat No/Door No		**Floor No**	
Name of the Premises/Building		**Road/Street/Lane**	
Locality/Area/Village		**District/Town/City**	
PIN Code		**State**	

Details 2…n (Multiple fields will be available to capture the details of other persons)

18 Details of Authorized Signatory

Number of Authorized Signatory

Details of Signatory No. 1

	First Name	**Middle Name**	**Surname**
Name of Person			
Name of Father / Husband			
Designation		Date of Birth	DD MM YYYY
PAN			

UID No												
DIN No. (if any)												
Mobile Number												
E-mail address								Gender	M	O	F	O
Telephone No								FAX No				

Residential Address			
Building No/Flat No/Door No		**Floor No**	
Name of the Premises/Building		**Road/Street/Lane**	
Locality/Area/Village		**District/Town/City**	
PIN Code		**State**	

Details 2….n (Multiple field will be available to capture the details of other authorized persons)

19 Details of Authorized Representative (TRP / CA / Advocate etc.)

	First Name	**Middle Name**	**Surname**
Name of Person			
Status	**TRP / CA / Advocate etc.**		
Mobile Number			
E-mail address			
Telephone No		FAX No	

20 State Specific Information

- ***a. Field 1***
- ***b. Field 2***
- ***c. ….***
- ***d. …..***
- ***e. Field n***

21 Document Upload

A customized list of documents required to be uploaded (as detailed in para 6.3 of the process document) as per the field values in the form should be auto-populated with provision to upload relevant document against each entry in the list.

22 *Verification*

I hereby solemnly affirm and declare that the information given herein above is true and correct to the best of my knowledge and belief and nothing has been concealed therefrom

Place …….
Date …….

Name of Authorized Signatory ……
Designation ……

Instructions to Taxable Person

1. **Field 4:**In case of Proprietary concerns, only PAN of the Proprietor will be required while in case of other business entities, only PAN of the business will be required.
2. **Field 4A:**PAN should be in same name as the Legal Name in Field 1.
3. **Field 6:** If "Yes" option is selected, the applicant will be asked to confirm that the likely all-India annual turnover including exports and exempted supplies during next 12 months (**depending on the exact legal formulation to be made by the GST Drafting Law Committee**) is below Rs. ……. Lakh.
4. **Field 17:** In case of multiple authorized signatories provided by the Dealer, any one of them can sign this form as Authorized Signatory
5. **Field marked with * are mandatory fields.** Any changes in these fields require approval from proper officer.

All communication will be made to the Mobile Number and e-mail mentioned in Principal Place of Business.

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

Suggestions for System Development

1. Pin Code should be the field requiring primary data, and the other two field should get auto-populated (based on master values) with option to enter locality/area/village if that is not in the portal master. Alternatively, a validation between PIN Code and Locality/Area/Village and District/Town/City should be inbuilt.
2. For Field No 17 (i.e. Details of Proprietor / all partners / Karta / Managing Director and whole-time Director / Members of the Managing Committee of Association of Persons / Board of Trustees etc.) and Field No 18 (Details of the Authorised Signatory) providing PAN would be mandatory for Indian nationals. For foreign national passports details would be required.
3. In Field 10, there should be an option to enter details of multiple entities which are merged

and the application is on behalf of the merged entity

4. In Field No. 9 (Period for which registration is required – From/ To) validity period of registration is captured. The "From Date" is mandatory for all dealers but the "To Date" should be mandatory only for Casual/non-resident Dealers. Following validation needs to be built in
    - Inserting of a radio buttons – Whether regular dealer or Casual/non-resident dealer
    - In case of Casual/non-resident dealer – both from date and to date are enabled, and both are mandatory fields. Further, the "from date" could be retrospective date (in view of para 2.1 (2)).
    - In case of Regular dealer – only from date is enabled and is mandatory and this could be retrospective date (in view of para 2.1 (2)).
    - Further, the system must be able to display all the previous registrations obtained as Casual/non-resident Dealer with from date and to date and the LVO in which he was registered and arrears of amounts if any standing in his name.
5. Field No. 10 (Reason of liability to obtain registration) should not be enabled for casual dealers. Voluntary registration is to be enabled.
6. Field No. 11 (Indicate existing registrations) – Following state specific fields need to be captured:
    - Professions Tax E.C. No.
    - Professions Tax R.C. No.
    - State Excise License No. and the name of the person in whose name Excise Licence is held.
7. For Field No. 12 (Details of Principal Place of Business) and Field No. 16 (Details of Additional Place of Business), it is required to display the earlier places of business – i.e. Address, From date and To date from the History Table, for the efficiency of tax administration. Though this may not be useful in new registrations, it is required in case of amendments, when the addresses are changed, additional places are added or deleted. This would not need modification in the registration format and business process, but the software/ database should take care of the displaying these details when an amendment form is being filled or when the departmental officer views it. In case of casual dealers, principal place of business will be the place where he will run his business.

8. For Field No. 14 (Details of Goods/ Commodities supplied by the Business) history of existing/ deleted/ added commodities and services with from date and to date needs to be captured by the software. This would give a detailed picture of the nature of the commodities dealt by the dealer. Further, it is also better if the dealer identifies one of the commodities/ service as the main commodity/ service, he is dealing in. This is required to match the GST return information with the details obtained from macro-economic parameters and matching with NIC Activity classification, based on which the macro-economic performance is presented.
9. For Field No. 17 (Details of Proprietor/all Partners/Karta/Managing Directors and whole time Director/Members of Managing Committee of Associations/Board of Trustees etc.) –All changes in Partners or Directors, or Managing Persons, must be kept in the database to enable the jurisdictional officer to see the history of the persons entered earlier, and from date and to date.Photos of maximum of 10 partners including that of Managing Partner is required to be uploaded.

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

ANNEXURE-IV

Form GST -

[See Rule __]

Application for Surrender of Registration under Goods and Services Tax Act, Year

Please file **your tax return** for the tax period in which the effective date of cancellation of your registration falls before applying for cancellation.**Filed no. 2 to 5 would get auto populated on the basis of information mentioned in filed no. 1.**

1. GSTIN													

2. Full Name of Registrant													
3. Trade Name, if any													
4. Address of Principal Place of Business													
5. Address for correspondence (e-mail, mobile, landline etc.)													

6.Reason for Surrender Tick ☑ one	❑ Discontinuance of business	❑ Closure of incorporated body
	❑ Death of sole proprietor	❑ Dissolution of firm
	❑ Has ceased to be liable to pay tax	❑ Merger
	❑ Amalgamation etc.	❑ Others (specify the reason)

(Note: In case of death of Sole Proprietor application will have to be made by the legal heir / successor manually before the concerned tax authorities)

7.**In case of amalgamation or merger, provide p**articulars of registration in which merged, amalgamated etc.			
(i) GSTIN			
(ii) Name			
(iii) Principal Place of Business			

(The new entity in which the applicant proposes to amalgamate itself must be registered with the tax

authority before the filing of the surrender application. This application can only be made after that.)

8. Date from which registration under -----Act, 20-- is to be surrendered			/			/		
	Day			Month			Year	

9. Amount of GST payable in respect of goods / capital goods held on the date of surrender of registration (Rs.)	Turnover	Tax	
		CGST	SGST

10. Details of amount of GST paid as calculated at 9 above. (This needs to be amended in view of maintenance of ITC / Cash Ledger)	i) Date of deposit			-			-				
		Day			Month			Year			
	ii) Challan No.										
	(iii) Name of Bank & Branch										

11. Verification (i) I/We _____ hereby solemnly affirm and declare that the information given hereinabove is true and correct to the best of my/our knowledge and belief and nothing has been concealed therefrom. (ii) I/We undertake to discharge any tax liability which is found to be payable subsequent to the surrender of registration and the tax authorities shall be free to take any action as prescribed in the law.	
Signature of Authorised Signatory	
Full Name	
Designation/Status	

Place																				

Date								
	Day		Month		Year			

ANNEXURE-V

Form GST -

[See Rule]

Application to Opt for Composition Scheme

(For existing taxpayer)

Filed no. 2 & 3 would get auto populated on the basis of information mentioned in filed no. 1.

1. GSTIN													

2. Full Name of Applicant Dealer													

3. Please Tick the Nature of Business Activity being carried out at above mentioned Premises					
Factory / Manufacturing	O	Wholesale Business	O	Retail Business	O
Warehouse/Deport	O	Bonded Warehouse	O	Service Provision	O
Office/Sale Office	O	Leasing Business	O	Service Recipient	O
EOU/ STP/ EHTP	O	SEZ	O	Input Service Distributor (ISD)	O

4. Year for which composition scheme is sought					-				

5. Turnover in the preceding year (Rs.)									

6. Estimated Turnover in the current year (Rs.)									

7. Tax Payable on Opening Stock lying at the beginning of the current	Description	Turnover (Rs.)	Tax Payable														
			CGST					SGST					IGST				
	(i) Trading Stock																
	(Iii) Raw material																

year(provision for capital goods may have to be made if the GST law provides for proportionate credit in case of mixed use)	(iii) Packaging Material																			
	(iv) Finished Goods																			
	Total																			

8. Details of Tax paid calculated as per (7) above(This needs to be amended in view of maintenance of ITC / Cash Ledger)	Description										
	(i) Amount of tax paid (Rs.)										
	(iii) Date of Deposit			/			/				
		dd		mm		yyyy					
	(iii) Challan No.										

9. Verification

I/We _____ hereby solemnly affirm and declare that the information given hereinabove is true and correct to the best of my/our knowledge and belief and nothing has been concealed therefrom.

Signature of Authorised Signatory _____

Full Name *(first name, middle, surname)* _____

Designation/Status _____

Place																				

Date							
	Day		Month		Year		

ANNEXURE-VI

Form GST -

[See Rule]

Application for withdrawal from Composition Scheme

(For existing taxpayer)

Filed no. 2 & 3 would get auto populated on the basis of information mentioned in filed no. 1.

1. GSTIN													

2. Full Name of Applicant Dealer													

3. Please Tick the Nature of Business Activity being carried out at above mentioned Premises					
Factory / Manufacturing	O	Wholesale Business	O	Retail Business	O
Warehouse/Deport	O	Bonded Warehouse	O	Service Provision	O
Office/Sale Office	O	Leasing Business	O	Service Recipient	O
EOU/ STP/ EHTP	O	SEZ	O	Input Service Distributor (ISD)	O
Works Contract	O				

4. Date from which withdrawal from composition scheme is sought (dd/mm/yyyy)					-				

5. Turnover in the preceding year / period (Rs.)							

6. Reasons for withdrawal from composition scheme	

7. Input Tax Credit	Description	Turnover (Rs.)	Input Tax Credit (Rs.)

			CGST					SGST					IGST				
available ongoods purchased and lying in stock on the day of withdrawal from the scheme(provision for capital goods may have to be made if the GST law provides for proportionate credit in case of mixed use)	(i) Trading Stock																
	(Iii) Raw material																
	(iii) Packaging Material																
	(iv) Finished Goods																
	Total																

8. Verification

I/We _____ hereby solemnly affirm and declare that the information given hereinabove is true and correct to the best of my/our knowledge and belief and nothing has been concealed therefrom.

Signature of Authorised Signatory _____

Full Name *(first name, middle, surname)* _____

Designation/Status _____

Place																				

Date							
	Day		Month		Year		

ANNEXURE-VII

Form GST -

[See Rule]

Application for Amendment(s) in Particulars subsequent to Registration under Goods& Services Act Year

(This form would be used to amend fields mentioned in para 7.2(7) of the Process document as all other fields can be amended on self-service basis)

I GSTIN																	

II Full Name of Dealer														

III Amendment summary

(Please put field reference in which amendments are sought, date of amendment and reason for amendment(s). attach additional sheets if required)

Field Ref.	Field Name Date (mm/dd/yy)	Reason(s)

(Please edit /fill in only those following fields that are to be amended)

Complete Registration form should be copied here.

Facilities for uploading scanned documents including photographs (only in .jpg format) etc. needs to be provided.

CHAPTER- VII

TAX INVOICE, CREDIT AND DEBIT NOTES

23. Tax invoice

A registered taxable person supplying,-

(i) taxable goods shall issue, at the time of supply, a tax invoice showing the description, quantity and value of goods, the tax charged thereon and such other particulars as may be prescribed;

(ii) taxable services shall issue a tax invoice, within the prescribed time, showing the description, the tax charged thereon and such other particulars as may be prescribed:

Provided that a registered taxable person may issue a revised invoice against the invoice already issued during the period starting from the effective date of registration till the date of issuance of certificate of registration to him:

Provided further that a registered taxable person supplying non-taxable goods and/or services or paying tax under the provisions of section 8 shall issue, instead of a tax invoice, a bill of supply containing such particulars as may be prescribed.

Explanation.- The expression "tax invoice" shall be deemed to include a document issued by an Input Service Distributor under section 17, and shall also include any supplementary or revised invoice issued by the supplier in respect of a supply made earlier.

Parallel Provision in the existing Act / Rules: Similar provision
Existing Act / Rule:
Central Excise Rules, 2002 - Rule 11
Service Tax Rules 1994 - Rule 4A
Analysis:
1. Provision for issuing revised invoice during the period starting from the effective date of registration till the date of issuance of certificate of registration. Also it is clarified that tax invoice includes document issued by ISD supplementary or revised invoice.

2. The concept of debit and credit notes has been part of various VAT legislations. However, in the said legislations, such documents have also been recommended for situations where goods are returned post sale. The model law however does not prescribe issuance of debit/credit notes in such situations.

23 A. Amount of tax to be indicated in tax invoice and other documents

Notwithstanding anything contained in this Act or any other law for the time being in force, where any supply is made for a consideration, every person who is liable to pay tax for such supply shall prominently indicate in all documents relating to assessment, tax

invoice and other like documents, the amount of tax which will form part of the price at which such supply is made.

24. Credit and debit notes

(1) Where a tax invoice has been issued for supply of any goods and/or services and the taxable value and/or tax charged in that tax invoice is found to exceed the taxable value and/or tax payable in respect of such supply, the taxable person, who has supplied such goods and/or services, may issue to the recipient a credit note containing such particulars as may be prescribed on or before the thirtieth day of 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:

Provided that no credit note shall be issued by the said person if the incidence of tax and interest on such supply has been passed by him to any other person.

Analysis:
Where the tax invoice was found to be less than taxable value than debit note can be issued on or before 30th day of September. The provision is streamlined with the issuance of credit note. In accordance to proviso, no credit note shall be issued by the said person if the incidence of tax and interest on such supply has been passed by him to any other person.

This will lead to the confusion. When tax has been paid on higher value still credit note cannot be raised which will create anamoly in the reconciliation of the turnover as per financial accounts and taxable turnover.

(2) Where a tax invoice has been issued for supply of any goods and/or services and the taxable value and/or tax charged in that tax invoice is found to be less than the taxable value and/or tax payable in respect of such supply, the taxable person, who has supplied such goods and/or services, shall issue to the recipient a debit note containing such particulars as may be prescribed on or before the thirtieth day of 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.

Analysis:
This is very good provision to pay the differential duty on such upward revision of price and raise the debit note along with tax on or before 30th Sept of the subsequent financial year or date of filing of the Annual return. However, the interest will be payable from the date of revision and raising the debit note. It will ease to the existing litigation of paying the duty from the date of removal.

(3) Any registered taxable person who issues or receives a credit or debit note in relation to a supply of goods and/or services shall declare the details of such credit or debit note, as the case may be, in the return for the month during which such credit or debit note has been issued or received or in the return for any subsequent month but not later than September following the end of financial year in which such supply was made, or the date of filing of the relevant annual return, whichever is earlier, and the tax liability shall be adjusted in the manner specified in this Act.

Analysis:
Similarly, debit note and credit note in case of return of to a supply of goods and/or services during the month when goods are returned or on or before 30th Sept of the subsequent year or date of filing of the return whichever is earlier.

CHAPTER- VIII

RETURNS – Clause wise Analysis

25. Furnishing details of outward supplies

(1) 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 tenth day of the month succeeding the said tax period and such details shall be communicated to the recipient of the said supplies within the time and in the manner as may be prescribed:

Provided that the Board / Commissioner may, for valid and sufficient reasons, by notification, extend the time limit for furnishing such details:

Provided further that any extension of time limit by the Board/Commissioner of State Goods and Services Tax shall be deemed to be approved by the Commissioner of State Goods and Services Tax/Board:

Explanation.- For the purposes of this section, the expression "details of outward supplies" shall include details relating to zero-rated supplies, inter-state supplies, return of goods received in relation to/ in pursuance of an inward supply, exports, debit notes, credit notes and supplementary invoices issued during the said tax period.

Parallel Provision in the existing Act / Rules: Currently in VAT forms J1 and J2 are there wherein purchase and sales details for the returns period are required to be furnished.

Existing Act / Rule: MVAT Act 2002

Existing Act / Rule No: Rule 17 (4)(d)

Analysis:

1) Electronically return for all outward supply of goods in the prescribed manner during the tax period should be furnished on or before 10th of subsequent month and such details shall be communicated to the recipient of the said supplies in the manner and time as prescribed.

2) Details of outward supplies will include 0 rates supplies, interstate supplies, Goods / Services return, Exports, supplementary invoices, debit notes and credit notes

3) Specific mechanism is being proposed for matching of input tax credit claimed by the recipient and tax paid by the supplier. The said requirement was never prevalent under

Central tax laws, though certain State VAT legislations (including Maharashtra and West Bengal) incorporated such requirements. Even in such States, practically, such requirement has resulted in denial of huge eligible input tax credits for want of documentary requirements (pertaining to payment of tax at supplier's end) not within the control of the assessee or owing to errors in the Departmental database. Such conditions for availment of credit, not within the control of the credit claiming dealer, would be detrimental to the vision of seamless GST.

4) Provisions pertaining to the filing of various returns are tabulated and annexed and marked as annexure B

(2) Any registered taxable person, who has furnished the details under sub-section (1) for any tax period and which have remained unmatched under section 29, shall, upon discovery of any error or omission therein, rectify such error or omission in the tax period during which such error or omission is noticed in such manner as may be prescribed, and shall pay the tax and interest, if any, in case there is a short payment of tax on account of such error or omission, in the return to be furnished for such tax period:

Provided that no rectification of error or omission in respect of the details furnished under sub-section (1) 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.

Analysis:

Once return is filed / uploaded, it cannot be revised. However, rectification is allowed through correction only or debit notes, credit notes, as the case may be. But such rectifications needs to be done prior to 30th September of subsequent financial year or filing of Annual return whichever is earlier through debit note or credit note

26. Furnishing details of inward supplies

(1) 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 verify, validate, modify or, if required, delete the details relating to outward supplies and credit or debit notes communicated under sub-section (1) of section 25 to prepare the details of his inward supplies and credit or debit notes and may include therein, the details of inward supplies and credit or debit notes received by him in respect of such supplies that have not been declared by the supplier under sub-section (1) of section 25.

Parallel Provision in the existing Act / Rules:

Currently in VAT forms J1 and J2 are there wherein purchase and sales details for the returns period are required to be furnished.

Analysis:

1) In current scenario output liability and input credit / set off details are required to be furnished in a single return. In GST separate returns is prescribed for input credit and outward liability, meaning more checks, control and corrections required before filing of respective returns.
2) Further as per the business process report inward supplies details would get auto populated in GSTR-2 at respective buyers end which would bring in a kind of auto check w.r.t input tax credit.
3) Provisions pertaining to the filing of various returns are tabulated and annexed and marked as annexure B

(2) 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 fifteenth day of the month succeeding the tax period in such form and manner as may be prescribed:

Provided that the Board/Commissioner may, for valid and sufficient reasons, by notification, extend the time limit for furnishing such details:

Provided further that any extension of time limit by the Board/Commissioner of State Goods and Services Tax shall be deemed to be approved by the Commissioner of State Goods and Services Tax/Board.

Analysis:

1) Every taxable person will furnish the details of taxable goods and services including the tax payable on reverse charge basis
2) The credit note and debit note to be raised w.r.t supplies of tax period on or before 15th of such subsequent month and to be submitted electronically in the prescribed time and manner.

(3) Any registered taxable person, who has furnished the details under sub-section (2) for any tax period and which have remained unmatched under section 29, shall, upon discovery of any error or omission therein, rectify such error or omission in the tax period during which such error or omission is noticed in such manner as may be prescribed, and shall pay the tax and interest, if any, in case there is a short payment of tax on account of such error or omission, in the return to be furnished for such tax period:

Provided that no rectification of error or omission in respect of the details furnished under sub-section (2) 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.

Analysis:

In case of mismatch or upon discovery of error or omission to rectify such errors as may be prescribed and pay the tax and interest if any and furnish in electronic return for the tax period or furnish the same on or before 30th September of subsequent year or filling of annual return whichever is earlier.

27. Returns

(1) 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 twenty days after the end of such month:

Provided that a registered taxable person paying tax under the provisions of section 8 of this Act shall furnish a return for each quarter or part thereof, electronically, in such form and in such manner as may be prescribed, within eighteen days after the end of such quarter:

Provided further that a registered taxable person shall not be allowed to furnish return for a tax period if valid return for any previous tax period has not been furnished by him.

Parallel Provision in the existing Act / Rules:

Excise = Every assessee shall submit to the Superintendent of Central Excise a monthly return in the form specified by notification by the Board, of production and removal of goods and other relevant particulars, within ten days after the close of the month to which the return relates

Service Tax = Every assessee shall submit a half yearly return in Form 'ST-3' or 'ST-3A & ST-3B', as the case may be, along with a copy of the Form TR-6, in triplicate for the months covered in the half-yearly return.

Every assessee shall submit the half-yearly return by the 25th of the month following the particular half-year

VAT & CST = Monthly/ Quarterly/Half Yearly Return on the basis of turnover of the assessee

Existing Act / Rule:

Central Excise Rule 2002 - Rule 12

Service Tax Act 1944 - Rule 7

MVAT 2002 - Rule 17

CST Act 1956 - Rule 5 of CST Rule 1957

Analysis:

1) Monthly return will reflect inward and outward supplies, input tax credit availed, tax paid and other particulars and it needs to be furnished electronically on or before 20th of subsequent month.
2) Where quarterly return is being prescribed it should be furnished within 18 days from the end of the said quarter
3) If tax payer has not furnished return for earlier period such tax payer will not be allowed to file the return till earlier returns are filed.

(2) Every registered taxable person, who is required to furnish a return under sub-section (1), 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.

Analysis:

Due date of payment will be the same as mentioned above at par with period prescribed for filing the returns

(3) A return furnished under sub-section (1) by a registered taxable person without payment of full tax due as per such return shall not be treated as a valid return for allowing input tax credit in respect of supplies made by such person.

Analysis:

If tax due is fully not paid it will be considered as invalid return and no input tax credit will be allowed to recipient of such goods or services.

The provision is detrimental to the implementation of GST

(4) Every registered taxable person shall furnish a return for every tax period under sub-section (1), whether or not any supplies of goods and/or services have been effected during such tax period.

Analysis:

Even though there is no supply of goods and services or receipts of goods still NIL return is required to be filed within due date

(5) 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 ten days after the end of such month.

Analysis:

The taxable person who is required to deduct the tax will also deposit the tax and file the return within 10 days after the end of such month

(6) Every Input Service Distributor shall, for every calendar month or part thereof, furnish a return, electronically, in such form and in such manner as may be prescribed, within thirteen days after the end of such month.

Analysis:

Due date has been specified for submission of ISD return i.e. 13th day after the end of the month.

(7) Subject to the provisions of sections 25 and 26, if any taxable person after furnishing a return under sub-section (1) discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, he shall rectify such omission or incorrect particulars in the return to be filed for the month or quarter, as the case may be, during which such omission or incorrect particulars are noticed, subject to payment of interest, where applicable and as specified in the Act:

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.

Analysis:

The differential tax along with interest is payable on account of discovery of any omission or incorrect particulars as a result of scrutiny, audit, inspection or enforcement activities by the Tax Authorities (Not Auditors). Such rectification also to be reported through filing the return through debit notes and credit notes on or before due date of filing return for the month of September or 2nd Quarter or following the end of financial year or actual date of filing Annual Return, whichever is earlier.

27A. First Return

(1) Every registered taxable person paying tax under the provisions of section 7 shall furnish the first return containing the details of:

(a) Outward supplies under section 25 from the date on which he became liable to registration till the end of the month in which the registration has been granted;

(b) Inward supplies under section 26 from the effective date of registration till the end of the month in which the registration has been granted:

Provided that a registered taxable person paying tax under the provisions of section 8 shall furnish the first return for the period starting from the date on which he becomes a registered taxable person till the end of the quarter in which the registration has been granted.

(2) Provisions of section 25, 26 and 27, other than the provision pertaining to tax period, shall apply mutatis mutandis to the said person furnishing return under sub-section (1).

28. Claim of input tax credit and provisional acceptance thereof

Every taxable person shall, subject to such conditions and restrictions as may be prescribed in this behalf, be entitled to take credit of input tax, as self-assessed, in his return and such amount shall be credited, on a provisional basis, to his electronic credit ledger to be maintained in the manner as may be prescribed:

Provided that a taxable person who has not furnished a valid return under section 27 of the Act shall not be allowed to utilize such credit till he discharges his self-assessed tax liability.

Parallel Provision in the existing Act / Rules:

Cenvat credit on inputs and Capital goods and input services is allowed as per the relevant provision of Cenvat Credit Rules 2004. Set off of input VAT is allowed in VAT as per the provision of section 48 of MVAT Act 2002

Existing Act / Rule:

Cenvat Credit Rules 2004 - Rule 1 to Rule 16
MVAT Act 2002 - Section 48

Analysis:

Input tax credit on provisional basis has been allowed. However if valid return is not furnished by a taxable person then such input tax credit shall not be allowed to be utilized till self assesed tax liability has been discharged.

29. Matching, reversal and reclaim of input tax credit

(1) The details of every inward supply furnished by a taxable person (hereinafter referred to in this section as the 'recipient') for a tax period shall, in the manner and within the time prescribed, be matched-

(a) with the corresponding details of outward supply furnished by the corresponding taxable person (hereinafter referred to in this section as the 'supplier') in his valid return for the same tax period or any preceding tax period,

(b) with the additional duty of customs paid under section 3 of the Customs Tariff Act, 1975 (51 of 1975) in respect of goods imported by him, and

(c) for duplication of claims of input tax credit.

Parallel Provision in the existing Act / Rules: Newly introduced

Analysis:

Inward Supplies furnished by the taxable person to be matched wit corresponding details of the outward supplies furnished by the supplier in his valid return and duty paid in accordance with Section 3 of the Customs Tariff Act, 1975 in respect of goods imported by him and for

duplication of claims of Input Tax Credit.

(2) The claim of input tax credit in respect of invoices and/or debit notes relating to inward supply that match with the details of corresponding outward supply or with the additional duty of customs paid shall, subject to the provisions of section 16, be finally accepted and such acceptance shall be communicated, in the manner as may be prescribed, to the recipient.

Analysis:
Such matching of invoices and debit notes relating to inward supplies and outward supplies of the supplier and import of goods will be finally accepted by the Department and such acceptance will be communicated to the recipient.

(3) Where the input tax credit claimed by a recipient in respect of an inward supply is in excess of the tax declared by the supplier for the same supply or the outward supply is not declared by the supplier in his valid returns, the discrepancy shall be communicated to both such persons in the manner as may be prescribed.

Analysis:
When there is a mismatch of inward supplies and outward supplies of the supplier, such discrepancies will be communicated to the recipient and the supplier by the Department supposed to be by email, sms, through Common Portal as mentioned in the Business Process Reports.

(4) The duplication of claims of input tax credit shall be communicated to the recipient in the manner as may be prescribed.

Analysis:
Similarly duplication of Input Tax Credit also be communicated to the recipient by the Department through the Common Portal.

(5) The amount in respect of which any discrepancy is communicated under sub-section (3) and which is not rectified by the supplier in his valid return for the month in which discrepancy is communicated shall be added to the output tax liability of the recipient, in the manner as may be prescribed, in his return for the month succeeding the month in which the discrepancy is communicated.

Analysis:
If such discrepancy so reported should be rectified within one month by the supplier,

otherwise such liability will be added into Output Tax Liability of the Recipient. Though this is in line of existing VAT returns at the time of assessment at the end of the year, the same provision is made applicable on the monthly basis, which will be detrimental for the implementation of GST.

(6) The amount claimed as input tax credit that is found to be in excess on account of duplication of claims shall be added to the output tax liability of the recipient in his return for the month in which the duplication is communicated.

Analysis:
Duplication of Input Credit will be added to the Tax Liability of the recipient for the month where discrepancy is communicated.

(7) The recipient shall be eligible to reduce, from his output tax liability, the amount added under sub-section (5) if the supplier declares the details of the invoice and/or debit note in his valid return within the time specified in sub-section (7) of section 27.

Analysis:
On declaring the details of invoice or debit notes by the suppliers in the valid return, recipient will be eligible to reduce output tax liability equivalent to the amount so declared.

(8) A recipient in whose output tax liability any amount has been added under sub- section (5) or, as the case may be, under sub-section (6), shall be liable to pay interest at the rate specified under sub-section (1) of section 36 on the amount so added from the date of availing of credit till the corresponding additions are made under the said sub-sections.

Analysis:
When input tax credit is denied and output tax liability has been added to that extent, interest at the prescribed rate will be applicable from the date of availing the credit till the corresponding additions are made in accordance with above sub-section 5.

(9) Where any reduction in output tax liability is accepted under sub-section (7), the interest paid under sub-section (8) shall be refunded to the recipient by crediting the amount in the corresponding head of his electronic cash ledger in the manner as may be prescribed:

Provided that the amount of interest to be credited in any case shall not exceed the amount of interest paid by the supplier.

Analysis:

Similarly, credit of interest will be eligible when suppliers do the correction in the valid return, input tax credit will be added along with interest so paid. Such interest will be reflected in the electronic cash ledger.

(10) The amount reduced from the output tax liability in contravention of the provisions of sub-section (7) shall be added to the output tax liability of the recipient in his return for the month in which such contravention takes place and such recipient shall be liable to pay interest on the amount so added at the rate specified in sub-section (3) of section 36.

Analysis:

Input Tax Credit wrongly claimed which has been reduced from the output tax liability of the recipient will be further added in the output tax liability of the recipient along with interest and will be reported in the returns of the supplier.

29A. Matching, reversal and reclaim of reduction in output tax liability

(1) The details of every credit note relating to outward supply furnished by a taxable person (hereinafter referred to in this section as the 'supplier') for a tax period shall, in the manner and within the time prescribed, be matched -

(a) with the corresponding reduction in the claim for input tax credit by the corresponding taxable person (hereinafter referred to in this section as the 'recipient') in his valid return for the same tax period or any subsequent tax period, and

(b) for duplication of claims for reduction in output tax liability.

(2) The claim for reduction in output tax liability by the supplier that matches with the corresponding reduction in the claim for input tax credit by the recipient shall be finally accepted and communicated, in the manner as may be prescribed, to the supplier.

(3) Where the reduction of output tax liability in respect of outward supplies exceeds the corresponding reduction in the claim for input tax credit or the corresponding credit note is not declared by the recipient in his valid returns, the discrepancy shall be communicated to both such persons in the manner as may be prescribed.

(4) The duplication of claims for reduction in output tax liability shall be communicated to the supplier in the manner as may be prescribed.

(5) The amount in respect of which any discrepancy is communicated under sub-section (3) and which is not rectified by the recipient in his valid return for the month in which

discrepancy is communicated shall be added to the output tax liability of the supplier, in the manner as may be prescribed, in his return for the month succeeding the month in which the discrepancy is communicated.

(6) The amount in respect of any reduction in output tax liability that is found to be on account of duplication of claims shall be added to the output tax liability of the supplier in his return for the month in which such duplication is communicated.

(7) The supplier shall be eligible to reduce, from his output tax liability, the amount added under sub-section (5) if the recipient declares the details of the credit note in his valid return within the time specified in sub-section (7) of section 27.

(8) A supplier in whose output tax liability any amount has been added under sub-section (5) or, as the case may be, under sub-section (6), shall be liable to pay interest at the rate specified under sub-section (1) of section 36 in respect of the amount so added from the date of such claim for reduction in the output tax liability till the corresponding additions are made under the said sub-sections.

(9) Where any reduction in output tax liability is accepted under sub-section (7), the interest paid under sub-section (8) shall be refunded to the supplier by crediting the amount in the corresponding head of his electronic cash ledger in the manner as may be prescribed:

Provided that the amount of interest to be credited in any case shall not exceed the amount of interest paid by the recipient.

(10) The amount reduced from output tax liability in contravention of the provision of sub-section (7) shall be added to the output tax liability of the supplier in his return for the month in which such contravention takes place and such supplier shall be liable to pay interest on the amount so added at the rate specified in sub-section (3) of section 36.

30. Annual return

(1) 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 in such form and in such manner as may be prescribed on or before the thirty first day of December following the end of such financial year.

Parallel Provision in the existing Act / Rules: ER-4 , VAT Audit

Existing Act / Rule:

Central Excise Rule 2002 - Rule 12

MVAT Act 2002 - Section 61

Analysis:

Annual Return to be filed on or before 31st December of the subsequent Financial Year.

(2) Every taxable person who is required to get his accounts audited under sub-section (4) of section 42 shall furnish, electronically, the annual return along with the audited copy of the annual accounts and a reconciliation statement, reconciling the value of supplies declared in the return furnished for the year with the audited annual financial statement, and such other particulars as may be prescribed.

Analysis:

Those persons who are required to get their accounts audited having the turnover as prescribed by Cost Accountant or Chartered Accountant and such Annual Return should be reconciled with the Audited Financial Statements and such other particulars (e.g. cost audit report) as may be prescribed.

31. Final return

Every registered taxable person who applies for cancellation of registration shall furnish a final return within three months of the date of cancellation or date of cancellation order, whichever is later, in such form and in such manner as may be prescribed.

Parallel Provision in the existing Act / Rules: No such provision

Analysis:

Final Return to be filed within three months from the date of cancellation or date of cancellation order.

32. Notice to return defaulters

Where a registered taxable person fails to furnish a return under section 27 or section 31, a notice shall be issued requiring him to furnish such return within such time and in such form and manner as may be prescribed.

Analysis:

If the returns are not filed within the prescribed period, then Notice will be issued.

33. Levy of late fee

(1) Any registered taxable person who fails to furnish the details of outward or inward supplies required under section 25 or section 26, as the case may be, or returns required under section 27 or section 31 by the due date shall be liable to a late fee of rupees one hundred for every day during which such failure continues subject to a maximum of rupees five thousand.

(2) Any registered taxable person who fails to furnish the return required under section 30 by the due date shall be liable to a late fee of rupees one hundred for every day during which such failure continues subject to a maximum of an amount calculated at a quarter percent of his aggregate turnover.

Parallel Provision in the existing Act / Rules:

Late fees amount has been prescribed in Excise, VAT and Service Tax for any delay in filing of respective returns

Existing Act / Rule:

Central Excise Rules 2002 - Rule 12 and 27

MVAT Act 2002 - Section 20

Service Tax Rules 1994 - Rule 7C

Analysis:

If the returns are filed late for outward supplies (on 10th of the subsequent month) or inward sppliers (on 15th of the subsequent month) and monthly return on 20th of the subsequent month, and Final Return within three months from the date of cancellation, late fees of Rs. 100/- per day or maximum upto Rs. 5,000/-.

If Annual Return is not filed before 31st December of the subsequent financial year, then late fee will be Rs. 100/- per day subject to maximum 0.25% of the aggregate turnover.

Each State where the Business is carried out will have to obtain separate registration and separate annual return to be filed, but delay will cause huge latte fees to be extend of 0.5% of aggregate turnover of irrespective of turnover in a particular state.

34. Tax Return Preparers

(1) The appropriate Government may, by rules, prescribe the manner of approval of Tax Return Preparers, their eligibility conditions, duties and obligations, manner of removal and such other conditions as may be relevant for their functioning as a Tax Return Preparer.

Existing Act / Rule: Finance Act 1994

Existing Act / Rule No: Sec 71(3(a)

Analysis:

The provision of Tax Return Preparers for assisting small tax payers and such tax return preparers will be approved in the manner prescribed by the Government including their eligibility, duties and obligation and manner of removal.

(2) A registered taxable person may, in the manner prescribed, authorise an approved Tax Return Preparer to furnish the details of outward supplies under section 25, the details of inward supplies under section 26 and the return under section 27, 30 or section 31, as the case may be, and such other tasks as may be prescribed.

Analysis:

Such Tax Return Preparers should be authorised by the Taxable Person to furnish the details of outward & inward supplies and file the return and do tax as may be prescribed.

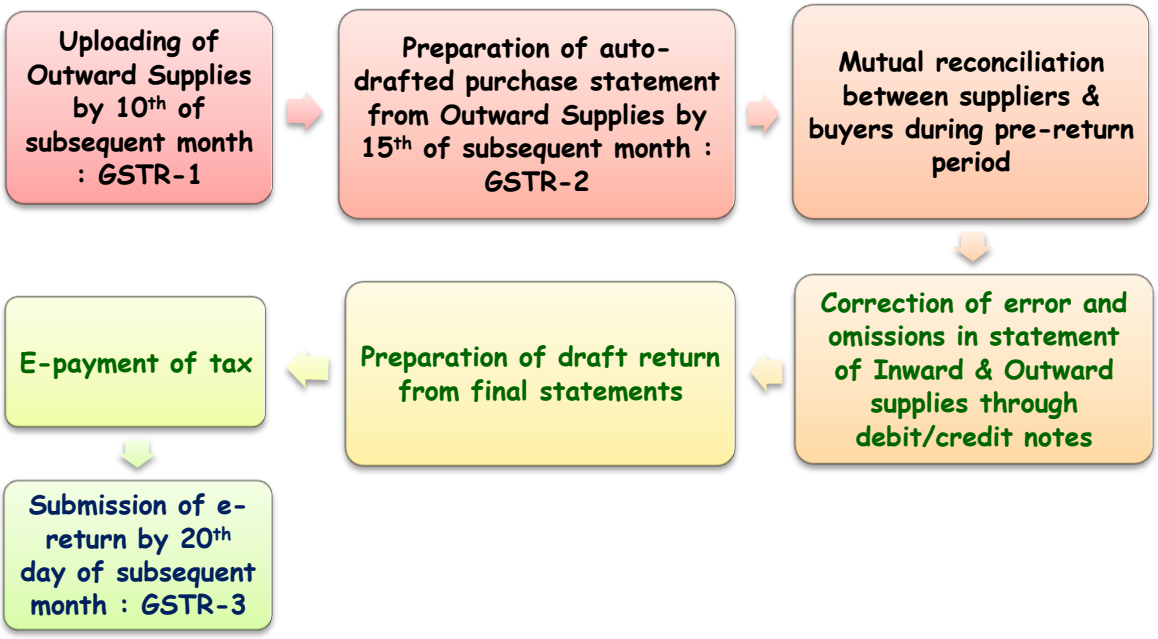
(3) Notwithstanding anything contained in sub-section (2), the responsibility for correctness of any particulars furnished in the return and/or other details filed by the Tax Return Preparer shall continue to rest with the registered taxable person on whose behalf such return and details are filed.

Analysis:

However, the responsibility of the correctness of the details so furnished will be on the tax payer only.

Returns – Detailed Analysis

❑ Process Flow of Return Filing



Return	Periodicity & due date	Applicability	Particulars to be disclosed
Return of outward supplies (Section 25)	Monthly and to be filed by 10th of the succeeding month	Taxable person other than those paying tax under Composition levy (Section 8) or those deducting tax at source (Section 37)	Details of outward supplies of goods and/or services effected during the said tax period
Return of inward supplies (Section 26)	Monthly and to be filed by 15th of the succeeding month	Taxable person other than those paying tax under Composition levy (Section 8) or those deducting tax at source (Section 37)	The details of inward supplies of taxable goods and/or services, received during the tax period
Periodic return (Section 27)	Monthly and to be filed by 20th of the succeeding month		Details 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
Periodic return: Composition Levy (Section 27)	Quarterly and to be filed by 18th of the succeeding month	Taxable person paying tax under Composition levy (Section 8)	Prescribed details
Periodic return: TDS (Section 27)	Monthly and to be filed by 10th of the succeeding month	Person deducting tax at source (Section 37)	Prescribed details
Periodic return: ISD (Section 27)	Monthly and to be filed within 13th day after the end of such month	Input service distributor	Prescribed details
Annual return (Section 30)	Annual and to be filed by 31st December of the succeeding year	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	Prescribed details
First Return (Section 27A)- outward supplies	First return	From the date on which he became liable to registration till the end of the month in which the registration has been granted	Details of outward supplies of goods and/or services effected during the said tax period
First Return (Section 27A)- inward supplies	First return	from the effective date of registration till the end of the month in which the registration has been granted	The details of inward supplies of taxable goods and/or services, received during the tax period
Final return (Section 31)	Within 3 months of the date of cancellation or date of cancellation order, whichever is later	Every registered taxable person who applies for cancellation of registration	Prescribed details

- **Annual return**

1) Annual Return for every financial year to be filed electronically in prescribed format such form and in such manner as may be prescribed on or before the thirty first day of December following the end of such financial year.

2) Statement reconciling value of supply declared in return and audited annual accounts need to be submitted.

3) Specified category of taxable person will be required to get his accounts audited by Chartered Accountant/ Cost Accountant before filing annual return.

4) Annual return is not required to be filed by following taxable person.

   - ✓ an input service distributor
   - ✓ a deductor
   - ✓ under section 37 (Tax deducted at source)
   - ✓ a casual taxable person
   - ✓ a non-resident taxable person

- **Late Fees**

  - **Late fee for filing of returns other than annual return:**

Fee Rs. 100 per day maximum upto Rs. 5000/- will be applicable for delay in submission returns (other than annual return).

  - **Late fee for filing of annual return:**

Fee Rs. 100 per day maximum up to 0.25% of aggregate turnover will be applicable for delay in submission annual return.

- **Our Comments:**

1. Nil return is to be submitted even if there are no supplies of goods & services during any tax period.

2. No submission of returns till filing of earlier returns pertaining to earlier period. (System checks are required).

3. A taxable person who has not furnished a valid return the Act shall not be allowed to utilize such credit till he discharges his self-assessed tax liability.

4. 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 the actual date of filing of relevant annual return, whichever is earlier

5. Due date of payment will be the same as mentioned above at par with period prescribed for filing the returns

6. No credit to buyer if full tax is not paid.

7. No provision for submission of revised return

8. Time limit for matching of credit / output tax credit will be prescribed.

- **Matching, reversal and reclaim of ITC**

1) Inward supplies shall be matched with:

   - with the corresponding details of outward supply furnished by the corresponding taxable person
   - with the additional duty of customs in respect of imported goods
   - for duplication of claims of input tax credit.

2) The amount in respect of which any discrepancy is not rectified by the supplier in his valid return for the month in which discrepancy is communicated, such amount shall be added to the output tax liability of the recipient, in his return for the month succeeding the month in which the discrepancy is communicated. Interest will also be applicable on such output tax liability.

3) When the supplier declares the details of the invoice and/or debit note in his valid return, the output tax liability of recipient will be reduced to that extent and interest will be credited to the electronic cash ledger.

4) The excess input tax credit claimed on account of duplication of claims shall be added to the output tax liability of the recipient along with interest in his return for the month in which the duplication is communicated.

- **Matching, reversal and reclaim of reduction in Output tax liability**

1) The claim for reduction in output tax liability by the supplier shall be matched with the corresponding reduction in the claim for input tax credit by the recipient

2) In case the reduction of output tax liability in respect of outward supplies exceeds the corresponding reduction in the claim for input tax credit or the corresponding credit note is

not declared by the recipient in his valid returns, the discrepancy shall be communicated to both supplier and recipient.

3) The duplication of claims for reduction in output tax liability shall be communicated to the supplier and it shall be added to the output tax liability of the supplier in his return for the month in which such duplication is communicated.

4) If the discrepancies are not rectified by the recipient in his valid return for the month in which discrepancy is communicated, the same along with interest shall be added to the output tax liability of the supplier

5) The supplier shall be eligible to reduce such amount, from his output tax liability, if the supplier declares the details of the invoice and/or debit note in his valid return on or before September subsequent to financial year. The interest paid earlier shall be credited to the electronic cash ledger.

6) Both supplier and recipient will have to report credit note, otherwise tax liability will not be reduced.

GST – PROPOSED RETURN PROCESS

PRESENTATION PLAN….

- Basic Features
- Periodicity of Return Filing
- Contents of GSTR-1 Return
- Contents of GSTR-2 Return
- Contents of GSTR-3 Return
- Contents of Compounding Taxpayer Return (GSTR-4)
- Contents of Foreign Non-Resident Return (GSTR-5)
- Contents of ISD Return (GSTR-6)
- Contents of TDS Return (GSTR-7)
- Contents of Annual Return (GSTR-8)

….PRESENTATION PLAN

- HSN Codes & SAC
- Typical Invoice Details
- Invoice matching & Credit reversal
- Filing of return
- Revision

BASIC FEATURES….

- Self-assessment of tax liability by the taxpayer
- Common e-Return for CGST, SGST, IGST & Additional Tax
- Separate returns for different categories of taxpayers
  - Normal/Regular & Casual Taxpayer (GSTR-1, 2 ,3 & 8)
  - Compounding Taxpayer (GSTR- 4 & 8)
  - Foreign Non-Resident Taxpayer (GSTR-5)
  - Input Service Distributor (GSTR- 6)
  - Tax Deductor (GSTR-7)
- Returns by a normal / casual taxpayer to be filed in sequential manner with different cut-off dates to allow auto-population of return & automated matching of invoices

….BASIC FEATURES

- Payment of due tax is must for filing valid return
  - Returns can be submitted with short payment but shall be treated as invalid – not taken into account for invoice matching & inter-Government fund settlement
- Provision for filing revised information
  - Differential Tax liability to be captured through Debit Note / Credit Note/ Supplementary invoices / correction mechanism
- Maintenance of electronic Cash Ledger
- Maintenance of electronic ITC Ledger
- Maintenance of electronic Tax liability Ledger

PERIODICITY OF RETURN FILING….

- Normal/Regular taxpayers – monthly return
  - 10th day of succeeding month: last date for uploading supply invoice details – GSTR -1
  - 15th day of succeeding month: last date for auto-population & uploading purchase details – GSTR-2
  - 17th day of succeeding month: last date for finalizing supply & purchase details
  - 20th day of succeeding month: last date for filing GSTR-3
- Compounding taxpayers to file quarterly return: by 18th day of succeeding month of the Quarter – GSTR-4
- Foreign Non-resident Taxpayers to file monthly return: within 7 days after expiry of registration - GSTR-5

….PERIODICITY OF RETURN FILING….

- Input Service Distributors (ISD) taxpayers to file monthly return: by 15th day of succeeding month – GSTR-6
- Tax Deductors to file monthly TDS return: by 10th of succeeding month – GSTR- 7
- Casual taxpayers to file same return as for normal taxpayer but with monthly periodicity and / or linked to validity period of registration
- UN agencies to file return for the month in which they make purchases – to claim refunds

….PERIODICITY OF RETURN FILING

- Annual Return (GSTR-8)
  - All Regular and Compounding taxpayers to file Annual Return
  - Last date – 31st December following the end of the financial year
  - Simpler Annual Return for Compounding taxpayers & those taxpayers who are not required to get their accounts audited
  - Annual Return to be accompanied with a statement showing reconciliation of information as per Returns with information as per annual audited accounts
    - ✓ Reconciliation statement to be filed by taxpayers who are required to get accounts audited under Section 44AB of the Income Tax Act, 1961

CONTENTS OF GSTR-1 RETURN….

- Taxpayer details
- Return period details
- Invoice level specified details
  - All B2B supplies
    - ✓ Line-item level data in case multiple tax rate or HSN / Service Accounting Code in one invoice
  - Inter-State B2C supplies
    - ✓ only if Taxable Value per invoice is ≥ INR 250000/-

….CONTENTS OF GSTR-1 RETURN….

- Aggregate State-wise summary
  - All other B2C inter-State taxable supplies having address on record
    - ✓ Every invoice having Taxable Value of ≥ INR 50,000/- to mandatorily have address of buyer
- Aggregate summary
  - All B2C intra-State taxable supplies
  - All exempted, nil rated & non-GST supplies (intra-State & inter-State AND B2B & B2C)

…..CONTENTS OF GSTR–1 RETURN

- Export & deemed Export
  - Invoice level details along with shipping bill details
    - ✓ with payment of GST
    - ✓ without payment of GST
- Debit Notes / Credit Notes: Details of debit note, credit note & changes in supply information for earlier tax periods with consequential increase/decrease in tax liability
- Details of tax liability on receipt of advance
- Details of subsequent issuance of invoices issued w.r.t. advance receipt

CONTENTS OF GSTR-2 RETURN….

- Taxpayer details
- Return period details
- Invoice level inward supply details received from registered taxpayer
  - To be auto-populated from GSTR-1 of counterparty supplier
  - Recipient to have option to add receipts not declared by counterparty supplier – if in possession of taxable invoice & have received supply of goods / services
- Bill of entry details of import of goods
- Invoice level details of import of services

….CONTENTS OF GSTR-2 RETURN

- Debit Notes / Credit Notes: Details of debit note, credit note and changes in inward supply information for earlier tax periods with consequential increase/decrease in ITC
- Option to declare eligibility for ITC
- Aggregate summary of receipts of exempted, nil rated, non-GST supplies & supplies received from unregistered person
- Details of ITC received from ISD
- Details of cash credit received on account of TDS

CONTENTS OF GSTR-3 RETURN….

- Taxpayer details
- Return period details
- To be auto-populated from GSTR-1 & GSTR-2
- Aggregate values of all B2B outward supplies
- Aggregate value of all B2C outward supplies
- Aggregate value of all exports including deemed exports
- Aggregate value of all inward supplies
- Aggregate value of all imports
- Information about adjustments for earlier periods
- Details of cash credit received on account of TDS
- Details of all liabilities (Tax, interest, penalty, late fee, etc.)

….CONTENTS OF GSTR-3 RETURN

- Details of ITC availed, ITC utilized, credit reversible on account of invoice mismatch and other adjustment
- Details of gross & net tax liability
- Details of payment of tax and other statutory liabilities
- Provision for capturing Debit Entry No. of Cash & ITC Ledger
- A field for return based refund & Bank Account Number

CONTENTS OF COMPOUNDING TAXPAYER RETURN (GSTR-4)….

- Taxpayer details
- Return period details
- Inward supply details
  - Auto-populated from GSTR-1 of counter-party supplier
  - Option to add receipts not uploaded by counter-party supplier
  - Receipts from unregistered dealers to be added
  - Includes supply attracting tax payment on reverse charge basis
- Details of import of goods and services
- Details of outward supply: intra-state, exports & non-GST

…..CONTENTS OF COMPOUNDING TAXPAYER RETURN (GSTR-4)

- Details of all liabilities (Tax, interest, penalty, late fee, etc.)
- Details of payment of tax and other statutory liabilities
- Provision for capturing Debit Entry No. of Cash ledger
- Information on possibility of crossing composition limit before date of next return

CONTENTS OF FOREIGN NON-RESIDENT RETURN (GSTR-5)

- Taxpayer details
- Return period details
- Details of imported goods: HSN details at 8 digit level
- Details of outward supplies
- Details of ITC availed
- Details of tax payable
- Details of tax paid
- Closing stock of goods

CONTENTS OF ISD RETURN (GSTR-6)….

- Taxpayer details
- Return period details
- Details of ITC
  - Auto-populated from GSTR-1 of counter-party supplier
  - Option to add receipts not declared by counterparty supplier – if in possession of taxable invoice & have received supply of goods or services
  - Includes supplies attracting reverse charge
  - Information about ITC available in the month for distribution

….. CONTENTS OF ISD RETURN (GSTR–6)

- Details of credit of CGST, SGST & IGST distributed
- Details of ISD ledger
  - Opening and closing balance of ITC
  - ITC received, reversed and distributed

CONTENTS OF TDS RETURN (GSTR–7)

- Taxpayer's details
- Return period details
- Details of Tax deducted
  - GSTIN of supplier
  - Invoice details
  - Payment details
  - Amount of TDS on account of CGST, SGST & IGST
- Details of payments of any other amount

CONTENTS OF ANNUAL RETURN (GSTR-8)

- Taxpayers Details
- Details of all expenditure
- Details of all income
- Details of all other tax liability
- Other Reconciliation Statement

HSN Codes & SAC

- HSN Code for goods – in invoice level details
  - 4-digit HSN Code mandatory for taxpayers having turnover above Rs. 5 Crore in preceding FY
  - 2-digit HSN Code for taxpayers wit turnover between Rs. 1.5 Crore & Rs. 5 Crore in preceding FY – optional in 1st Year and mandatory from 2nd Year
  - 8-digit level mandatory for exports & imports
- Accounting Codes for services – in invoice level details
  - Mandatory for those services for which Place of Supply Rules are dependent on nature of services
  - Mandatory for exports & imports
- Service Accounting Code to be prefixed with 's' for differentiating from HSN

Typical Invoice Details

- Buyer's GSTIN / Departmental ID / Address
- Invoice Number & Date
- HSN Code/Accounting Code
  - for each line item of an invoice in case of multiple codes in an invoice
- Taxable Value
- Invoice Value
- Tax Rate
- Tax Amount (CGST & SGST or IGST & / or Additional Tax)
- Place of Delivery/Place of Supply
  - only if different than the location of buyer

Invoice Matching & Credit Reversal

- B2B supply information given by the supplying taxpayer in GSTR-1 will be auto-populated into GSTR-2 of the counter-party purchaser
- Purchasing taxpayers will be allowed to add invoice details in GSTR-2 & avail credit if he is in possession of valid invoice & have received supply of goods or services
- Counterparty registered taxpayers shall have a 2-day window to reconcile invoice information among themselves prior to filing of GSTR-3
- Credit availed on unmatched invoices shall be auto-reversed in the next to next return period (e.g. mismatched ITC for April to be auto-reversed in return for June)

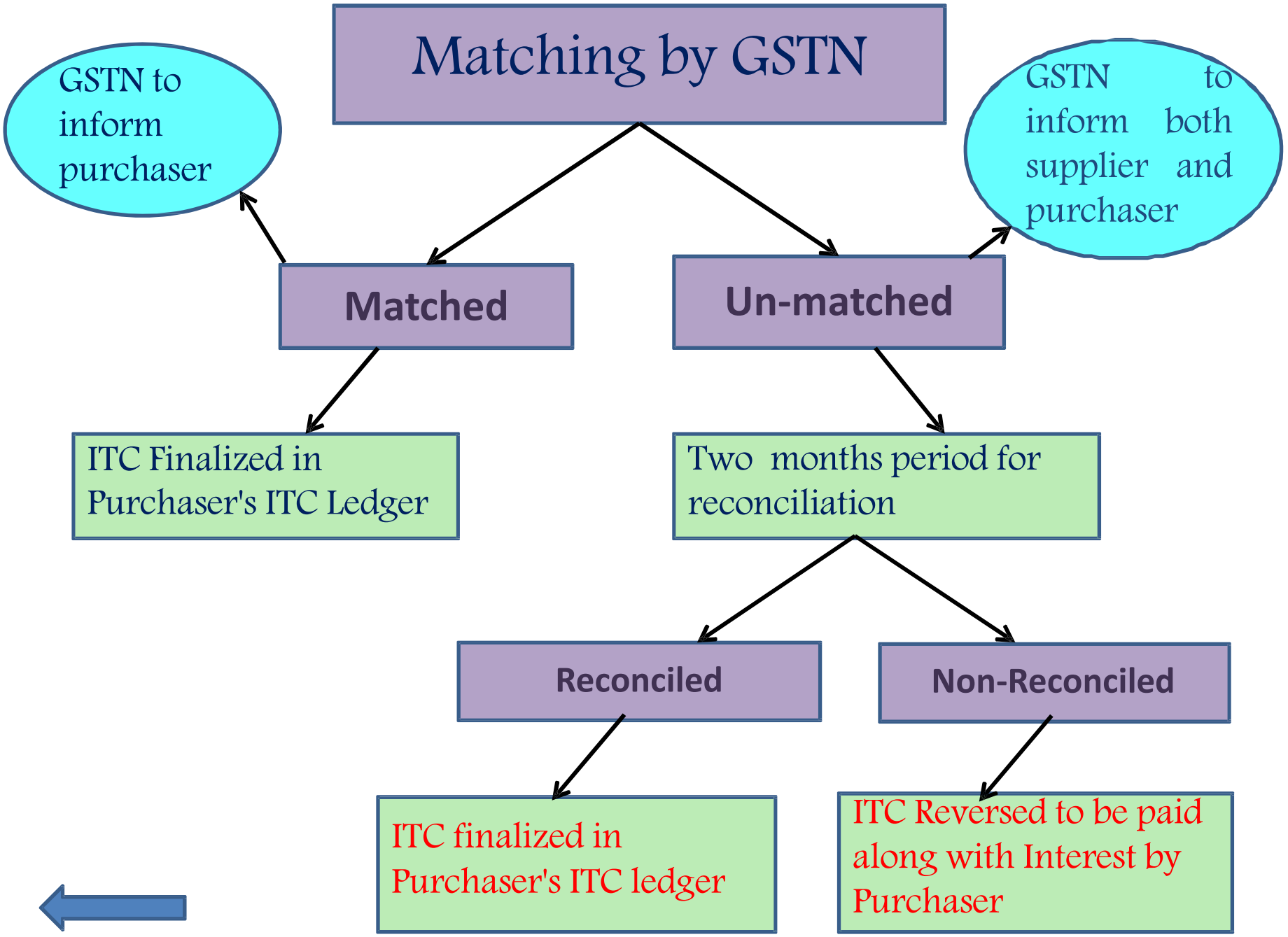
FILING OF RETURN

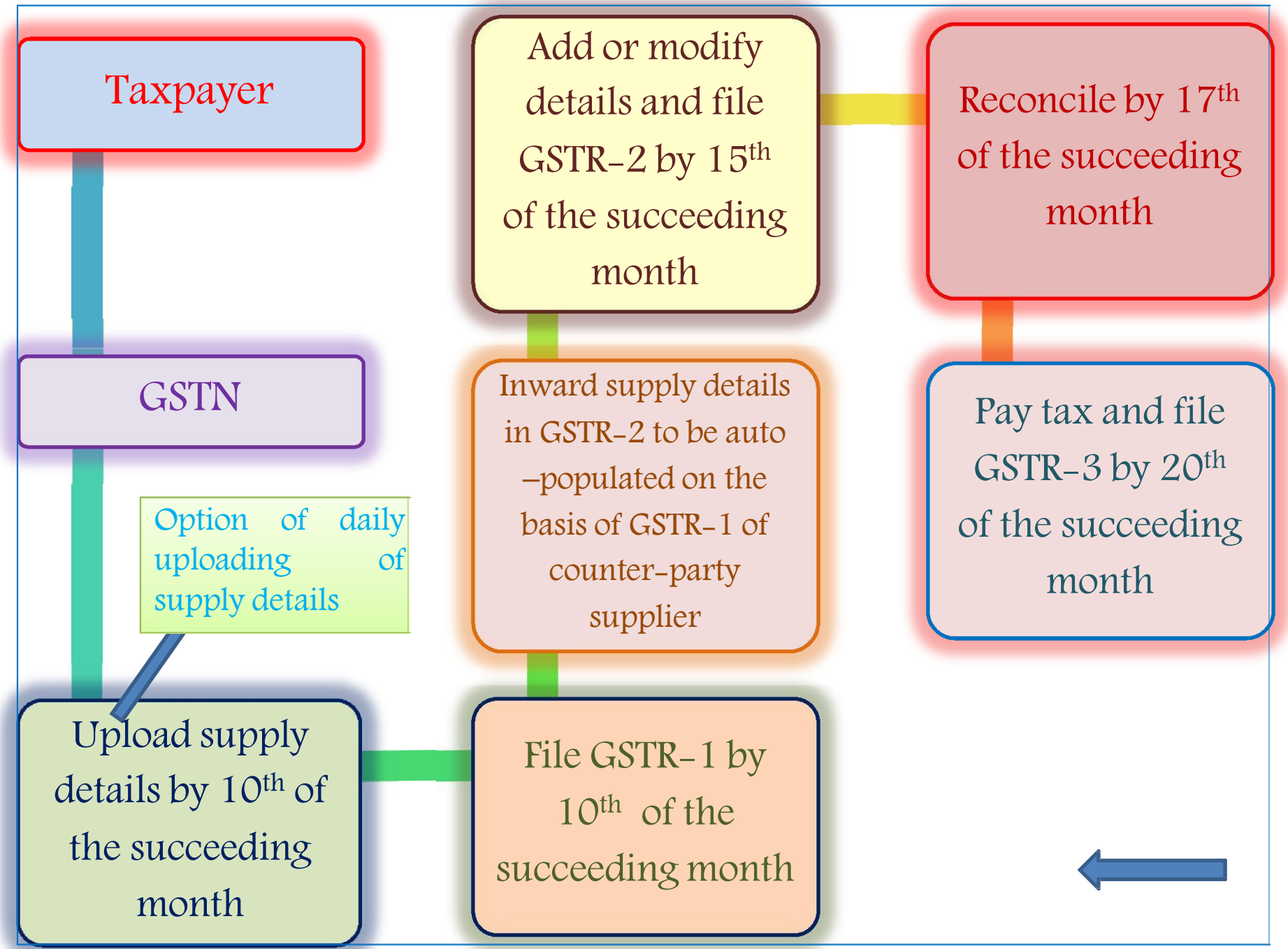
- To be filed by taxpayer at GST Common Portal either:
  - by himself logging on to the GST System using his own user ID & password; or
  - through his authorized representative using the user Id & password (allotted to the authorized representative by the tax authorities), as chosen at the time of registration, logging on to the GST System
- Filing may be done through TRPs / FCs also
- Filing may be done either directly or by using Applications developed by accounting companies / IT companies which will interact with GST System using APIs
- Steps for filing Return

REVISION

- Revision of information permitted
- Changes in Tax liability / ITC amount to be handled through
  - Debit- Credit Notes
  - Revision of supply invoices
  - Post sales discount
  - Volume discount
  - Amendments / Corrections

Thank You...


Matching by GSTN
GSTN to inform purchaser
GSTN to inform both supplier and purchaser
Matched
Un-matched
ITC Finalized in Purchaser's ITC Ledger
Two months period for reconciliation
Reconciled
Non-Reconciled
ITC finalized in Purchaser's ITC ledger
ITC Reversed to be paid along with Interest by Purchaser


Taxpayer
GSTN
Option of daily uploading of supply details
Upload supply details by 10th of the succeeding month
File GSTR-1 by 10th of the succeeding month
Inward supply details in GSTR-2 to be auto –populated on the basis of GSTR-1 of counter-party supplier
Add or modify details and file GSTR-2 by 15th of the succeeding month
Reconcile by 17th of the succeeding month
Pay tax and file GSTR-3 by 20th of the succeeding month

REPORT

OF

THE JOINT COMMITTEE ON BUSINESS PROCESS FOR GST

ON

GST RETURN

Empowered Committee of State Finance Ministers

New Delhi

October, 2015

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ANNEXURE–II

GSTR–1

OUTWARD SUPPLIES MADE BY THE TAXPAYER

[To be furnished by the 10th of the month]

[Not to be furnished by compounding taxpayer/ISD]

1. GSTIN: ……..
2. Name of the taxpayer: ……..
   (S. No. 1 and 2 will be auto-populated on logging)
3. Gross Turnover of the taxpayer in the previous FY……..
   (To be submitted only in first year. To be auto populated in subsequent year)
4. Period: Month……. Year ……

5. Taxable outward supplies to a registered person

(figures in Rs)

GSTIN/ UIN	Invoice					IGST		CGST		SGST		Addl Tax#		POS (only if different from the location of recipient)	Indicate if supply attracts reverse charge $
	No.	Date	Value	HSN/ SAC*	Taxable value	Rate	Amt	Rate	Amt	Rate	Amt	Rate	Amt		
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)

* As per Para 3.1 (4) (iii) of the return report

\# Not applicable to services and intra-state & specified inter-state supplies of goods

$ To be filled only if a supply attracts reverse charge

Notes:

1. SAC to be different from HSN (may be prefix 'S')
2. Taxpayer has the option to furnish the details of nil rate and exempted supplies in this Table
3. In case of inter-state supplies, only IGST & Additional Tax (if applicable) would be filled
4. In case of intra-state supplies, CGST & SGST would be filled.

6. Taxable outward supplies to a consumer where place of supply is other than the State where supplier is located (Inter-state supplies) and Invoice value is more than Rs 2.5 lakh (optional in respect of other supplies)

(figures in Rs)

Recpient's State code	Name of the recipient/ GDI	Invoice					IGST		Addl Tax#		POS (only if different from the location of recipient)
		No.	Date	Value	HSN/ SAC*	Taxable value	Rate	Amt	Rate	Amt	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)

* As per Para 3.1 (4) (iii) of the return report

\# Not applicable to services and intra-state & specified inter-state supplies of goods

Notes:

1. SAC to be different from HSN (may be prefix 'S')
2. Taxpayer has the option to furnish the details of nil rate and exempted supplies in this Table

7. Taxable outward supplies to consumer (Other than 6 above)

(figures in Rs)

HSN/ SAC*	State code (Place of supply)	Aggregate Taxable Value	IGST		CGST		SGST		Addl Tax#	
			Rate	Amt	Rate	Amt	Rate	Amt	Rate	Amt
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)

* As per Para 3.1 (4) (iii) of the return report

\# Not applicable to services and intra-state & specified inter-state supplies of goods

Notes:

1. SAC to be different from HSN (may be prefix 'S')
2. Taxpayer has the option to furnish the details of nil rate and exempted supplies in this Table

8. Details of Credit/Debit Notes

(figures in Rs)

Debit Note/credit note		Original Invoice		Differential Value (Plus or Minus)	Differential Tax							
No.	Date	No.	Date		IGST		CGST		SGST		Addl Tax#	
					Rate	Amt	Rate	Amt	Rate	Amt	Rate	Amt
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
Debit Note												
Credit Note												

\# Not applicable to services and intra-state & specified inter-state supplies of goods

Note: Information about Credit Note / Debit Note to be submitted only if issued as a supplier.

9. Amendments to details of Outward Supplies of earlier tax periods (including post supply discounts)

(figures in Rs)

Original Invoice		GSTIN/ UIN	Revised Invoice				IGST		CGST		SGST		Addl Tax#		POS(only if different from the location of recipient
No.	Date		No.	Date	HSN/ SAC	Taxable Value	Rate	Amt	Rate	Amt	Rate	Amt	Rate	Amt	
(1)	(2)	(3)	(4)	(5)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)

Not applicable to services and intra-state & specified inter-state supplies of goods

10. Nil rated, Exempted and Non GST outward supplies•

(figures in Rs)

	Nil Rated (Amount)	Exempted (Amount)	Non GST supplies (Amount)
(1)	(2)	(3)	(4)
Interstate supplies to registered person			
Intrastate supplies to registered person			
Interstate supplies to consumer			
Intrastate supplies to consumer			

- If the details of "nil"" rated and "exempt" supplies have been provided in Table 5,6 and 7, then info in column (3) may only be furnished.

11. Supplies Exported (including deemed exports)

(figures in Rs)

	Invoice					Shipping bill/ bill of export		IGST		CGST		SGST	
	No.	Date	Value	HSN/ SAC*	Taxable value	No	Date	Rate	Amt	Rate	Amt	Rate	Amt
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
Without payment of GST													
With payment of GST													

* As per Para 3.1 (4) (iii) of the return report

12. Tax liability of amount received in advance against a supply to be made in future

(figures in Rs)

GSTIN/UID/GDI/ Name of customer	State Code	HSN/SAC* of supply to be made	Amount of advance received without raising a bill	TAX							
				IGST		CGST		SGST		Addl Tax#	
				Rate	Tax	Rate	Tax	Rate	Tax	Rate	Tax
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)

* As per Para 3.1 (4) (iii) of the return report

\# Not applicable to services and intra-state & specified inter-state supplies of goods

Note: A transaction id would be generated by system for each transaction on which tax is paid in advance

13. Tax already paid (on advance receipt) on invoices issued in the current period

(figures in Rs)

Invoice No.	Transaction id (A number assigned by the system when tax was paid)	TAX Paid on receipt of advance							
		IGST		CGST		SGST		Addl Tax#	
		Rate	Tax	Rate	Tax	Rate	Tax	Rate	Tax
(1)	(2)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)

\# Not applicable to services and intra-state & specified inter-state supplies of goods

Note: Tax liability in respect of invoices issued in this period shall be net of tax already paid on advance receipt.

Usual Declaration **(Signatures of Authorized Person)**

INSTRUCTIONS for furnishing the information

1. Terms used:

   GSTIN: Goods and Services Taxpayer Identification Number

   UID: Unique Identity Number for embassies

   HSN: Harmonized System of Nomenclature for goods

   SAC: Service Accounting Code

   GDI: Government department unique ID where department does not have GSTIN

   POS: Place of supply of goods or services – State Code to be mentioned

ANNEXURE-III

GSTR-2

[To be furnished by the 15th of the month]

[Not to be furnished by compounding taxpayer /ISD]

Note:

1. Auto-population would be done, on the basis of GSTR1 of counter-party supplier, on or after 11th of succeeding month.
2. Addition of invoices / debit note / credit note, not submitted by counter-party supplier, would be permitted between 12th to 15th of succeeding month.
3. Adjustments would be permitted on 16th and 17th of succeeding month.
4. Further the other details that are not auto-populated, i.e. import of services, eligibility of ITC and quantum thereof and purchases from unregistered taxpayer shall be furnished.

INWARD SUPPLIES/PURCHASES RECEIVED

1. GSTIN…….. …
2. Name of taxpayer……
   (S. No. 1 and 2 will be auto-populated on logging)
3. Period : Month…… Year ……

4. From Registered taxpayers

(figures in Rs)

GSTIN of supplier	Invoice					IGST		CGST		SGST		Addl. Tax#		Eligibility of ITC (select from drop down)	Total Tax available as ITC	ITC available this month
	No.	Date	Value	HSN/ SAC*	Taxable value	Rate	Amt	Rate	Amt	Rate	Amt	Rate	Amt			
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)
Other than supplies attracting reverse charge																
Auto populated														Input		
														Capital goods		
														None		
Not auto populated (Claimed)														Same as above		
Supplies attracting reverse charge																
Auto populated														Same as above		
Others																

Shall be auto populated from counterparty GSTR1

Shall be auto populated from own GSTR1

* As per Para 3.1 (4) (iii) of the return report

Not applicable to services and intra-state & specified inter-state supplies of goods

Note: If the supply is received in more than one lot, the invoice information should be reported in the return period in which the last lot is received and recorded in the books of accounts.

5. Goods /Capital goods received from Overseas (Import of goods)

(figures in Rs)

Bill of entry					IGST		Eligibility for ITC (select from drop down)	Total IGST available as ITC	ITC available this month
No.	Date	Value	HSN/ SAC*	Taxable value	Rate	Amt			
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
							Input		
							Capital Goods		
							None		

* As per Para 3.1 (4) (iii) of the return report

6. Services received from a supplier located outside India (Import of services)

(figures in Rs)

Invoice					IGST		ITC Admissibility	
No	Date	Value	SAC	Taxable value	Rate	Amt	Total ITC admissible	ITC admissible this month
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

7. Details of Credit/Debit Notes

(figures in Rs)

Debit Note/ credit note		Original Invoice		Differential Value (Plus or Minus)	Differential Tax								Eligibility for ITC (select from drop down as in Table 5 above)	Total IGST available as ITC	ITC available this month
No.	Date	No.	Date		IGST		CGST		SGST		Addl Tax#				
					Rate	Amt	Rate	Amt	Rate	Amt	Rate	Amt			
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)
Debit	Note	Received													
Credit	Note	Received													

Column No. 1 to 13 shall be auto populated from

		Column No. 1 to 13 shall be auto populated from												

Not applicable to services and intra-state & specified inter-state supplies of goods

8. Amendments to details of inward supplies received in earlier tax periods (including post purchase discounts received)

(figures in Rs)

Original Invoice		GSTIN/ UIN	Revised Invoice				IGST		CGST		SGST		Addl Tax #		Eligibility for ITC (select from drop down as in Table 5 above)	Total IGST available as ITC	ITC available this month
No.	Date		No.	Date	HSN/ SAC	Taxable Value	Rate	Amt	Rate	Amt	Rate	Amt	Rate	Amt			
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)
				Shall be auto populated from counterparty GSTR1													

Not applicable to services and intra-state & specified inter-state supplies of goods

9. Supplies received from compounding /unregistered dealer & other exempt/nil/non GST supplies

(figures in Rs)

	HSN Code/ SAC code	Value of supplies received from				
		Compounding Dealer	Unregistered dealer	Any exempt supply not included in Table 4 above	Any nil rated supply not included in Table 4 above	Non GST Supply
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Interstate supplies						
Intrastate suppies						

10. ISD credit received

(figures in Rs)

GSTIN_ISD	Invoice/Document details		ISD Credit		
	No	Date	IGST	CGST	SGST
(1)	(2)	(3)	(4)	(5)	(6)
	Shall be auto populated from counterparty IDS return				

11. TDS Credit received

(figures in Rs)

GSTIN/ GDI/of TDS deductor	TDS Certificate		TDS					
			IGST		CGST		SGST	
	No	Date	Rate	Tax	Rate	Tax	Rate	Tax
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(3)
	Shall be auto populated from counterparty TDS return							

12. ITC Received on an invoice on which partial credit availed earlier

(figures in Rs)

Original invoice/ doc.		ITC availed					
		IGST		CGST		SGST	
No	Date	Earlier	This month	Earlier	This month	Earlier	This month
(2)	(3)	(4)	(5)	(6)	(7)	(8)	(3)
	ITC taken earlier shall be auto populated upon choosing the invoice number						

Usual declaration

Signature of Authorized Person

ANNEXURE–IV

GSTR–3

GST RETURN

[To be furnished by the 20th of the month]

[Other than compounding taxpayer / ISD]

TAXPAYER DETAILS

1. GSTIN ……..

2. Name of Taxpayer…….

3. Address

[S. Nos. 1, 2 and 3 shall be auto populated on logging]

4. Period Month…… Year……..

5. TURNOVER DETAILS

(figures in Rs)

A.	Gross Turnover	
B.	Export Turnover	
C.	Exempted Domestic Turnover	
D.	Nil rated Domestic Turnover	
E.	Non GST Turnover	
F.	Net Taxable Turnover	

6.Outward Supplies

6.1 Inter-state supplies to Registered taxpayers (Auto populated from GSTR–1)

(figures in Rs)

State Code	Rate of Tax (Rate wise-Including Nil, exempt and Non GST)	Value	IGST	Additional Tax
(1)	(2)	(3)	(4)	(5)
Goods				
Services				

Note: To be auto-populated from Table 5 plus Table 8 plus Table 10 of GSTR–1

6.2 Intra-State Supplies to Registered taxpayers (Auto populated from GSTR–1)

(figures in Rs)

Rate of Tax (Rate wise-Including Nil, exempt and Non GST)	Value	CGST	SGST
(1)	(2)	(3)	(4)
Goods			
Services			

Note: To be auto-populated from Table 5 plus Table 8 plus Table 10 of GSTR-1

6.3 Inter-State Supplies to Consumers (Auto populated from GSTR-1)

(including unregistered Government Departments / persons dealing in exempted / NIL rated/ non GST goods or services)

(figures in Rs)

State Code	Rate of Tax (Rate wise-Including Nil, exempt and Non GST)	Value	IGST	Additional Tax
(1)	(2)	(3)	(4)	(5)
Goods				
Services				

Note: To be auto-populated from Table 6 plus Table 7 plus Table 8 plus Table 10 of GSTR-1

6.4 Intra-State Supplies to Consumers (Auto populated from GSTR-1)

(figures in Rs)

Rate of Tax (Rate wise-Including Nil, exempt and Non GST)	Value	CGST	SGST
(1)	(2)	(3)	(4)
Goods			
Services			

Note: To be auto-populated from Table 7 plus Table 8 plus Table 10 of GSTR-1

6.5 Exports (including deemed exports) (Auto populated from GSTR-1)

(figures in Rs)

Description	Taxable Value	IGST	CGST	SGST
(1)	(2)	(3)	(4)	(5)
Goods				
Without payment of GST				

With Payment of GST				
Services				
Without payment of GST				
With Payment of GST				

Note: To be auto-populated from Table 11 of GSTR-1

6.6 Revision of supply invoices pertaining to previous tax period (including post sales discounts or any clerical/other errors)

[Auto populated from GSTR1]

(figures in Rs)

Invoice No	Invoice Date	Differential Value (Plus or Minus)	IGST	CGST	SGST	Additional Tax
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Goods						
Services						

Note: To be auto-populated from Table 9 of GSTR-1

6.7 Total tax liability on outward supplies

(Auto Populated from the Tables above)

(figures in Rs)

Value	IGST	CGST	SGST	Additional Tax
(1)	(2)	(3)	(4)	(5)
Goods				
Services				

Note: To be auto-populated from Tables 6.1 to 6.6 above of this Return

7. Inward supplies

7.1 Inter-State supplies received

(Auto-populated from GSTR2)

(figures in Rs)

State Code	Rate of Tax (Rate wise-Including Nil, exempt and non-GST)	Value	IGST	ITC of IGST available in the current month	Addl Tax
(1)	(2)	(3)	(4)	(5)	(6)

Goods_Inputs					
Capital goods					
Services					

Note: To be auto-populated from Table 4 plus Table 7 plus Table 9 of GSTR-2

7.2 Intra-State supplies received (Auto populated from GSTR -2)

(figures in Rs)

Rate of Tax (Rate wise-Including Nil, exempt, compounding dealer and non-GST)	Value	CGST	SGST	ITC-CGST available in current month	ITC-SGST available in current month
(1)	(2)	(3)	(4)	(5)	(6)
Goods_ Inputs					
Capital Goods					
Services					

Note: To be auto-populated from Table 4 plus Table 7 plus Table 9 of GSTR-2

7.3 Imports (Auto populated from GSTR -2)

(figures in Rs)

	Assessable Value	IGST	ITC- IGST available in current month
(1)	(2)	(3)	(4)
Goods_ inputs			
Capital goods			
Services			

Note: To be auto-populated from Table 5 plus Table 6 of GSTR-2

7.4 Revision of purchase invoices pertaining to previous tax period (including post sales discounts received or any clerical / other errors (Auto populated from GSTR-2)

(figures in Rs)

Differential Value (+/-)	CGST	SGST	IGST	Additional Tax
(1)	(2)	(3)	(4)	(5)
Goods_ Inputs				

Capital goods				
Services				

Note: To be auto-populated from Table 8 of GSTR-2

7.5 Total Tax liability on inward supplies on reverse charge

(figures in Rs)

Value	CGST	SGST	IGST	Additional Tax
(1)	(2)	(3)	(4)	(5)
Goods				
Services				

Note: To be auto-populated from Table 6 of GSTR-2

8 Total Tax liability for the month (Table 6.7 plus Table 7.5 of this Return)

(figures in Rs)

Value	CGST	SGST	IGST	Additional Tax
(1)	(2)	(3)	(4)	(5)
Goods				
Services				

9. TDS credit received during the month (Auto-populated from GSTR-2)

(figures in Rs)

GSTIN/ GDI/of TDS deductor	TDS Certificate		IGST		CGST		SGST	
	No	Date	Rate	Tax	Rate	Tax	Rate	Tax
(1)	(3)		(4)	(5)	(6)	(7)	(8)	(9)

Note: To be auto-populated from Table 11 of GSTR-2

10. ITC received during the month (auto populated from ITC Ledger)

(figures in Rs)

IGST		CGST		SGST	
Rate	Tax	Rate	Tax	Rate	Tax
(2)	(3)	(4)	(5)	(6)	(7)

11. Tax, fine and penalty paid (auto-populated from cash and ITC ledger)

(figures in Rs)

S. No.	Description	IGST	CGST	SGST	Addl Tax
(1)	(2)	(3)	(4)	(5)	(6)
1.	ITC Reversal paid (On account of adjustment)				
2.	ITC Reversal paid (On account of mismatch)				
3.	Interest				
4.	Tax for previous Tax periods				
5.	Tax for Current Tax period				
6.	Late fee				
7.	Penalty				
	Debit Nos. in Ledger				
1.	In Cash Ledger				
2.	In ITC ledger				

12. Refunds claim of excess ITC in specified cases and excess tax paid earlier

	CGST	SGST	IGST
(1)	(2)	(3)	(4)
Refund of ITC accumulation claimed in specified cases			
Refund of excess amount of tax paid earlier			
Refund from cash ledger			
Bank Account Number*			

*This should be one of the bank accounts mentioned in the GSTIN

Usual declaration

Signatures of Authorized Person

TAX Liability Ledger (Auto populated in real time)

(figures in Rs)

	CGST	SGST	IGST	Addl Tax	Total
(1)	(2)	(3)	(4)	(5)	(6)
Opening Tax Liability					
Tax liability arising out of return					
Tax liability on account of mismatch of					
Other tax liability					
TDS Liability					
Penalty					
Fees					
Interest					
Less : Tax paid (cash plus ITC)					
Closing balance					

The heads for tax, TDS and other liability shall be shown as drop down items for facilitation

CASH LEDGER (updated on real time)

(figures in Rs)

	CGST	SGST	IGST	Addl Tax	Total
(1)	(2)	(3)	(4)	(5)	(6)
Opening Balance					
Amount deposited [Auto populated from CIN]					
CIN ……					
CIN ……					
Amount of TDS Credit [Auto populated from TDS Return of counterparty deductor]					
Amount utilized for payment of tax					
Outstanding liability from earlier period					
For this tax period					
Any other liability paid (indicate reference from Tax liability register)					
Amount utilised for payment of interest/penalty and other amount paid					
Interest paid on delay in payment of tax					
Fees paid for late filing of return					
Others penalties paid					
Other amount paid (selection)					
Refund from cash ledger					
Closing balance					

ITC LEDGER (updated on real time)

(figures in Rs)

	CGST	SGST	IGST	Total
(1)	(2)	(3)	(4)	(5)
Opening Balance				
ITC availed (including revision in invoices**)**			[first 4 will be auto-populated]	
Inputs				
Capital goods				
Services-received directly				
Services credit received from ISD				
Mismatched credit claimed				
Disputed credit claimed				
Credit claimed by a taxpayer on becoming regular taxpayer				
Any other ITC claimed (Please specify)				
Credit utilized				
ITC Reversal (On account of adjustment)				
ITC Reversal (On account of mismatch)				
ITC Revision for any reason				
ITC Disallowed				
Interest Liability related to Returns of previous Tax period				
Tax Liability of earlier Tax periods				
Tax payment for the month [selection]				
ITC_ refund under process/refund allowed				
Other tax liability paid				
Closing Balance				

ANNEXURE–V

GSTR–4

Quarterly Return for Compounding Dealer

(To be furnished by 18th of the month succeeding the quarter)

1. **GSTIN** ……..
2. **Name of the Taxpayer**……
3. **Address**

(S. No. 1, 2 and 3 shall be auto-populated on logging)

4. **Period of Return** **From**……. **To**…….

5. Inward supplies including supplies received from unregistered traders

(figures in Rs)

GSTIN of supplier	Invoice					IGST		CGST		SGST		Addl Tax	
	No	Date	Value	HSN/ SAC*	Taxable Value	Rate	Amt	Rate	Amt	Rate	Amt	Rate	Amt
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)
Other than supplies attracting reverse charge													
Auto populated		Shall be auto populated from counterparty GSTR1											
Not auto populated (claimed)													
Supplies attracting reverse charge (including supplies received from unregistered dealer)													
Auto populated		Shall be auto populated from own GSTR1											
Others													

* As per Para 3.1 (4) (iii) of the return report

6. Goods /Capital goods received from Overseas (Import of goods)

(figures in Rs)

Bill of entry					IGST	
No.	Date	Value	HSN/ SAC*	Taxable value	Rate	Amt
(1)	(2)	(3)	(4)	(5)	(6)	(7)

*at 8-digit level

7. Services received from a supplier located outside India (Import of services)

(figures in Rs)

Invoice					IGST	
No	Date	Value	SAC*	Assessable Value	Rate	Amt
(1)	(2)	(3)	(4)	(5)	(6)	(7)

* As per Para 3.1 (4) (iii) of the return report

8. Outward Supplies made

(figures in Rs)

S.No.	Nature of supplies	Amount
(1)	(2)	(3)
1	Intra-state supplies	
2	Non GST Supplies	
3	Exports	

9. Tax Payable

(figures in Rs)

	IGST#	CGST#	SGST#	Compounding Tax
(1)	(2)	(3)	(4)	(5)
Tax payable as per return				
Interest payable for delayed payment of Tax				
Fees for late filing of return				
Others				
Total				

Tax paid in respect of supplies attracting reverse charge and those received from unregistered traders

10. Details of Tax Payment

(figures in Rs)

Cash Ledger Debit Entry No.	Date	IGST	CGST	SGST	Compounding Tax
(1)	(2)	(3)	(4)	(5)	(6)

11. Are you likely to cross composition limit before the date of next return: Y/N

Declaration:

(Signatures of Authorized Person)

ANNEXURE–VI

GSTR–5

RETURN FOR NON RESIDENT TAXPAYERS (FOREIGNERS)

(To be furnished on monthly basis by 20th of the month & within 7 days after expiry of registration)

1. GSTIN .....
2. Name of the Taxpayer.....
3. Address

(S. No. 1, 2 and 3 shall be auto-populated on logging)

4. Period of Return From..... To.....

5. Goods imported:

(figures in Rs.)

S. No.	Description of goods	Bill of Entry No.	Bill of Entry Date	HSN Code*	UQC	Quantity	Value	IGST paid, if any
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

* at 8-digit level

6. Outward supplies made:

(figures in Rs.)

S. No.	GSTIN, if any	Invoice					IGST		CGST		SGST	
		No.	Date	Value	HSN *	Taxable value	Rate	Amt	Rate	Amt	Rate	Amt
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)

* As per Para 3.1 (4) (iii) of the return report

7. ITC availed on inputs and input services

(figures in Rs.)

S. No.	GSTIN of supplier	Invoice					IGST		CGST		SGST	
		No.	Date	Value	HSN/SAC*	Taxable value	Rate	Amt	Rate	Amt	Rate	Amt
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)

* As per Para 3.1 (4) (iii) of the return report

8. Tax paid

(figures in Rs.)

Description	Tax payable (Table 6)	ITC utilized	Tax paid in cash (after adjusting ITC)
(1)	(2)	(3)	(4)
IGST			
CGST			
SGST			
Total			

9. Closing stock of Goods

S. No.	Description of goods	HSN*	UQC	Quantity	Value (Rs.)
(1)	(2)	(3)	(4)	(5)	(6)

* As per Para 3.1 (4) (iii) of the return report

Usual Declaration

Signature

ANNEXURE–VII

-

GSTR–6

RETURN FOR INPUT SERVICE DISTRIBUTOR

(To be furnished by 15th of the month)

(To be furnished by Input Service Distributor)

1. GSTIN: ……..

2. Name of the Registered person: ……..

(S.No. 1 and 2 will be auto-populated on logging)

3. Period: Month …… Year……

4. From Registered taxpayers (to be auto-populated from counter party GSTR–1)

(figures in Rs)

GSTIN of supplier	Invoice					IGST		CGST		SGST		Total Tax available as ITC for distribution	ITC available this month for distribution
	No	Date	Value	SAC	Taxable Value	Rate	Amt	Rate	Amt	Rate	Amt		
(1)	(2)	(3)	(4)			(7)	(8)	(11)	(12)	(13)	(14)	(16)	(17)
Other than supplies attracting reverse charge													
Auto populated													
Claimed													
Supplies attracting reverse charge													

5. Input Service Distribution

(figures in Rs)

GSTIN of receiver of credit	Invoice/Document No.				
	No.	Date	ISD Credit distributed		
			CGST	SGST	IGST
(1)	(2)	(3)	(4)	(5)	(6)

6. ISD Ledger

(figures in Rs)

	CGST	SGST	IGST	Total
(1)	(2)	(3)	(4)	(5)
Opening Balance				
ITCs received*				
ITC Reversal				
ITC Distributed				
Closing balance				

* To be auto-populated from table No. 4 above

Usual Declaration:

(Signatures of Authorized Person)

ANNEXURE–VIII

GSTR–7

TDS Return

(To be furnished by 10th of the month)

(To be furnished by person liable to deduct TDS)

1. **GSTIN/GST TDS IN**: ……..
2. **Name of dedutor** : ……..

(S.No. 1 and 2 will be auto-populated on logging)

3. **Return period**: Month…….. Year……..

4. TDS details

(figures in Rs.)

GSTIN of supplier	Invoice			CIN No. vide which TDS paid	TDS_IGST		TDS_CGST		TDS_SGST		TDS_All Taxes	
	No	Date	Value		Rate	Amt	Rate	Amt	Rate	Amt	Rate	Amt
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)

5 Other amount paid

(figures in Rs)

	CGST A/c	SGST A/c	IGST A/c	CIN No
(1)	(2)	(3)	(4)	
Interest on delayed payment of TDS				
Fees for late filing of return				
Others (pl specify)				
Total				

Declaration:

(Signatures of Authorized Person)

ANNEXURE-IX

GSTR-8

ANNUAL RETURN

[To be furnished by the 31st December of the next Financial Year]

1. **GSTIN** .....
2. **Name of the Taxpayer** .....

(S. No. 1 and 2 will be auto-populated on logging)

3. **Date of statutory Audit** .....
4. **Auditors** .....
5. **Details of expenditure**:

(a) Total value of purchases on which ITC availed (inter-State)

Goods

Sl. No.	Description	HSN Code	UQC	Quantity	Tax Rate	Taxable Value	IGST Credit	Additional Tax paid

Services

Sl. No.	Description	Accounting Code	Tax Rate	Taxable Value	IGST Credit

b) Total value of purchases on which ITC availed (intra-State)

Goods

Sl.No	Description	HSN Code	UQC	Quantity	Taxable Value	Tax Rate		Tax Credit	
						CGST	SGST	CGST	SGST

Services

Sl.No	Description	SAC	Taxable Value	Tax Rate		Tax Credit	
				CGST	SGST	CGST	SGST

C) Total value of purchases on which ITC availed (Imports)

Goods

Sl.No.	Description	HSN Code	UQC	Quantity	Tax Rate	CIF Value	IGST	Custom Duty paid

Services

Sl.No.	Description	SAC	Tax Rate	Taxable Value	IGST

(d) Other Purchases on which no ITC availed

Sl.No.	Goods/Services	Purchase Value

(e) Sales Returns

Sl.No	Goods	HSN Code	Taxable Value	CGST	SGST	IGST	Additional Tax

(f) Other Expenditure (Expenditure other than purchases)

Sl. No.	Specify Head	Amount

6. Details of Income:

(a)Total value of supplies on which GST paid (inter-State Supplies)

Goods

Sl. No.	Description	HSN Code	Tax Rate	Taxable Value	IGST	Additional Tax

Services

Sl. No.	Description	Accounting Code	Tax Rate	Taxable Value	IGST

(b)Total value of supplies on which GST Paid (intra-State Supplies)

Goods

Sl.No	Description	HSN Code	Taxable Value	Tax Rate		Tax	
				CGST	SGST	CGST	SGST

Services

Sl.No	Description	SAC	Taxable Value	Tax Rate		Tax	
				CGST	SGST	CGST	SGST

(c)Total value of supplies on which GST Paid (Exports)

Goods

Sl.No	Goods	HSN Code	Tax Rate	FOB Value	IGST	Custom Duty

Services

Sl.No	Services	SAC	Tax Rate	FOB Value	IGST

(d)Total value of supplies on which no GST Paid (Exports)

Goods

Sl.No	Goods	HSN Code	Tax Rate	FOB Value

Services

Sl.No	Services	SA	Tax Rate	FOB Value

(e) Value of Other Supplies on which no GST paid

Sl. No.	Goods/Services	Value

(f) Purchase Returns

Goods

Sl. No	Goods	HSN Code	Taxable Value	CGST	SGST	IGST	Additional Tax

Services

Sl. No	Services	SAC	Taxable Value	CGST	SGST	IGST

(g) Other Income (Income other than from supplies)

Sl. No.	Specify Head	Amount

7 Return reconciliation Statement

A **CGST**

Sl. No	Month	Tax Paid	Tax Payable (As per audited a/c)**	Difference	Interest	Penalty
	Total					

B SGST

Sl. No	Month	Tax Paid	Tax Payable (As per audited a/c)**	Difference	Interest	Penalty
	Total					

C IGST

Sl. No.	Month	Tax Paid	Tax Payable (As per audited a/c)**	Difference	Interest	Penalty
	Total					

D Additional Tax

Sl. No.	Month	Tax Paid	Tax Payable (As per audited a/c)**	Difference	Interest	Penalty
	Total					

**

1. Presently the statutory auditor is not required to calculate the tax payable on account of CE and ST.
2. Further there is bound to be difference in supply value when compared with the Taxable value determined in accordance with the Valuation Rules (this may be on account of certain permissible deductions from the supply value or on account of certain additions which may be required to be made to arrive at the taxable value).
3. A reconciliation format (reconciling the supply value with the taxable value), therefore, is required to be prescribed. Such a format can be prepared only after the GST law particularly the valuation Rules are finalized.

8. Other Amounts@@

A Arrears (Audit/Assessment etc.)

Sl. No.	Details of Order	Tax Payable	Interest	Penalty	Current Status of the Order
	Total				

B Refunds

Sl. No.	Details of Claim	Date of Filing	Amount of Refund	Current Status of the claim

This may be divided into parts:-

i) amount already paid / refund already received during the year,

ii) amount payable / refund pending.

9. Profit as Per the Profit and Loss Statement

Gross Profit

Profit after Tax

Net Profit

GST – PROPOSED PAYMENT PROCESS

PRESENTATION PLAN

- Broad Features
- Tax Types & Modes of Payment
- Stakeholders
- Basic Features
- Workflow for Payment under various Modes
- Features of Accounting Process
- Proposed Accounting system
- Banking arrangements
- Reconciliation of receipts
- Redressal of grievances

BROAD FEATURES

- Electronic payment process- no generation of paper at any stage
- Single point interface for challan generation- GSTN
- Ease of payment - three modes including CC/DC & NEFT/RTGS
- Common challan form with auto-population features
- Use of single challan and single payment instrument
- Common set of authorized banks
- Payment through any bank
- Common Accounting Codes

TAX TYPES & MODES OF PAYMENT

- Under GST, 4 types of Taxes to be paid- CGST, IGST, Additional Tax and SGST
- Three Modes of Payment
  - Electronic including CC/DC (Mode I)
  - Over The Counter Payment (for Payments upto Rs. 10,000/-) (Mode II)
  - Payment through RTGS/NEFT (Mode III)
- Payment can be accepted by Departmental officers in enforcement cases only

STAKEHOLDERS….

- Taxpayer
- GSTN (Goods and Service Tax Network)
- Authorized banks
  - one e- FPB (Electronic Focal Point Branch) for each bank (in Mode I & II) to maintain government account and report all receipts
  - all branches for receiving Over the Counter Payments
  - one or more front end service branch

…. STAKEHOLDERS

- All Banks– for NEFT/RTGS Mode of payment
- Reserve Bank of India
  - e– FPB (in Mode III)
  - Aggregator for accountal & reconciliation of receipts
- Accounting Authorities of Centre & States
- Tax Authorities of Centre & States

BASIC FEATURES….

- Electronically generated Challan from GSTN for all 3 modes containing a unique 14-digit Common Portal Identification Number (CPIN) for each challan
- Challan can be generated by
  - Taxpayer
  - His authorized representative
  - Departmental officers
  - Any other person paying on behalf of taxpayer
- Certain key details like name, address, email, GSTIN of payer to be auto-populated

….BASIC FEATURES….

- Single challan / instrument for payment of all four types of taxes
- Challan once generated to be valid for 7 days
- Time of payment: from 0000 hrs. to 2000 hrs.
- Proposed workflow of RBI's e-Kuber model to be followed for payment, accounting and reconciliation:
  - Accounting Authorities to interact directly with RBI & not with Authorized banks in case of discrepancies found during reconciliation

….BASIC FEATURES

- System of electronic Personal Ledger Account (cash ledger) on GSTN for each taxpayer (20 pages)
- One e-FPB per Authorized Bank (in Mode I & II) / RBI (in Mode –III)
- GSTN to be anchor in payment process with responsibility for information flow to various agencies
- RBI to act as aggregator and anchor of flow of fund and information about receipts

WORK FLOW FOR PAYMENT UNDER MODE –I ….

- E-payment mode through authorized banks (internet banking , CC/DC):
  - Generation of e-Challan at GSTN
  - Tax payer to select e-payment mode
    - Net Banking
    - Credit/Debit Card of any bank
    - Tax Payer to choose Authorized bank in case of Net Banking
    - Payment gateway of authorized bank (or their SPVs) in case of CC/DC
  - Credit Card proposed to be used by taxpayer to be registered at GSTN – as an additional safety check to eliminate the issue of charge back

…WORK FLOW FOR PAYMENT UNDER MODE –I

- GSTN to direct the taxpayer to the website of selected bank/payment gateway
- Alongside, GSTN to forward an electronic string to the selected bank carrying specified details of challan on real time basis
- Taxpayer to make payment using the USER ID & Password provided by his bank
- On successful completion of transaction, e-FPB of bank to forward a confirmation electronic string (CIN) to GSTN on real time basis
- GSTN to credit the Taxpayer's ledger
- Copy of paid Challan to be available on GSTN for taxpayer (downloadable/printable)

WORK FLOW FOR PAYMENT UNDER MODE –II ….

- Over the Counter Payment:
  - For small taxpayers for making payment upto Rs. 10,000/- per challan - by cash / DD / cheque drawn on same bank or on another bank in the same city
  - Tax payer to tender only one instrument to pay one or more type of tax
  - For cheque payment, name of authorized bank & its location to be mandatorily filled in challan
  - On real time basis, GSTN to share challan details with Core Banking System (CBS) of the selected authorized bank

… WORK FLOW FOR PAYMENT UNDER MODE –II…

- Taxpayer to approach the branch of the authorized bank for payment of taxes along with the instrument or cash
- In case of cash / same bank instrument a unique transaction number (BTR/BRN) will be generated immediately by the authorized bank's system and given to taxpayer
- Authorized bank to send receipt information (CIN) to GSTN on real time basis
- In case of instruments drawn on another bank in the same city, payment would not be realized immediately

…. WORK FLOW FOR PAYMENT UNDER MODE –II

- Authorized Bank to inform GSTN on real time basis in two stages
  - when an instrument is given OTC – to send an electronic string to GSTN containing specified details
  - second acknowledgement – after the cheque is realized with 3 additional details
- Similarly, bank to issue acknowledgement to taxpayer in two steps
  - Acknowledgment of cheque immediately
  - Upon realization of cheque, issuance of BTR / BTN
- GSTN to credit the Taxpayer's Ledger

WORK FLOW FOR PAYMENT UNDER MODE –III….

- Payment through NEFT/RTGS from any bank:
  - To be made operational after a pilot run by RBI
  - For taxpayers:
    - not having a bank account in any of the Authorized Banks
    - having a bank account in any of the Authorized Banks
  - No limit on amount to be paid through this mode
  - Payments to be collected by RBI directly
  - RBI to perform the role of e-FPB also

… WORK FLOW FOR PAYMENT UNDER MODE –III…

- Challan and NEFT/RTGS mandate form generated on GSTN
  - NEFT/RTGS mandate form to have validity period of CPIN printed on it
- In challan, the field for name of Authorized Bank to be auto-populated as RBI
- NEFT/RTGS mandate form will have certain information auto-populated:
  - CPIN in "Account Name" field
  - 'GST Payment' in "Sender to Receiver Information" field
- Taxpayer to print a copy of Challan and NEFT/RTGS mandate form from GSTN & approach his bank for payment

…. WORK FLOW FOR PAYMENT UNDER MODE –III

- Amount indicated for remittance to be transferred by bank to the designated account of the government in RBI along with challan details and a Unique Transaction Reference (UTR) Number
- RBI to validate payments against each challan with UTR received from remitter bank
- RBI to report receipt of payment to GSTN (CIN) on real time basis through an electronic string with specified details
- GSTN to credit the Taxpayer's ledger

FEATURES OF ACCOUNTING PROCESS….

- Authorized Banks to send list of CIN-wise details (electronic luggage file) for each type of Tax (CGST, IGST, AT & SGST) per day to RBI and Accounting Authorities at End of Day (EOD)
- RBI through its e-kuber system to consolidate the lists received from all authorized banks, debit their accounts and correspondingly credit Tax accounts of GOI / respective State Governments
- RBI to send digitally signed one e-scroll for each type of Tax (CGST, IGST, AT & SGST) per day (39) to Accounting Authorities of Central Government and State Governments & GSTN on T+1 basis

….FEATURES OF ACCOUNTING PROCESS

- GSTN to send reconciled data (challan data from Authorized Banks and e-scroll from RBI) to Accounting Authorities at EOD
- For any discrepancy noticed, accounting authority to generate a Memorandum of Error (MOE) & send to RBI
- RBI to resolve the discrepancy in consultation with the Authorized Bank
- RBI to report the corrected data to respective Accounting Authority & GSTN
- Taxpayers Master data to be provided by Tax Authorities to Accounting Authorities for mapping of payment details jurisdiction wise

PROPOSED ACCOUNTING SYSTEM

- Four different Major Heads of accounts to be opened for each tax along with underlying Minor Heads to account for various taxes & other receipts like interest, penalty, fees & others
- Standardized uniform Accounting Codes for all taxes under GST regime among Centre, State & UTs to facilitate settlement of IGST on the basis of centralized reporting
- Common Accounting Codes for Centre & States

BANKING ARRANGEMENTS

- Common set of Authorized Banks comprising existing authorized banks of the Central Government & all State Governments/UTs (presently 26)
- Certain minimum standards to be met by banks to become authorized banks
- A system of penalty/incentive proposed for reporting of error free data
- Payments through non-authorized banks permitted (NEFT/RTGS)

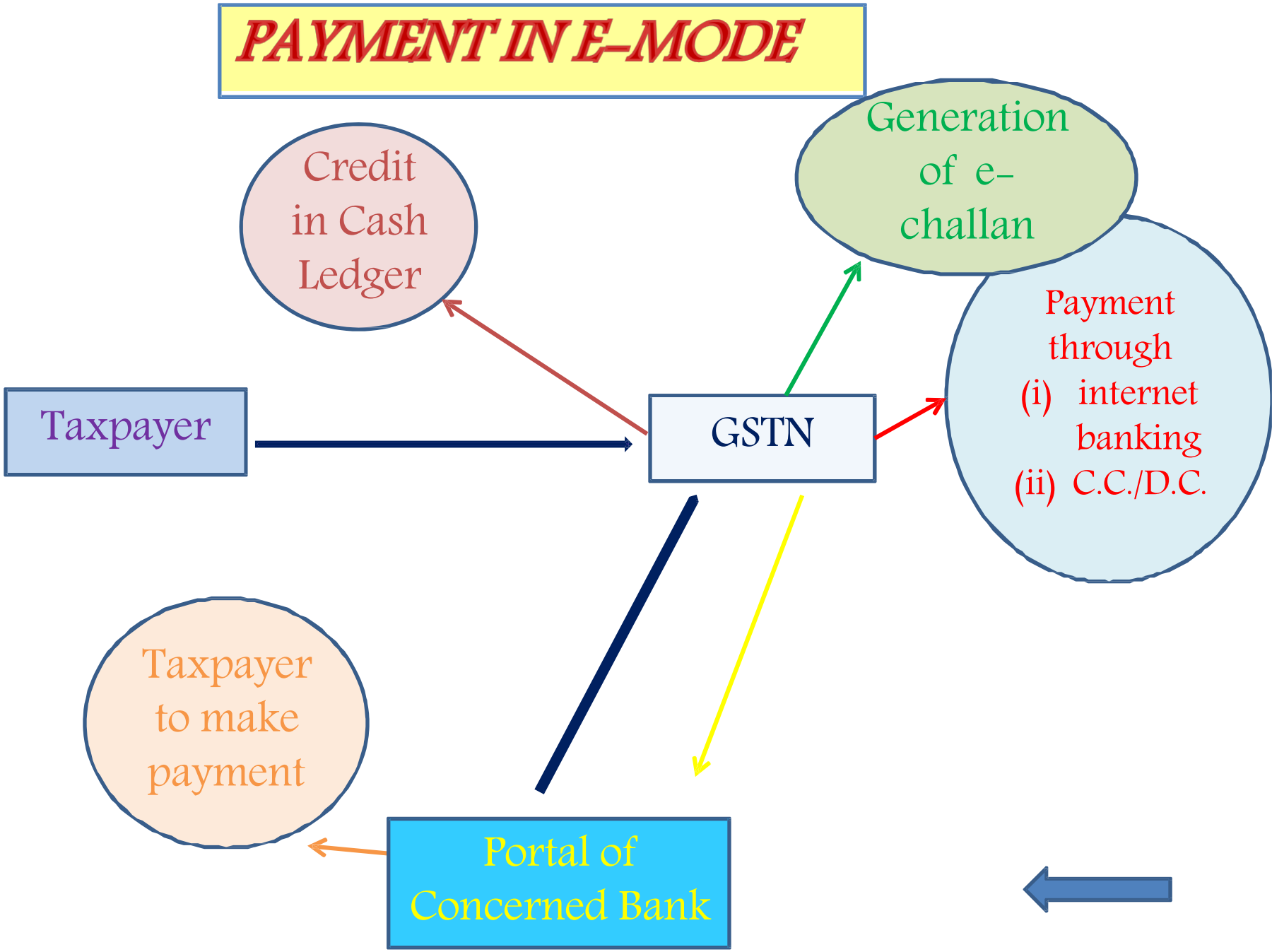
RECONCILIATION OF RECEIPTS

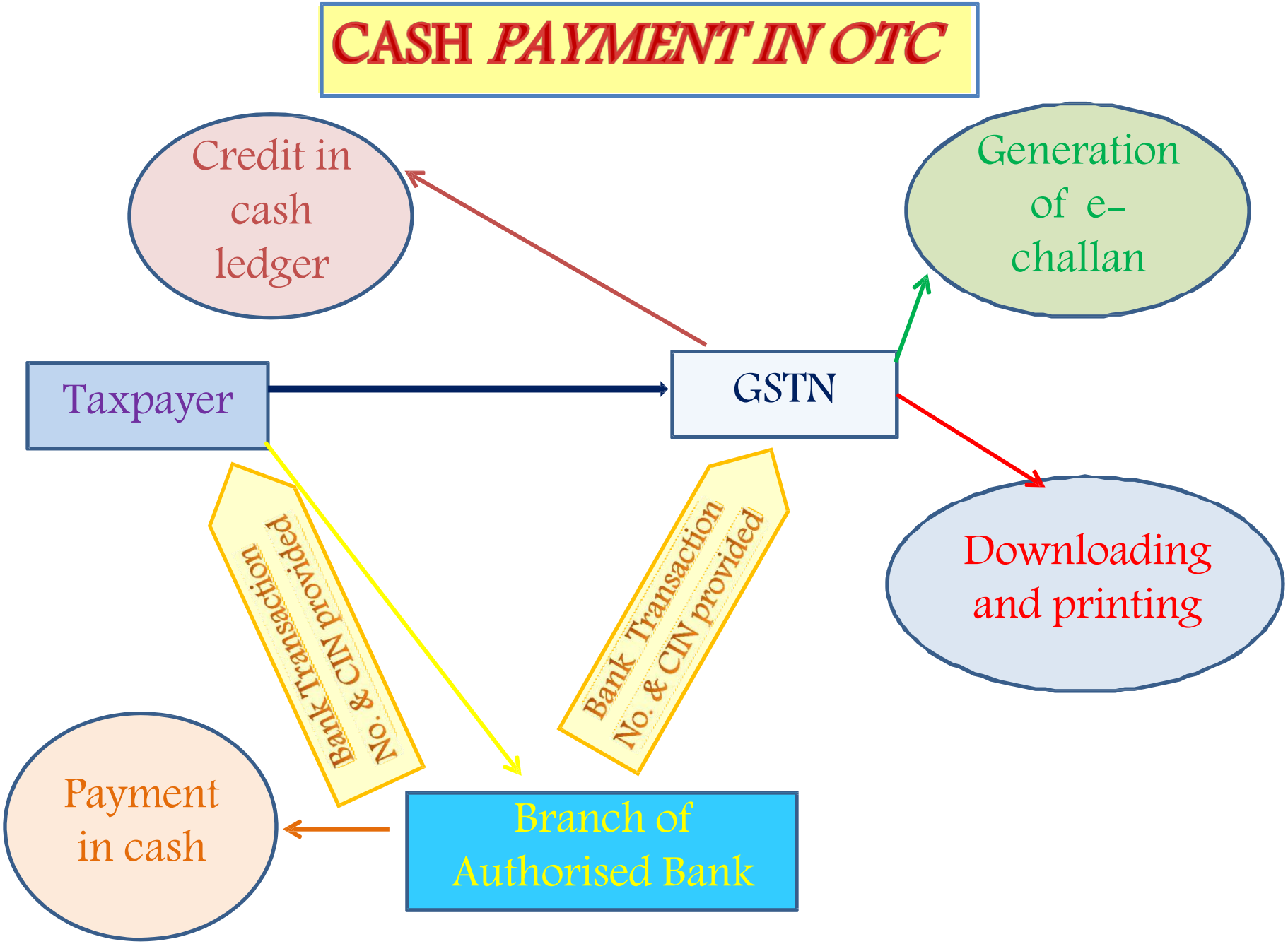
- Use of only system generated challans – no re-digitization by any actor in the entire work flow
- CPIN to be generated by GSTN -- to be used as a key identifier up till receipt of payment by Bank
- CIN (actual indicator of receipt of payment) to be generated by collecting Bank -- to be used as a key identifier thereafter for accounting, reconciliation, etc.
- Accounting Authorities to play a paramount role in reconciliation –
  - Accounting on the basis of RBI data
  - Reconciliation on the basis of GSTN and bank data

GRIEVANCE REDRESSAL

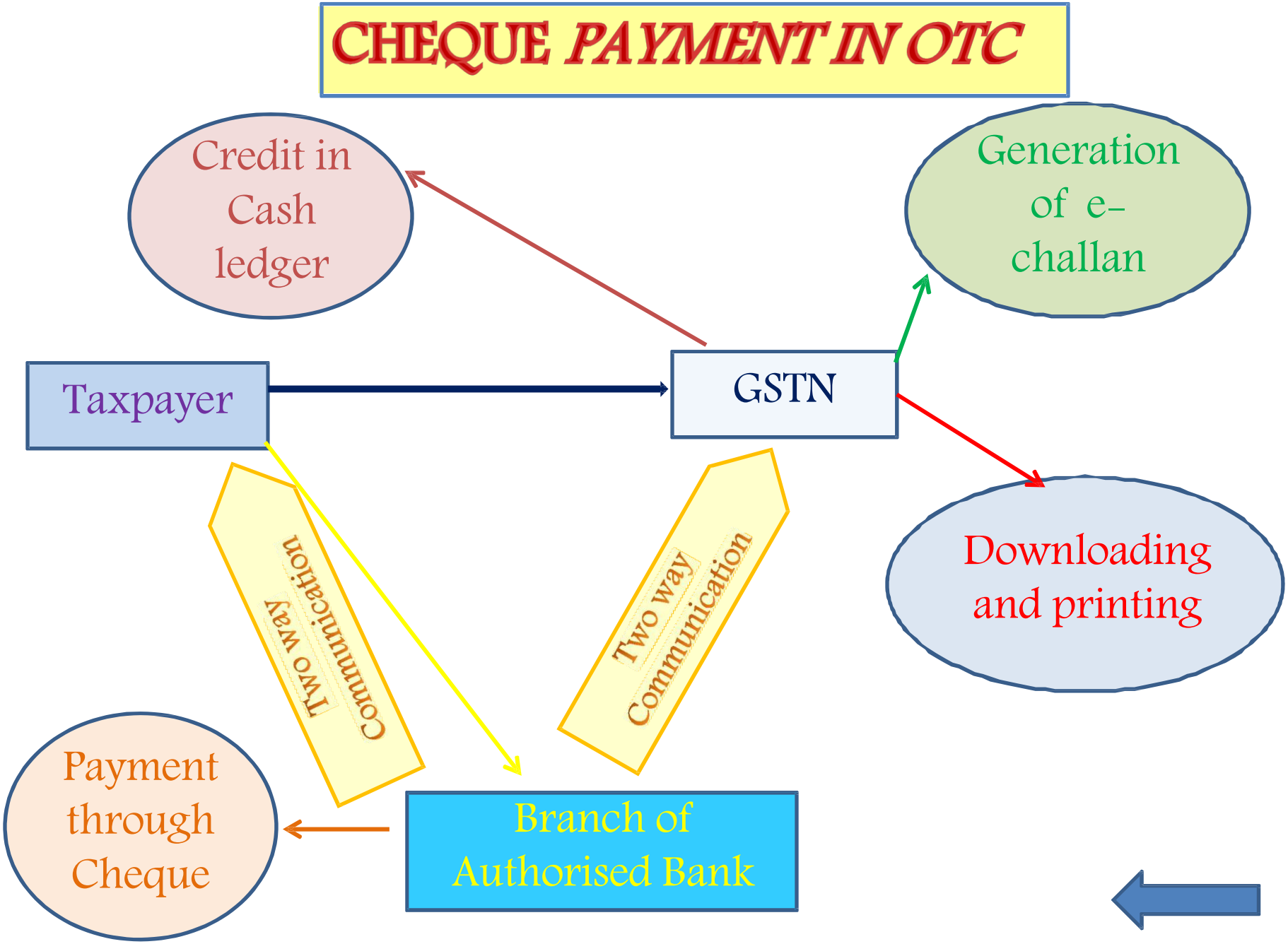
- In OTC mode if cash ledger of taxpayer not credited within three days- approach bank where instrument presented
- In RTGS/NEFT mode if cash ledger of taxpayer not credited within three days- approach bank where taxpayer's account is
- Each e-FPB required to have front end service branch to resolve payment related issues

Thank You...

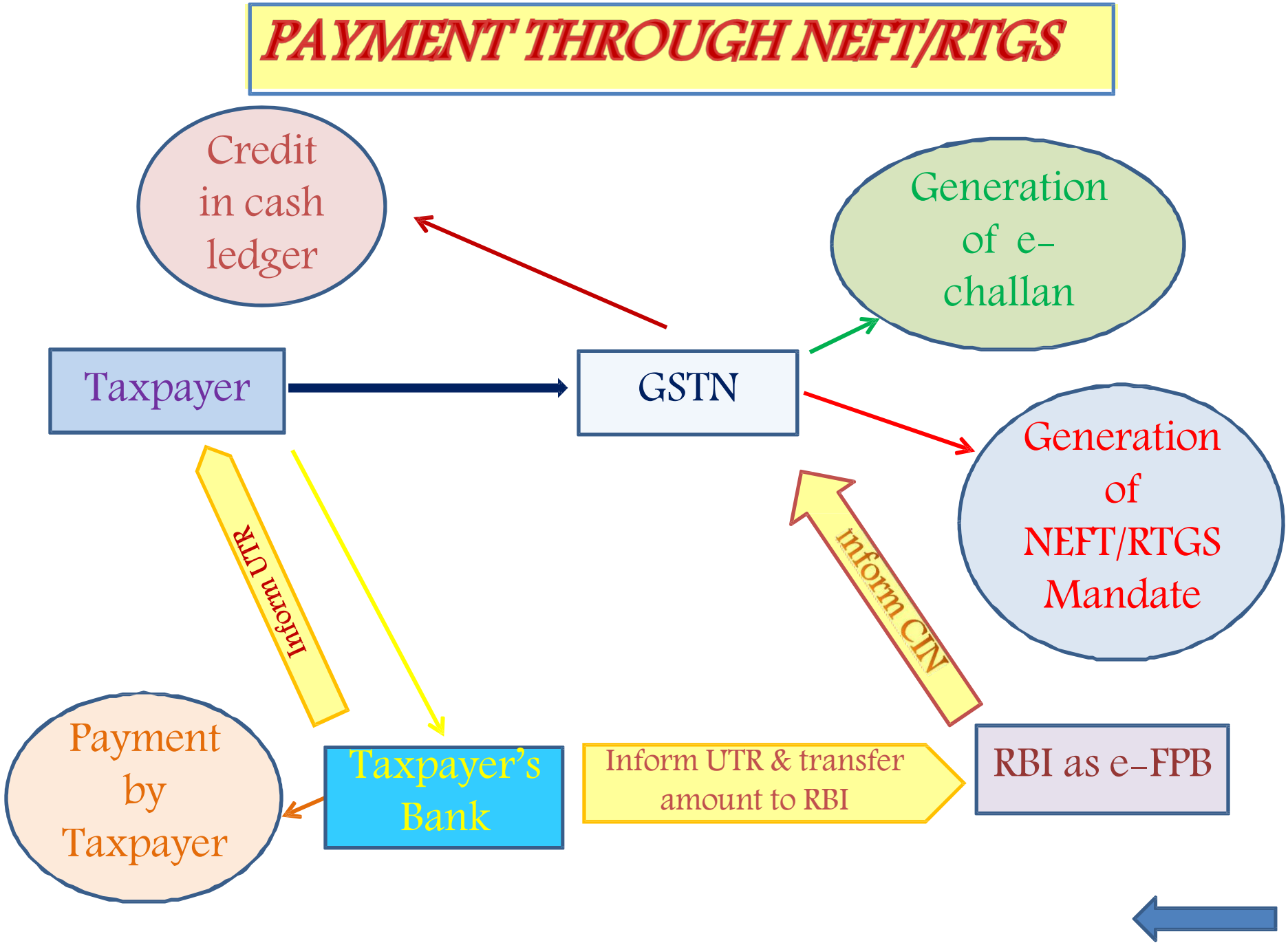

PAYMENT IN E-MODE
Credit in Cash Ledger
Generation of e-challan
Payment through (i) internet banking (ii) C.C./D.C.
Taxpayer
GSTN
Taxpayer to make payment
Portal of Concerned Bank


CASH PAYMENT IN OTC
Credit in cash ledger
Generation of e-challan
Taxpayer
GSTN
Downloading and printing
Bank Transaction No. & CIN provided
Bank Transaction No. & CIN provided
Payment in cash
Branch of Authorised Bank

CHEQUE PAYMENT IN OTC



PAYMENT THROUGH NEFT/RTGS



REPORT

OF

THE JOINT COMMITTEE ON BUSINESS PROCESSES FOR GST

ON

GST PAYMENT PROCESS

Empowered Committee of State Finance Ministers

New Delhi

April, 2015

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Annexure-IV

GST CHALLAN FORM

CPIN	<<Auto Generated after submission of information>>

GSTIN	<<Filled in/Auto populated>>
Name	<<Auto Populated>>
Address	<<Auto Populated>>

Date	
Email address	<<Auto Populated>>
Mobile No.	<<Auto Populated>>

Tax Liability

	Tax	Interest	Penalty	Others	Total
Government of India					
CGST					
IGST					
Additional Tax					
Government of <State>					
SGST					
			Total Challan Amount		

Note :

1. Different colors to reduce possibility of data entry errors to be provided.

2. Accounting Codes are to be provided for at the backend

Mode of Payment (relevant Portion to become active when selected)

☐ e-Payment	
Net Banking ☐ Credit Card ☐	

☐ Authorised Bank OTC	
Name of Receiving Bank (where	

Debit Card ☐	
Name of Bank	
Name of Payment Gateway (in case of payment through CC /DC)	

instrument is proposed to be deposited)		
Name of Branch (Optional)		
Name of City/Town/Village where payment is proposed to be made		
Details of instrument(optional)		
Cash ☐	Ch/DD No.	
	IFSC Code	
Cheque ☐	Bank	
DD ☐	Branch	

Note : Only local cheques (not outstation cheques to be accepted)

☐ NEFT/RTGS Remitting Bank	
Name of Bank	
Name of Branch	
IFSC Code	
Name and Code of Beneficiary Bank (RBI and its code)	
Name of the beneficiary account (Description 'GST payment' to be auto Populated)	

Beneficiary Account Number (CPIN Auto Populated)	

Note:

1. Payments through RTGS / NEFT
2. Beneficiary to be defined as the RBI and its account. This would be auto populated by GSTN
3. Charges to be over and above Tax amount

Paid Challan Information

Bank Reference No.	
CIN	
Date of Clearing	
NEFT/RTGS Unique Ref No.	

Challan Received at

Annexure V

Issue of charge back in CC/DC Payment

1. Under the charge back claim, a taxpayer after making payment through credit card may seek refund of the money till 60 days of the transaction. Usually such refunds can be sought under three scenarios:

   (i) Payment was made fraudulently by someone using the card of others;

   (ii) Extra payment was made because of some technical error during payment;

   (iii) Some service was not delivered for the payment made.

2. During the past few years, there have been significant changes in the security systems surrounding a transaction done through credit cards. The nature of such transactions has undergone changes because of introduction of two factor authentication and OTP (one time password) as per RBI's regulations. Under such circumstances it has become more improbable to have fraudulent transactions. Banks also have stopped entertaining claims caused by fraudulent transactions. As such scenario (i), i.e., payment through fraudulent use can be practically ruled out.

3. In scenario (ii) arising from technical errors, the errors can be detected even before any transaction is reported to RBI on T+1 basis. The acquiring banks should have a validation in their IT system that no double payment is reported for a tax against the same CPIN. If a credit card has been charged twice for the same challan total amount, the additional collection may be refunded by the acquiring bank.

4. In case the technical error of charging the card twice is noticed after the transaction has been reported to GSTN on real time basis but before the reporting to RBI on T+1 basis, the acquiring bank can refund the amount under real time intimation to GSTN. Thereafter, such double payment should not be reported to RBI.

5. In case the technical error is detected after reporting to RBI on T+1, the acquiring bank should send the claim to GSTN with full details. GSTN should verify its database, and confirm to the bank regarding double payment received against the same CPIN.

6. There should be a validation in GSTN's system that such double payments (para 4 and 5 above) are either not reflected in the tax payer's ledger or the second payment against the same CPIN is barred from utilization. Based on the confirmation from GSTN, the acquiring bank can refund the extra payment.

7. For scenario (iii) arising from claim of non-delivery of service, the acquiring bank should send the claims to GSTN with full details. GSTN can rebut the claim by providing a copy of the Challan (pdf file generated from its system) used for making the payment and details of the tax-payer's ledger account in which credit was made to show that the service was provided. The bank can use the above details /document as a sufficient basis to repudiate any charge back claim for non-delivery of service. Such evidences have to be provided to banks within 48 hours of the claim.

8. Even if the charge back request for scenario (iii) is received by the acquiring bank before reporting of the transaction to RBI on T+1, the bank should send the claim to GSTN for a response. GSTN should verify its record, and rebut the claim as mentioned in para 7 above. GSTN will have 48 hrs to send its response. In the meantime at T+1 event,

the acquiring bank should report the transaction to RBI in normal course. The bank should not hold back the funds. Subsequently when the response is received from GSTN, the bank may either decide to reject the claim (most likely as it is fairly easy to establish that the tax was actually paid to the Government and there was no denial of service) or accept the claim. If the claim is accepted, the process suggested in para 9 below may be followed.

9. In case the charge back is accepted after reporting to RBI (either in case of scenario (ii) or in case of scenario (iii) when GSTN's rebuttal is not accepted) and refund is made by the acquiring bank to the issuing bank, such refund should be reported as a new transaction to RBI. The report to RBI as well as the entry in RBI's scroll should be as a debit entry identified using the original CPIN. On receipt of such information, GSTN should debit the taxpayer's ledger and inform the Tax Authorities who should recover the amount from the said taxpayer.

Annexure VI

List of Banks presently authorised in Centre and States

S. NO.	Name of Bank
1.	ALLAHABAD BANK
2.	ANDHRA BANK
3.	BANK OF INDIA
4.	BANK OF BARODA
5.	BANK OF MAHARASHTRA
6.	CANARA BANK
7.	CENTRAL BANK OF INDIA
8.	CORPORATION BANK
9.	DENA BANK
10.	INDIAN BANK
11.	INDIAN OVERSEAS BANK
12.	ORIENTAL BANK OF COMMERCE
13.	PUNJAB NATIONAL BANK
14.	PUNJAB & SIND BANK
15.	SYNDICATE BANK
16.	UNION BANK OF INDIA
17.	UNITED BANK OF INDIA
18.	UCO BANK
19.	VIJAYA BANK
20.	STATE BANK OF INDIA

21.	STATE BANK OF BIKANER & JAIPUR
22.	STATE BANK OF HYDERABAD
23.	STATE BANK OF MYSORE
24.	STATE BANK OF PATIALA
25.	STATE BANK OF TRAVANCORE
26.	IDBI Bank Ltd

CHAPTER-X

REFUNDS – Clause wise Analysis

38. Refund of tax

(1) 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 two years from the relevant date in such form and in such manner as may be prescribed:

Provided that the limitation of two years shall not apply where such tax or interest or the amount referred to above has been paid under protest.

Parallel Provision in the existing Act / Rules: Similar Provision except for period of claiming refund is one year

Existing Act / Rule: Central Excise Act, 1944

Existing Act / Rule No: Section 11B (1)

Analysis:

Refund application to be filed with appropriate authority i.e CGST / IGCST offices for claiming refund of CGST and IGST and with Commissioner of SGST for refund of SGST. However such limitation period of 2 year will not be applicable when tax or interest is paid under protest.

(2) Subject to the provisions of sub-section (8), 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.

Analysis:

Refund will be applicable in case of exports or goods or services having inverted duty structure.

(3) The application shall be accompanied by—

(a) such documentary evidence as may be prescribed to establish that a refund is due to the applicant, and

(b) such documentary or other evidence (including the documents referred to in section 23A) as the applicant may furnish to establish that the amount of tax and interest, if any, paid on such tax or any other amount paid in relation to which such refund is

claimed was collected from, or paid by, him and the incidence of such tax and interest had not been passed on by him to any other person:

Provided that where the amount claimed as refund is less than five lac rupees, it shall not be necessary for the applicant to furnish any documentary and other evidences and instead, he may file a declaration, based on the documentary or other evidences with him, certifying that the incidence of such tax and interest had not been passed on by him to any other person.

Parallel Provision in the existing Act / Rules: Similar Provisions

Existing Act / Rule:

Central Excise Act, 1944

Existing Act / Rule No:

Secction 11B (1)

Analysis:

Refund application should accompany with prescribed documents - evidence of tax and interest paid, evidence of tax / interest not collected from recipient or any other person, however if such refund is less than 5 lacs rupees than self declaration is required for unjust enrichment will be sufficient. In other words certification of unjust enrichment is requirement from Cost Accountant or Chartered Accountant as mentioned in the Business Process Report

(4) If, on receipt of any such application, the proper officer is satisfied that the whole or part of the amount claimed as refund is refundable, he may make an order accordingly and the amount so determined shall be credited to the Fund.

Parallel Provision in the existing Act / Rules: Similar Provisions

Existing Act / Rule: Central Excise Act, 1944

Existing Act / Rule No: Section 11B (1)

Analysis:

Refund order will be passed by proper officer, but if there is unjust enrichment such amount will be credited to the consumer welfare fund.

(4A) Notwithstanding anything contained in sub-section (4), the proper officer may, in the case of any claim for refund on account of export of goods and/or services made by such category of registered taxable persons as may be notified in this behalf, refund eighty percent of the total amount so claimed, excluding the amount of input tax credit provisionally accepted, on a provisional basis, in the manner and subject to such conditions, limitations and safeguards as may be prescribed and the remaining twenty percent may be refunded after due verification of documents furnished by the applicant.

Analysis:

In case of refund application arising out of exports 80% of the refund claim excluding the amount of input tax credit so accepted, to be made on provisional basis subject to the condition and limitations as may be prescribed and remaining 20% to be paid after due verification of the

documents within 90 days from the date of receipt of the application

(5) The proper officer shall issue the order under sub-section (4) within ninety days from the date of receipt of application.

Explanation.- The "application" for the purpose of this sub-section shall mean complete application containing all information as may be prescribed.

Parallel Provision in the existing Act / Rules: No specific provision

Analysis:

In case of refund application arising out of exports 80% of the refund claim excluding the amount of input tax credit so accepted, to be made on provisional basis subject to the condition and limitations as may be prescribed and remaining 20% to be paid after due verification of the documents within 90 days from the date of receipt of the application

(6) Notwithstanding anything contained in sub-section (4) or sub-section (4A), the refundable amount shall, instead of being credited to the Fund, be paid to the applicant, if such amount is relatable to –

(a) refund of tax on goods and/or services exported out of India or on inputs used in the goods and/or services which are exported out of India;

(b) refund of unutilized input tax credit under sub-section (2);

(c) the tax and interest, if any, or any other amount paid by the applicant, if he had not passed on the incidence of such tax and interest to any other person; or

(d) the tax or interest borne by such other class of applicants as the Central or a State Government may, on the recommendation of the Council, by notification, specify.

Parallel Provision in the existing Act / Rules: Similar Provision

Existing Act / Rule: Central Excise Act, 1944

Existing Act / Rule No: Section 11B (2)

Analysis:

If there is no unjust enrichment and refund will be granted in case of exports or inverted duty structure along with the interest if any.

(7) Notwithstanding anything to the contrary contained in any judgment, decree, order or direction of the Appellate Tribunal or any Court or in any other provision of this Act or the rules made thereunder or in any other law for the time being in force, no refund shall be made except as provided in sub-section (6).

Parallel Provision in the existing Act / Rules: Similar Provision

Existing Act / Rule: Central Excise Act, 1944

Existing Act / Rule No: Section 11B (3)

Analysis:

No refund will be granted in any other cases as mentioned above except arising from any

judgment, decree or order of Appellate tribunal or any court.

(8) Notwithstanding anything contained in sub-section (2), where any refund is due under the said sub-section to a registered taxable person who has defaulted in furnishing any return or who is required to pay any tax, interest or penalty, which has not been stayed by any Court, Tribunal or Appellate Authority by the specified date, the proper officer may—

(a) withhold payment of refund due until the said person has submitted the return or paid the tax, interest or penalty, as the case may be;

(b) deduct from the refund due, any tax, interest or penalty which the taxable person is liable to pay but which remains unpaid.

Explanation.- For the purposes of this sub-section the expression "specified date" shall mean—

(a) the last date for filing an appeal under this Act, in a case where no appeal has been filed

(b) thirty days after the last date for filing an appeal under this Act, in a case where an appeal has been filed.

Analysis:

Newly inserted. Now refund amount can be withheld or reduced if person have defaulted in complying with the provisions of the act, including non filing of the return, default in payment of tax and penalty which is not stayement by the Appellate tribunal or order of court or reduced refund will be granted to the extent of such dues. Specified date for the said section is last date of filing an appeal as stipulated when no appeal is filed or 30 days after the last date of filing the appeal when appeal is filed.

(9) Notwithstanding anything contained in sub-section (4) or sub-section (4A), where an order giving rise to a refund is the subject matter of an appeal or further proceeding or where any other proceeding under this Act is pending and the Commissioner / Board is of the opinion that grant of such refund is likely to adversely affect the revenue, he may, after giving the taxpayer an opportunity of being heard, withhold the refund till such time as he may determine.

Analysis:

Commissioner / Board is authorized to withhold the refund after granting the opportunity of heard if it is adversely affecting the revenue. This provision is required to be deleted since it is detrimental to the rights of the tax payer.

(10) Where a refund is withheld under sub-section (9), the taxable person shall be entitled to interest as provided under section 39, if as a result of the appeal or further proceeding he becomes entitled to refund.

Analysis:
However interest will be entitled after the order holding entitlement of the refund

(11) Notwithstanding anything contained in this section, no refund under sub-section (4) or sub-section (4A) shall be paid to an applicant if the amount is less than rupees one thousand.

Explanation. — For the purposes of this section -

(A) "refund" includes refund of tax on goods and/or services exported out of India or on inputs or input services used in the goods and/or services which are exported out of India, or refund of tax on the supply of goods regarded as deemed exports, or refund of unutilized input tax credit as provided under sub-section (2).

(B) "relevant date" means –

(a) in the case of goods exported out of India where a refund of tax paid is available in respect of the goods themselves or, as the case may be, the inputs or input services used in such goods, -

(i)if the goods are exported by sea or air, the date on which the ship or the aircraft in which such goods are loaded, leaves India, or

(ii) if the goods are exported by land, the date on which such goods pass the frontier, or

(iii) if the goods are exported by post, the date of despatch of goods by Post Office concerned to a place outside India;

(b) in the case of supply of goods regarded as deemed exports where a refund of tax paid is available in respect of the goods, the date on which the return relating to such deemed exports is filed;

(c) in the case of goods returned for being remade, refined, reconditioned, or subjected to any other similar process in any place of business, the date of entry into the place of business for the purposes aforesaid;

(d) in the case of services exported out of India where a refund of tax paid is available in respect of services themselves or, as the case may be, the inputs or input services used in such services, the date of -

(i) receipt of payment in convertible foreign exchange, where the supply of service had been completed prior to the receipt of such payment; or

(ii) issue of invoice, where payment for the service had been received in advance prior to the date of issue of the invoice;

(e) in case where the tax becomes refundable as a consequence of judgment, decree, order or direction of Appellate Authority, Appellate Tribunal or any Court, the date of communication of such judgment, decree, order or direction;

(f) in the case of refund of unutilized input tax credit under sub-section (2), the end of the financial year in which such claim for refund arises; and

(g) in the case where tax is paid provisionally under this Act or the rules made thereunder, the date of adjustment of tax after the final assessment thereof.

Parallel Provision in the existing Act / Rules: Similar Provision except for changes in wording to match GST Law

Existing Act / Rule: Central Excise Act, 1944

Existing Act / Rule No: Explanation to Section 11B

Analysis:

No refund will be granted if the refund is less than Rupees 100.
For this purpose of this section refund will be entitled for goods / services exported or supplied under deemed export or unutilised credit from inverted duty structure and rebate on export and deemed export of goods on which duty is paid and rebate on input and input services.
Relevant date for the purpose of limitation will be counted as:
1) Output Tax / Input or Input Service Rebate for exports by Air / Sea - Relevant date will be date when goods are loaded on the vessel and vessel leaves India (Bill of Lading)
2) Output Tax / Input or Input Service Rebate for exports by Road - Relevant date will be the date on which the goods leaves frontier (border of India)
3) Output Tax / Input or Input Service Rebate for exports by Post - Relevant date will be date on which post office has dispatched the goods
4) Output Tax Rebate for deemed exports - Relevant date will be date on which return relating to deemed export is filed for output supplies
5) In case of export of service input or input services used in which are exported out of India receipt of payment in convertible foreign exchange when supply is completed before such receipts or date of invoice when such advance is received.
6) Refund arising from Order - the date of communication of judgment
7) Refund arising out of Inverted Duty Structure or accumulated credit on account of exports - relevant date will be end of financial year in which refund arises.
8) Where tax is paid on provisional assessment - relevant date will be date of final assessment.

Refund arising for output tax/input and input services on export of goods by courier no refund will be entitled.

Further though relevant date for granting refund for the goods returned on account of rejection for goods to be remade, refine, recondition or carrying any other process is mentioned, there is no corresponding provision for granting of refund under the said provision.

39. Interest on delayed refunds

If any tax refundable under section 38 to any applicant is not refunded within three months from the date of receipt of application under sub-section (1) of that section, interest at such rate as may be specified in the notification issued by the Central or a State Government 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.

Explanation.- Where any order of refund is made by an Appellate Authority, Tribunal or any Court against an order of the proper officer under sub-section (4) or sub-section (4A) of section 38, the order passed by the Appellate Authority, Tribunal or, as the case may be, by the Court shall be deemed to be an order passed under the said sub-section (4) or sub-section (4A) for the purposes of this section.

Parallel Provision in the existing Act / Rules: Similar Provision

Existing Act / Rule: Central Excise Act, 1944

Existing Act / Rule No: Section 11BB

Analysis:

If refund is not made within 3 months from the date of applicable interest will be payable at the prescribed rate from the date of the expiry of the due date till the refund is made.

40. Consumer Welfare Fund

(1) There shall be established by the Central or a State Government a fund, to be called the Consumer Welfare Fund.

(2) There shall be credited to the Fund, in such manner as may be prescribed, -

(a) the amount of tax referred to in sub-section (4) or sub-section (4A) of section 38; and

(b) any income from investment of the amount credited to the Fund and any other monies received by the Central or a State Government for the purposes of this Fund.

Parallel Provision in the existing Act / Rules: Fund means the Consumer Welfare Fund established under section 12C

Existing Act / Rule: Central Excise Act, 1944

Existing Act / Rule No:2(ee)

Analysis:

The amount will be credited to consumer welfare fund when refund is eligible but hit by doctrine of unjust enrichment

41. Utilization of the Fund

(1) Any money credited to the Fund shall be utilised by the Central/State Government for the welfare of the consumers in accordance with such rules as that Government may make in this behalf.

(2) The Central/State Government shall maintain or, if it thinks fit, specify the authority which shall maintain, proper and separate account and other relevant records in relation to the Fund in such form as may be prescribed in consultation with the Comptroller and Auditor-General of India.

Analysis:

Such amount so credited will be utilised in the manner prescribed by Central / State Government

Refunds – Detailed Analysis

- **"Refund"** includes
  1. refund of tax on goods and/or services exported out of India or
  2. refund of tax on inputs or input services used in the goods and/or services which are exported out of India, or
  3. refund of tax on the supply of goods regarded as deemed exports, or
  4. refund of unutilized input tax credit as provided under sub-section (2).

Sec 2(37):"**deemed exports",** as notified by the Central Government/State Government on the recommendation of the Council, refer to those transactions in which the goods **supplied do not leave India**, and **payment for such supplies is received either in Indian Rupees or in convertible foreign exchange**;

Rebate/Refund on account of	Relevant date
Export of Goods by sea or air	Let export date
Export of Goods by land	the date on which such goods pass the frontier
Export of Goods by Post	the date of dispatch of goods by Post Office
Export of Services	Date of Receipt of payment / date of issue invoice for receipt of advance
Deemed Export	Date of filing of return
Provisional Assessment	The date of adjustment of tax after the final assessment
Duty/Tax during Investigation / Adjudication	the date of communication of such judgment, decree, order or direction
Credit Accumulation due to Inverted Duty Structure	the end of the financial year
Unutilized tax credit due to exports of goods and /or services	the end of the financial year

Limitation period: period of 2 years (except where tax or interest paid under protest)

- **Documents to be submitted along with refund application:**

  1. Documents or other evidence to establish that the amount of tax and interest, if any, paid on such tax or any other amount paid in relation to which such refund is claimed and the incidence of such tax and interest had not been passed on by him to any other person.

2. Application for refund claim below Rs. 5 lacs no documentary evidence is required to be filed to justify that no tax has been passed on by him to any other person. Only declaration will be sufficient.

3. List of documents will be specified

- **Time limit for sanction of claim:**

  - **Refund on account of export of goods and/or services (for specified category of exports)**

    1) registered taxable persons, refund eighty percent of the total amount so claimed to be sanctioned on provisional basis.

    2) The remaining twenty percent may be refunded after due verification of documents furnished by the applicant.

  - **Other**

    1) The refund order to be issued within ninety days from the date of receipt of application.

    2) No refund shall be paid to an applicant if the amount is less than rupees one thousand.

- **Key issues:**

- Separate application of refund of tax and interest to be made for IGST/CGST/SGST

- Refund amount may be withheld for non filing of return or

- The amount of refund may be reduced if person have defaulted in payment of tax, interest and penalty which is not stayed by the Appellate tribunal or order of court

- Commissioner / Board may withhold the refund, if he is of the opinion that grant of such refund is likely to adversely affect the revenue.

- No specific provision, refund of pre-deposit, tax payment by un bodies, supplies to CSD canteens, para military forces canteens, etc., refund on account of tax free supplies or non-GST supplies, international tourists, year-end or volume based incentives is made in Draft GST Law. However provision for such types of refund was specified in Business Process Reports.

- Refund of unutilized credit on account of deemed export is also not covered, rather refund of tax supply of goods regarded as deemed export.

REFUND PROCESS IN GST REGIME

BASED ON REPORT OF THE JOINT COMMITTEE ON BUSINESS PROCESSES FOR GST ON REFUND PROCESSES

Situations where refund would arise:

- Excess payment due to mistake and inadvertence,
- Export (including deemed export),
- Finalization of Provisional Assessment,
- Refund of pre deposit in case of Appeal or Investigation,
- Refund for Tax payment on transactions by UN bodies, CSD Canteens, Para-military forces canteens, etc.
- Refund from Manufacturing / Generation/ Production/ Creation of Tax- free supplies or Non-GST Supplies,
- Refund of Carry Forward Input Tax Credit
- Refund on account of year end or volume based incentives.
- Tax refunds for International Tourists

EXCESS PAYMENT OF TAX DUE TO MISTAKE OR INADVERTENTCE

- The situations where the tax payer has made excess payment of tax either by mistake or by inadvertence resulting in more payment of tax than due to the Government.
- Such excess payment may be on account of:-
  - wrong mention of nature of tax (CGST / SGST / IGST),
  - wrong mention of GSTIN, or
  - wrong mention (deposit) of tax amount.
- In first two situations i.e. in case of wrong mention of nature of tax (CGST / SGST / IGST) or in case of wrong mention of GSTIN, the tax administration is required to verify the correctness of the taxpayer's claim and therefore the taxpayer may file a refund application which should be decided within a period to be prescribed by the GST Law.
- In the first and third situation, the refund of excess amount of tax, at the option of the taxpayer, would either be automatically carried forward for adjustment against future tax liabilities or be refunded

EXPORT (INCLUDING DEEMED EXPORT) OF GOODS / SERVICES

- Two options may be made available to the exporter in the proposed GST regime:
  - Obtaining duty paid inputs and claiming refund of the same at the time of export of the finished goods without payment of duty.
  - Obtaining duty paid inputs, availing the input tax credit thereon and exporting finished goods after payment of duty (after utilizing such input tax credit) and thereafter claiming the rebate of the duty paid on exported goods.

EXPORT (INCLUDING DEEMED EXPORT) OF GOODS / SERVICES

- The following process is proposed for making this system as simple as possible:
  - Verification: The IEC details of taxpayer will be captured at the time of issuance of GSTIN and the same will be verified online with DGFT.
  - Application: The refund of ITC / rebate of GST paid on exported goods may be granted on submission of application to this effect by the taxpayer.
  - Since the trigger point for refund is export of goods, therefore the event of export will be verified online

EXPORT (INCLUDING DEEMED EXPORT) OF GOODS / SERVICES

- Linkage between ICEGATE of Customs administration and the proposed GSTN of GST administration may be established so that online verification of the exports can be carried out.
- Invoice wise sale / purchase details by the taxpayers' (filed with the monthly returns) can be linked with the Customs data (for export cases) available with ICEGATE.

- **DEEMED EXPORT OF GOODS OR SERVICES:**
  - Supplier of domestically produced duty paid goods when supplied to EOUs / SEZs / Projects under International Competitive Bidding (ICB) / Mega Power Plants / World Bank Funded Projects can seek refund of terminal excise duty as also drawback of the duty paid on the inputs used in manufacture of such goods.

EXPORT (INCLUDING DEEMED EXPORT) OF GOODS / SERVICES

- GENERAL:
  - No Partial refund. Entire refund claim may be sanctioned within the time limit laid down in the GST Law.
  - No Refund of ITC paid on inputs for manufecturing of Goods on which Custom Export Duty is leviable

Finalization of Provisional Assessment

- The following process is recommended:
  - The taxpayer may file a simple refund application along with a Chartered Accountant's Certificate certifying the fact of non-passing of the GST burden by the taxpayer
  - GST Law may provide for certain predefined period during which refund may not be granted which can be regarded as the mandatory waiting period for the outcome of the appeal / application for stay.
  - GST Law Drafting Committee may also consider for providing powers to jurisdictional authority at sufficiently senior level for withholding the refund in exceptional cases on the condition that interest at appropriate rate has to be paid

Pre deposit in case of Appeal or Investigation

- The refund of such amount may be handled as per the procedure given below:
  - A separate mechanism for the accounting .
  - Amount of tax paid during investigation, etc. become non leviable once the investigation is finalized and / or an adjudication order in favour of the taxpayer is issued.
  - As soon as the investigation, etc. is over which
    - does not lead to issuance of a show cause notice , or
    - where after investigation, show cause notice is issued but the adjudication order is in favour of the taxpayer

    the taxpayer shall be immediately eligible to claim refund of the amount that is found to have been paid in excess during investigation, etc.

Pre deposit in case of Appeal or Investigation

- The model GST Law may provide for a time limit after which only the refund can be sanctioned either by cash or by adjustment order at the option of the tax payer by the jurisdictional officers.
- Refund may be withheld only if the department has obtained a stay order on the operation of the adjudication order, failing which, refund has to be allowed.

Tax payment on transactions by UN bodies, CSD Canteens, Para-military forces canteens, etc.

- The following process for grant of refund is recommended:
  - Refund on purchases by UN Bodies may be granted from only one office each of both the tax administrations within one State.
  - UN Bodies will be assigned a unique identification number (ID)) and will file their purchase statements (without purchase invoices) along with their claim for refund
  - While making supplies to such bodies, the suppliers must indicate the Unique ID on the invoices.
  - Form of application for refund which may be used by such bodies is enclosed as Annexure-VII to this document.
  - Same process to apply for CSD canteen/CPMF canteen etc. No exemption in Tax but refund of Tax to be made.

REFUND OF CARRY FORWARD INPUT TAX CREDIT

- The ITC may accumulate on account of the following reasons :
  - Inverted Duty Structure i.e. GST on output supplies is less than the GST on the input supplies;
  - Stock accumulation;
  - Capital goods; and
  - Partial Reverse charge mechanism for certain services.
- GST Law may provide that refund of carried forward ITC may not be allowed and such amount would be carried forward to the next tax period (s).
- In cases of inverted duty structure, cash refund may be granted after due audit and should be sanctioned only after the input tax credit has been matched from the purchase and sales statements filed along with monthly returns.

REFUND ON ACCOUNT OF YEAR END OR VOLUME BASED INCENTIVES PROVIDED BY THE SUPPLIER THROUGH CREDIT NOTES

- In such cases, the eligibility for ITC at the buyer's end and the output liability at the supplier's end will get simultaneously reduced / adjusted on the basis of credit notes issued by the supplier and the corresponding debit notes issued by the buyers.
- Refund would be granted after due validation including matching of credit and debit notes

TAX REFUND FOR INTERNATIONAL TOURISTS

- Refund of GST will be available at designated airports and ports only and the refund of the GST paid on retail purchase by the foreign tourists during their stay in India is allowed.
- A part of the eligible amount of refund will be deducted as handling fee for services rendered.

refund

- It is recommended that a period of one year from the relevant date may be allowed for filing of refund application.
- The following dates are recommended as relevant dates for different type of refund cases:

S.No	Situation of Refund	Relevant date
1.	On account of excess payment of GST due to mistake or inadvertence.	Date of payment of GST

refund

S.No	Situation of Refund	Relevant date
2.	On account of Export of Goods	Date on which proper officer under the Custom Act gives an order for export known as *"LET EXPORT ORDER"*.
3.	On account of Export of Services	Date of BRC
4.	On account of finalization of provisional assessment	Date of the finalization order

refund

S.No	Situation of Refund	Relevant date
5.	In pursuance of an appellate authority's order in favour of the taxpayer.	Date of communication of the appellate authority's order
6.	On account of payment of GST during investigation, etc. when no/less liability arose at the time of finalization of investigation proceedings or issuance of adjudication order.	Date of communication of adjudication order or order relating to completion of investigation

refund

S.No	Situation of Refund	Relevant date
7.	On account of accumulated credit of GST in case of a liability to pay service tax in partial reverse charge cases.	Date of providing of service (normally the date of invoice)
8.	For refund arising out of payment of GST on petroleum products, etc. to Embassies or UN bodies or to CSD canteens, etc. on the basis of applications filed by such persons.	Date of payment of GST
9.	On account of refund of accumulated ITC due to inverted duty structure.	Last day of the financial year

Documents to be filed for refund

- **Documents** evidencing tax payments required to be enclosed with the refund application should be minimal but adequate:
  - All payments of tax will be in electronic mode and all B2B invoices will be uploaded on the portal. Therefore following evidences may not be called for:
    - Copy of proof of deposit of tax i.e. challan etc/ copy of return evidencing payment of duty.
    - Copy of invoices.
    - Documents evidencing export (online verification with ICEGATE).
  - A Chartered Accountant's Certificate may be called for evidencing that the tax burden has not been passed on to the buyer. Under Principle of "unjust enrichment".

for refund

- **EXPORT OF GOODS:**

Shipping Bill	Not needed..	To be verified online
Export Invoice	Not needed..	To be verified online
Packing List	Not needed..	To be verified online
Mate Receipt	Needed to be filed online with refund application	
Bill of Lading	Needed to be filed online with refund application	
BRC	To be filed within one year of Export or in a period as prescribed by RBI. To be submitted with application in case of advance payment.	

for refund

- **EXPORT OF SERVICES:**
  - Invoice
  - Bank Realization Certificate (BRC). No refund without filing of BRC. Cut-off date for filing of refund to be linked to receipt of BRC
  - No custom documents that can substantiate the occurrence of event of export as no shipping bill is required to be filed.

Procedure:

It is recommended that the State Tax authorities shall deal with the SGST refund and Central Tax authorities shall deal with refund of CGST and IGST.

- Applicant may be given the option of filing refund application either through the GSTN portal or through the respective State / Central Tax portal.

RefundClaimFormunder------Goods&ServicesTax.docx Refund Claim Form for embassies, international and public organisations.docx

- On filing of the electronic application, a receipt/ acknowledgement number may be generated and communicated to the applicant via SMS and email for future reference.
- It is recommended that the preliminary scrutiny may be carried out within 30 common working days.

Procedure:

- **Online refund:** The amount of refund can be transferred to the applicant electronically through NEFT /RTGS/ECS.

Refundorderunder-----Goods&ServicesTaxAct.docx

Reduction AdjustmentSummary.docx

- **Process of review:** Every refund that is sanctioned would need to go through a higher authority in order to ensure the correctness of the decision of refund sanctioning authority.
- **Pre-audit:** Besides this, for refund amounts exceeding a pre-determined amount a provision for pre-audit of refund application.

Procedure:

- **Show Cause Notice:** If the refund is not found to be legal or correct for any reason, then the jurisdictional authority should issue Show Cause Notice (SCN) to the applicant.
- **Consumer Welfare Fund**: In case, the refund application is found to be in order but does not satisfy the test of unjust enrichment, the refund amount, after sanction, would be credited to the Consumer Welfare Fund.
- **Minimum Limit:** It is recommended that an amount in the range of Rs. 500-1000/- may be fixed below which refund shall not be granted.

Procedure:

Other important points:

- Return itself may be treated as a refund application in specified cases.
- On filing of the electronic application, a receipt/ acknowledgement number to be generated & communicated to the applicant via SMS and email for future reference
- Refund application to be displayed on taxpayer's online dashboard/ledger

Procedure:

- Refund application found to be complete in all respect - to be communicated to applicant via SMS and e-Mail
  - Date of such communication to be considered as the relevant date for interest liability
- Proof of satisfying the principle of “unjust enrichment”
  - Self certification by taxpayers
  - CA certificate for taxpayers beyond a threshold limit

Interest:

- **Time limit:** The GST Law may provide for a prescribed time limit of 90 days from the date of the system generated acknowledgment of refund application after which interest clause will start automatically.
- Issue of incomplete application (and related time limit) may be dealt by provisions in GST law.
- **Rate of interest:** The Committee recommends that the rate of interest in case of refund may be around 6%
- The GST Law may also provide that the interest will accrue from the last date when refund should have been sanctioned even when the refund is ordered to be paid by the order of the appellate authority in the appeal filed by the applicant against order of rejection passed by the refund sanctioning authority.

Adjustment & Recovery

- **Adjustment:** The GST Law may provide for adjusting the refund claim against any amount of un-stayed confirmed demand lying beyond the appeal period.

Reduction AdjustmentSummary.docx

Summary

- Refund cases to be kept at a minimum
- Total online process
- Online verification to the extent possible
- Communication through sms and e-mail
- Dealer can check status of application on portal
- Time limit for refund to be fixed in the Act
- Dealer Facilitation prime objective

Thank You

REPORT

OF

THE JOINT COMMITTEE ON BUSINESS PROCESSES FOR GST

ON

REFUND PROCESSES

Empowered Committee of State Finance Ministers

New Delhi

August, 2015

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ANNEXURE–IV

Government of -------

Department of -------

Form GST –

Refund Claim Form under ------ Goods & Services Tax Act, -----

(To be used by Tax Payers only)

1. GSTIN														

2. Full Name of Taxpayer													

3. Taxpayer's address	Building Name/ Number													
	Area/ Road													
	Locality/ Market													
	Pin Code													

4. Amount of refund claimed (Rs.)	IGST	CGST	SGST

5. Ground for claiming refund	
(provide reasons in detail, attach additional sheets, if required)	
[Attach /upload supporting documents)	

6. Tax Period for which refund claimed	**From**								**To**							
	dd		mm		yy				dd		mm		yy			

7. Details of Bank Account																
i) Bank Account No.																
ii) Bank Account Type																
iii) Operated in the name of																
iv) Name & Address of Bank/Branch																
v) MICR No. / IFSC																

8. Verification

I/We _____ hereby solemnly affirm and declare that the information given hereinabove is true and correct to the best of my/our knowledge and belief and nothing has been concealed therefrom.

Signature of Authorised Signatory _____

Full Name *(first name, middle, surname)* _____

Designation / Status _____

Place																				

Date								
	Day		Month		Year			

ANNEXURE–V

Department of ----------

Government of ----------

Form GST –

[See Rule -]

Reference No. Date -

Refund order under ----- Goods & Services Tax Act, ----

1. GSTIN														

2. Full Name of Tax Payer														

3. Tax Payer's address	Building Name/ Number														
	Area/ Road														
	Locality/ Market														
	Pin Code														

4. Receipt No. & date of refund application	Receipt No. -	Receipt date -

5. Act	Tick ☑ one	❑ IGST	❑ CGST	❑ SGST
6. Type of refund application	Tick ☑ one	❑ Return type	❑ Return type	❑ Application

Note - Return type can be regular & composition (say, GST-20,21) etc.

7. Tax Period for which refund claimed	**From**								**To**							
		dd		mm		yy				dd		mm		yy		

8. Refund calculation	Amount (Rs.)									
(i) Refund claimed										
(ii) Refund reduced, if any										
(iii) Refund allowed (i – ii)										
(iv) Interest due in case of delayed payment of refund										
(v) Amount of adjustment against outstanding demand										

(vi) Net amount of refund payable (iii + iv – v)	
9. Details of Bank Account	
i) Bank Account No.	
ii) Bank Account Type	
iii) Operated in the name of	
iv) Name & Address of Bank/Branch	
v) MICR No. / IFSC	

(Signature)
Name
(Designation)
Ward/Circle/Unit/Other
(Place)
(Date)

Note - Please quote your GSTIN while communicating with the department ------ in this matter or in any other matter whatsoever.

ANNEXURE-VI

Reduction / Adjustment Summary

Sr No.	Description	Year & Tax Period	Amount (reduction / adjustment)	Order No.	Order date	Balance demand, if any remaining after adjustment
1	2	3	4	5	6	7
1.	Reduction of refund amount					
2.	Adjustment against outstanding demand					
	Total					

(Signature)
Name
(Designation)
Ward/Circle/Unit/Other

(Place)

(Date)

ANNEXURE–VII

Department of ----------

Government of ----------

Form GST -

[See Rule --]

Refund Claim Form under ---- Goods & Services Tax Act, -----

[To be used only by Embassies, International and Public Organisations and their Officials]

1. Registration No.												

2. Tax Period for which refund claimed	**From**								**To**							
		dd		mm		yy				dd		mm		yy		

3. Full Name of Embassy / Organisation /													

4. Address of Embassy / Organisation	Building Name/ Number													
	Area/ Road													
	Locality/ Market													
	Pin Code													
	Email Id													
	Telephone Number													
	Fax Number													

5. Entry Number of ---- Schedule under which the applicant is eligible to claim refund		

6. Amount of refund claimed (Rs.) (As per invoice detail provided below)	IGST				CGST				SGST			

7. Details of purchases of tax paid goods in respect of which refund of tax is sought

Sr. No.	Invoice date	Invoice No.	Supplier's GSTIN	Supplier's Name	Value / Price (excluding tax)	Tax (Rs.)		
						IGST	CGST	SGST
1	2	3	4	5	6	7	8	9
Total								

8. Details of Bank Account in which refund should be remitted	Bank Account Number															
	Bank Account Type															
	Operated in the name of															
	MICR / IFSC															
	Name of Bank															
	Address of Branch															

9. Verification

I/We _____ hereby solemnly affirm and declare that the information given hereinabove is true and correct to the best of my/our knowledge and belief and nothing has been concealed therefrom.

Signature of Authorised Signatory _____

Full Name *(first name, middle, surname)* _____

Designation / Status _____

Place																					

Date								
	Day		Month		Year			

CHAPTER-XI

ACCOUNTS AND RECORDS – Clause Wise Analysis

42. Accounts and other records

(1) Every registered person shall keep and maintain, at his principal place of business, as mentioned in the certificate of registration, a true and correct account of production or manufacture of goods, of inward or outward supply of goods and/or services, of stock of goods, of input tax credit availed, of output tax payable and paid, and such other particulars as may be prescribed in this behalf:

Provided that where more than one place of business is specified in the certificate of registration, the accounts relating to each place of business shall be kept at such places of business concerned:

Provided further that the registered person may keep and maintain such accounts and other particulars in the electronic form in the manner as may be prescribed.

Parallel Provision in the existing Act / Rules: Similar provisions

Existing Act / Rule:

MVAT Act 2005 - Sec 63
Service Tax Rules 1994 - Rule 5

Analysis:

Accounts and records relating to production or manufacture of goods, inwards or outward supply of goods / services, stock of goods, availment of input tax credit, output tax paid / payable etc as specified will be kept at principal place of business as specified in the certificate of registration or at each place business as specified in the registration. Such accounts and records may be kept in electronic form also.

(2) The [Commissioner/Chief Commissioner] may notify a class of taxable persons to maintain additional accounts or documents for such purpose as may be specified.

(3) Where the [Commissioner/ Chief Commissioner] considers that any class of taxable persons is not in a position to keep and maintain accounts in accordance with the provisions of this section, he may, for reasons to be recorded in writing, permit such class of taxable persons to maintain accounts in such manner as may be prescribed.

Analysis:

If any additional records or documents are required to be maintained it can be notified by Commissioner / Chief Commissioner. However if certain class of taxable person is not in position to keep and maintain accounts, Chief Commissioner / Commissioner will grant permission to maintain the records as specified by them on reasons to be recorded in writing.

(4) 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 and shall submit to the proper officer a copy of the audited statement of accounts, the reconciliation statement under sub-section (2) of section 30 and such other documents in the form and manner as may be prescribed in this behalf.

Parallel Provision in the existing Act / Rules: Similar provisions

Analysis:

Audit of accounts and such records is mandatory to be carried by Cost Accountant or Chartered Accountant when aggregate turnover will cross the prescribed limit of such taxable person

43. Period of retention of accounts

(1) 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 sixty months from the last date of filing of Annual Return for the year pertaining to such accounts and records:

Provided that a taxable person, who is a party to an appeal or revision or any other proceeding before any Appellate Authority or Tribunal or Court, whether filed by him or by the department, shall retain the books of account and other records pertaining to the subject matter of such appeal or revision or proceeding for a period of one year after final disposal of such appeal or revision or proceeding, or for the period specified under sub-section (1), whichever is later.

Parallel Provision in the existing Act / Rules: Similar provision

Existing Act / Rule: Service tax Rules 1994

Existing Act / Rule No: Rule 5

Analysis:

Such accounts and records to be maintained till the expiry of 60 months from the last date of filing annual return for the year. However if any appeal for revision is pending before adjudicating authority such records to be kept for the period of 1 year after the final disposal of such appeal, whichever is later.

Accounts and Records – Detailed Analysis

- **Keep and maintain following records at principle place of business:**

1) Production or manufacture of goods
2) Inward supply of goods and/ services
3) Outward supply of goods and/ services
4) Stock of goods
5) Input Tax Credit
6) Tax payable and paid
7) Any other documents as prescribed

Note: The accounts and records can be maintained in electronic format.

- **Period of retention of accounts:**

1. Normal situation:

60 months from the last date of filing of annual return.

2. Appeal or revision or any other proceeding:

One year after final disposal of such appeal or revision or proceeding or 60 months from the last date of filing of annual return, whichever is later.

- **Audit:**

1. Specified category of taxable person will be required to get his accounts audited by Chartered Accountant/ Cost Accountant before filing annual return.

Statement reconciling value of supply declared in return and audited annual accounts need to be submitted.

1. Financial Accounting

Accountants will play a major role in implementation of GST all over India, as they will bear the 100% responsibility of maintaining books of accounts on day-to-day basis. So now we are going to discussed all accounting entries pertaining to purchase, sale & supply of goods or services or both.

Case- I - Purchase and Sale of Goods & Services - within the State

Sr. No.	Particulars	Dr. (Rs.)	Cr. (Rs.)
1.	**Purchase of Goods – within the State**		
	Purchase A/c ……Dr.	100000	
	Input CGST A/c ……Dr.	10000	
	Input SGST A/c ……Dr.	10000	
	To Creditors A/c.		120000
	(Being Goods Purchased on Credit. CGST @ 10% & SGST @ 10%)		
2.	**Sale of Goods - within the State**		
	Debtors A/c ……Dr.	180000	
	To sales A/c ……Dr.		150000
	To Output CGST A/c		15000
	To Output SGST A/c		15000
	(Being Goods Sold on Credit. CGST @ 10% & SGST @ 10%)		
3.	**Received Services - within the state**		
	Consultancy Service A/c ……Dr.	2000	
	Telephone/Internet Service A/c ……Dr.	3000	
	Input CGST A/c ……Dr.	500	
	Input SGST A/c ……Dr.	500	
	To Bank A/c		6000
	(Being Service Received & Payment made through Bank. CGST @ 10% & SGST @ 10%)		
4.	**Purchase of Capital Goods - within the State**		
	Capital Goods A/c ……Dr.	10000	

	Input CGST A/c ……Dr. Input SGST A/c ……Dr. To Creditors A/c (Being Capital Goods Purchased on Credit. CGST @ 10% & SGST @ 10%)	1000 1000	 12000
	Balance remaining in account Particulars / Input / Output IGST / 0 / 0 CGST / 11500 / 15000 SGST / 11500 / 15000		
5.	**Adjustment Entry for Input Tax** Output CGST ……Dr. Output SGST ……Dr. To Input CGST To Input SGST (Being Input tax adjusted against Output tax)	 11500 11500	 11500 11500
6.	**Payment of Tax** Output CGST A/c ……Dr. Output SGST A/c ……Dr. To Bank (Being Outstanding Output Tax paid Through Bank)	 3500 3500	 7000

Case - II - Purchase of Goods & Services - within the State & Sale - outside the state

Sr. No.	Particulars	Dr. (Rs.)	Cr. (Rs.)
1.	**Purchase of Goods - within the State** Purchase A/c ……Dr. Input CGST A/c ……Dr. Input SGST A/c ……Dr.	 100000 10000 10000	

	To Creditors A/c. (Being Goods Purchased on Credit. CGST @ 10% & SGST @ 10%)		120000
2.	**Sale of Goods - outside the State** Debtors A/c ……Dr. To Sales A/c To Output IGST A/c (Being Goods Sold on Credit. CGST @ 10% & SGST @ 10%)	180000	 150000 30000
3.	**Received Services - within the state** Consultancy Service A/c ……Dr. Telephone/Internet Service A/c ……Dr. Input CGST A/c ……Dr. Input SGST A/c ……Dr. To Bank A/c (Being Service Received & payment made through Bank. CGST @ 10% & SGST @ 10%)	 2000 3000 500 500	 6000
4.	**Purchase Capital Goods - within the State** Capital Goods A/c ……Dr. Input CGST A/c ……Dr. Input SGST A/c ……Dr. To Creditors A/c (Being Capital Goods Purchased on Credit. CGST @ 10% & SGST @ 10%)	 10000 1000 1000	 12000

Balance remaining in account

Particulars	Input	Output
IGST	0	30000
CGST	11500	0
SGST	11500	0

5.	**Adjustment Entry for Input Tax**		
	Output IGST A/c ……Dr.	11500	
	To Input CGST		11500
	(Being Input tax adjusted against Output tax)		
6.	**Adjustment Entry for Input Tax**		
	Output IGST A/c ……Dr.	11500	
	To Input SGST		11500
	(Being Input tax adjusted against Output tax)		
7.	**Payment of Tax**		
	Output IGST A/c ……Dr.	7000	
	To Bank		7000
	(Being Outstanding Output Tax paid through Bank)		

Case - III - Purchase of Goods & Services - outside the State and Sale - within the state

Sr. No.	Particulars	Dr. (Rs.)	Cr. (Rs.)
1.	**Purchase of Goods - outside the State**		
	Purchase A/c ……Dr.	100000	
	Input IGST A/c ……Dr.	20000	
	To Creditors A/c.		120000
	(Being Goods Purchased on Credit. IGST = 20% [CGST @ 10% + SGST @ 10%])		
2.	**Sale of Goods - within the State**		
	Debtors A/c ……Dr.	180000	
	To Sales A/c		150000
	To Output CGST A/c		15000
	To Output SGST A/c		15000
	(Being Goods Sold on Credit. CGST @ 10% & SGST @ 10%)		

3.	**Received Services - outside the state**		
	Consultancy Service A/c ……Dr.	2000	
	Telephone/Internet Service A/c……Dr.	3000	
	Input IGST A/c ……Dr.	1000	
	To Bank A/c		6000
	(Being Service Received & payment made through Bank. IGST = 20% [CGST @ 10% + SGST @ 10%])		
4.	**Purchase of Capital Goods - outside the State**		
	Capital Goods A/c ……Dr.	10000	
	Input IGST A/c ……Dr.	2000	
	To Creditors A/c		12000
	(Being Capital Goods Purchased on Credit. IGST = 20% [CGST @ 10% + SGST @ 10%])		

Balance remaining in account

Particulars	Input	Output
IGST	23000	0
CGST	0	15000
SGST	0	15000

5.	**Adjustment Entry for Input Tax**		
	Output CGST A/c ……Dr.	15000	
	To Input IGST		15000
	(Being Input tax adjusted against Output tax)		
6.	**Adjustment Entry for Input Tax**		
	Output SGST A/c ……Dr.	8000	
	To Input IGST		8000
	(Being Input tax adjusted against Output tax)		
7.	**Payment of Tax**		
	Output CGST A/c ……Dr.	0	
	Output SGST A/c ……Dr.	7000	
	To Bank		7000
	(Being Outstanding Output Tax paid Through Bank)		

Case - IV - Purchase and Sale of Goods & Services - outside the state

Sr. No.	Particulars	Dr. (Rs.)	Cr. (Rs.)
1.	**Purchase of Goods - outside the State**		
	Purchase A/c ……Dr.	100000	
	Input IGST A/c ……Dr.	20000	
	To Creditors A/c.		120000
	(Being Goods Purchased on Credit. IGST = 20% [CGST @ 10% + SGST @ 10%])		
2.	**Sale of Goods - outside the State**		
	Debtors A/c ……Dr.	180000	
	To Sales A/c		150000
	To Output IGST A/c		30000
	(Being Goods Sold on Credit. IGST = 20% [CGST @ 10% + SGST @ 10%])		
3.	**Received Services - outside the state**		
	Consultancy Service A/c ……Dr.	2000	
	Telephone/Internet Service A/c……Dr.	3000	
	Input IGST A/c ……Dr.	1000	
	To Bank A/c		6000
	(Being Service Received & payment made through Bank. IGST = 20% [CGST @ 10% + SGST @ 10%])		
4.	**Purchase of Capital Goods - outside the State**		
	Capital Goods A/c ……Dr.	10000	
	Input IGST A/c ……Dr.	2000	
	To Creditors A/c		12000
	(Being Capital Goods Purchased on Credit. IGST = 20% [CGST @ 10% + SGST @ 10%])		

	Balance remaining in account Particulars / Input / Output IGST / 23000 / 30000 CGST / 0 / 0 SGST / 0 / 0		
5.	**Adjustment Entry for Input Tax** Output IGST A/c ……Dr. To Input IGST (Being Input tax adjusted against Output tax)	23000	 23000
6.	**Payment of Tax** Output IGST A/c ……Dr. To Bank (Being Outstanding Output Tax paid Through Bank)	7000	 7000

Case – V - Received goods & services - within and outside the State. Sale of services and goods - within and outside the State

Sr. No.	Particulars	Dr. (Rs.)	Cr. (Rs.)
1.	**Purchase of Goods - outside the State** Purchase A/c ……Dr. Input IGST A/c ……Dr. To Creditors A/c. (Being Goods Purchased on Credit. IGST = 20% [CGST @ 10% + SGST @ 10%])	 100000 20000	 120000
2.	**Purchase of Goods - within the State** Purchase A/c ……Dr. Input CGST A/c ……Dr. Input SGST A/c ……Dr. To Creditors A/c. (Being Goods Purchased on Credit. CGST @ 10% & SGST @ 10%)	 50000 5000 5000	 60000

3.	**Sale of Goods - outside the State**		
	Debtors A/c ……Dr.	180000	
	To sales A/c		150000
	To Output IGST A/c		30000
	(Being Goods Sold on Credit. IGST = 20% [CGST @ 10% + SGST @ 10%])		
4.	**Sale of Goods - within the State**		
	Debtors A/c ……Dr.	90000	
	To sales A/c		75000
	To Output CGST A/c		7500
	To Output SGST A/c		7500
	(Being Goods Sold on Credit. CGST @ 10% & SGST @ 10%)		
5.	**Received Services - outside the state**		
	Consultancy Service A/c ……Dr.	20000	
	Telephone/Internet Service A/c……Dr.	30000	
	Input IGST A/c ……Dr.	10000	
	To Bank A/c		60000
	(Being Service Received & payment made through Bank. IGST = 20% [CGST @ 10% + SGST @ 10%])		
6.	**Received Services from within the state**		
	Consultancy Service A/c……Dr.	2000	
	Telephone/Internet Service A/c……Dr.	3000	
	Input CGST A/c ……Dr.	500	
	Input SGST A/c ……Dr.	500	
	To Bank A/c		6000
	(Being Service Received & payment made through bank. CGST @ 10% & SGST @ 10%)		

7.	**Purchase of Capital Goods - outside the State**		
	Capital Goods A/c ……Dr.	9000	
	Input IGST A/c ……Dr.	1800	
	To Creditors A/c		10800
	(Being Capital Goods Purchased on Credit. IGST = 20% [CGST @ 10% + SGST @ 10%])		
8.	**Purchase of Capital Goods - within the State**		
	Capital Goods A/c ……Dr.	10000	
	Input CGST A/c ……Dr.	1000	
	Input SGST A/c ……Dr.	1000	
	To Creditors A/c		12000
	(Being Capital Goods Purchased on Credit. CGST@10% & SGST@10%)		

Balance remaining in account

Particulars	Input	Output
IGST	31800	30000
CGST	6500	7500
SGST	6500	7500

9.	**Adjustment Entry for Input Tax**		
	Output CGST A/c ……Dr.	6500	
	To Input CGST		6500
	(Being Input tax adjusted against Output tax)		
10.	**Adjustment Entry for Input Tax**		
	Output SGST A/c ……Dr.	6500	
	To Input SGST		6500
	(Being Input tax adjusted against Output tax)		
11.	**Adjustment Entry for Input Tax**		
	Output IGST A/c ……Dr.	30000	
	To Input IGST		30000
	(Being Input tax adjusted against Output tax)		

Balance remaining in account

Particulars	Input	Output
IGST	1800	0
CGST	0	1000
SGST	0	1000

12.	**Adjustment Entry for Input Tax** Output CGST A/c ……Dr. To Input IGST (Being Input tax adjusted against Output tax)	1000	 1000
13.	**Adjustment Entry for Input Tax** Output SGST A/c ……Dr. To Input IGST (Being Input tax adjusted against Output tax)	800	 800
14.	**Payment of Tax** Output SGST A/c ……Dr. To Bank (Being Outstanding Output Tax paid Through Bank)	200	 200

Miscellaneous Entries:

Sr. No.	**Particulars**	**Dr. (Rs.)**	**Cr. (Rs.)**
1.	**Purchase return, if Purchase was made within the State** Creditors A/c……Dr. To Purchase A/c To Input CGST A/c To Input SGST A/c (Being purchases Return of Rs.25000. CGST @ 10% & SGST @ 10%)	30000	 25000 2500 2500
2.	**Purchase return, if Purchase was made - outside the**		

	state		
	Creditors A/c……Dr.	30000	
	To Purchase A/c		25000
	To Input IGST A/c		5000
	(Being Purchased Return of Rs. 25000. IGST = 20% [CGST @ 10% + SGST @ 10%]))		
3.	**Sales return, if sales was made - with the state**		
	Sales A/c……Dr.	25000	
	Outside CGST A/c……Dr.	2500	
	Outside SGST A/c……Dr.	2500	
	To Debtors A/c		30000
	(Being Sales Return of Rs. 25000. CGST @ 10% & SGST @ 10%)		
4.	**Sales Return, if Sales was made - outside the state**		
	Sales A/c……Dr.	25000	
	Output IGST A/c……Dr.	5000	
	To Debtors A/c		30000
	(Being Sales Return of Rs. 25000. IGST = 20% [CGST @ 10% + SGST @ 10%])		

Accounting Entries – Job Work in the Books of Principle Supplier

Case- I - Purchase and transfer the Goods to Job Worker - within the State

Sr. No.	Particulars	Dr. (Rs.)	Cr. (Rs.)
1.	**Purchase of Goods – within the State**		
	Purchase A/c ……Dr.	100000	
	Input CGST A/c ……Dr.	10000	
	Input SGST A/c ……Dr.	10000	
	To Creditors A/c.		120000
	(Being Goods Purchased on Credit. CGST @ 10% & SGST @ 10%)		

2.	**Goods Transferred to Job Work - within the State**		
	Job work account A/C.....Dr.	120000	
	To Stock A/c		100000
	To SGST A/c		10000
	To CGST A/c		10000
	(Being goods transferred to Job worker. CGST @ 10% & SGST @ 10%)		
3.	**WIP/FG Returned from Job Work- within the State**		
	WIP/FG A/C .....Dr.	200000	
	Input CGST A/c .....Dr.	20000	
	Input SGST A/c .....Dr.	20000	
	To Job Work A/c		240000
	(Being Service Received & Payment made through Bank. CGST @ 10% & SGST @ 10%)		
4.	**Payment to Job Worker**		
	Job Work A/C.....Dr	120000	
	To Bank A/c		120000
	(Being amount paid to Job worker)		

Particulars	Input	Output
IGST	0	0
CGST	30000	10000
SGST	30000	10000

<u>Case- II</u> - Purchase from outside the state and transfer the Goods to Job Worker - within the State

Sr. No.	Particulars	Dr. (Rs.)	Cr. (Rs.)
1.	**Purchase of Goods – outside the State**		
	Purchase A/c ……Dr.	100000	
	Input IGST A/c ……Dr.	20000	
	To Creditors A/c.		120000
	(Being Goods Purchased on Credit. IGST @ 20%)		
2.	**Goods Transferred to Job Work - within the State**		
	Job work account A/C……Dr.	120000	
	To Stock A/c		100000
	To SGST A/c		10000
	To CGST A/c		10000
	(Being goods transferred to Job worker. CGST @ 10% & SGST @ 10%)		
3.	**WIP/FG Returned from Job Work- within the State**		
	WIP/FG A/C ……Dr.	200000	
	Input CGST A/c ……Dr.	20000	
	Input SGST A/c ……Dr.	20000	
	To Job Work A/c		240000
	(Being Service Received & Payment made through Bank. CGST @ 10% & SGST @ 10%)		
4.	**Payment to Job Worker**		
	Job Work A/C……Dr	120000	
	To Bank A/c		120000

Particulars	Input	Output
IGST	20000	0
CGST	20000	10000
SGST	20000	10000

2. Integrated Accounting : Interfacing Cost Records and Financial Records - for simplicity

The following table shows the comparative journal entries in financial accounts, cost accounts and integrated accounting:

Sl. No	Transaction	Financial Accounts	Cost Accounts	Integrated Accounts
(i)	Credit purchase of Material	Purchases A/c Dr To, Creditors A/c	Material Control A/c Dr To, General Ledger A/c	Material Control A/c Dr To, Creditors
(ii)	Cash purchase of materials	Purchases A/c Dr To, Bank / Cash. A/c	Material Control A/c Dr To, General Ledger A/c	Material Control A/c Dr To, Cash
(iii)	Purchase of special material for direct use in job	Purchases A/c Dr To, Cash / Creditors. A/c	WIP Control A/c Dr To, General Ledger Adj A/c	WIP Contrtol A/c Dr To, Cash or Creditors A/c
(iv)	Purchase of materials for repairs	Purchases A/c Dr To, Cash/Creditors. A/c	Factory OH control A/c Dr To, General Ledger Adj A/c	Factory OH control A/c Dr To, Cash / Creditors A/c
(v)	Materials returned to suppliers	Creditors A/c Dr To, Purchases A/c	General Ledger Control A/c. Dr To Material control A/c	Creditors A/c Dr To, Material Control A/c
(vi)	Payments to creditors for supplies made	Creditors A/c Dr To, Cash A/c	No Entry	Creditors A/c Dr To, Cash A/c
(vii)	Issue of direct materials to production shops	No Entry	WIP Control A/c Dr To, Materials Control A/c	WIP Control A/c Dr To, Materials Control A/c
(viii)	Issue of indirect materials to production shops	No Entry	Factory OH Control A/c Dr To, Material Control A/c	Factory OH control A/c Dr To, Material Control A/c
(ix)	Return of direct materials to stores	No Entry	Material Control A/c Dr To, WIP Control A/c	Material Control A/c Dr To, WIP Control A/c
(x)	Return of indirect materials to stores	No Entry	Material Control A/c Dr To, Factory Overheads A/c	Material Control A/c Dr To, Factory Overheads A/c
(xi)	Materials transferred from one Job to another	No Entry	No Entry	No Entry
(xii)	Adjustment of normal depreciation in material stocks	No Entry	Factory Overheads Control A/c Dr To, Material Control A/c	Factory Overheads Control A/c Dr To, Material Control A/c
(xiii)	Adjustment of normal surplus in material stocks	No Entry	Material Control a/c Dr To, Factory OH Control A/c	Material Control A/c Dr To, Factory OH Control A/c
(xiv)	Payment of wages & Salaries	Wages & Salaries A/c Dr To Cash / Bank A/c	Wages Control A/c Dr To, General Ledger A/c	Wages & Salaries A/c Dr To, Cash / Bank A/c

Sl. No	Transaction	Financial Accounts	Cost Accounts	Integrated Accounts
(xv)	Analysis of distribution of wages	No Entry	WIP Control A/c Dr POH Control A/c Dr Admin OH Control A/c Dr Sellings Dis OH Control A/c Dr To, Wages Control A/c.	WIP Control A/c Dr POH Control A/c Dr Admin OH Control A/c Dr Sellings Dis OH Control A/c Dr To, Wages Control A/c.
(xvi)	Payment of Expenses	Expenses A/c Dr To, Cash A/c	POH Control A/c Dr Admin OH Control A/c Dr Selling & Dis OH Control A/c Dr To, General Ledger Adj A/c	POH Control A/c Dr Admin OH Control A/c Dr Selling & Dis OH Control A/c Dr To, Cash A/c
(xvii)	Recording of Depreciation	Depreciation A/c Dr To, Asset A/c	POH Control A/c Dr Admin OH Control A/c Dr Selling & Dis OH Control A/c Dr To, General Ledger Adj A/c	POH Control A/c Dr Admin OH Control A/c Dr Selling & Dis OH Control A/c Dr To, Asset A/c
(xviii)	Absorption of Factory Overheads	No Entry	WIP Control A/c Dr To, Factory Overheads A/c	WIP Control A/c Dr To, Factory Overheads A/c
(xix)	Spoiled / Defective Work	No Entry	Costing Profit & Loss A/c Dr To, WIP Control A/c	Costing Profit & Loss A/c Dr To, WIP Control A/c
(xx)	Recording of Cost of Jobs completed	No Entry	Finished Goods Control A/c Dr To, WIP Control A/c	Finished Goods Control A/c Dr To, WIP Control A/c
(xxi)	Recording of Cost of goods sold	No Entry	Cost of Sales A/c Dr To, Finished goods A/c	Cost of Sales A/c Dr To, Finished goods Control A/c
(xxii)	Recording of sales	Cash/ Debtor A/c Dr To, Sales A/c	General Ledger Control A/c Dr To, Costing P&L A/c	Cash / Debtors A/c Dr To, P&L A/c
(xxiii)	Absorption of Administration Overheads	No Entry	Finished Goods Control A/c Dr To, Admin OH Control A/c	Finished Goods Control A/c Dr To, Admin OH control A/c
(xxiv)	Absorption of Selling Overheads	No Entry	Cost of Sales A/c Dr To, Selling & Dis. Overheads Control A/c	Cost of Sales A/c Dr To, Selling & Dis. OH Control A/c
(xxv)	Under absorption of overheads	No Entry	Costing Profit & Loss A/c Dr To, OH Control A/c	Profit & Loss A/c Dr To, OH control A/c
(xxvi)	Over absorption of overheads	No Entry	OH Control A/c Dr To, Costing P&L A/c	OH Control A/c Dr To, Costing P&L A/c

CHAPTER - XIA

JOB WORK

43A. Special procedure for removal of goods for certain purposes

(1) The Commissioner may, by special order and subject to conditions as may be specified by him, permit a registered taxable person (hereinafter referred to in this section as the "principal") to send taxable goods, without payment of tax, to a job worker for job-work and from there subsequently send to another job worker and likewise, and may, after completion of job-work, allow to-

(a) bring back such goods to any of his place of business, without payment of tax, for supply therefrom on payment of tax within India, or with or without payment of tax for export, as the case may be, or

(b) supply such goods from the place of business of a job-worker on payment of tax within India, or with or without payment of tax for export, as the case may be:

Provided that the goods shall not be permitted to be supplied from the place of business of a job worker in terms of clause (b) unless the "principal" declares the place of business of the job-worker as his additional place of business except in a case-

(i) where the job worker is registered under section 19; or

(ii) where the "principal" is engaged in the supply of such goods as may be notified in this behalf.

(2) The responsibility for accountability of the goods including payment of tax thereon shall lie with the "principal".

Parallel Provision in the existing Act / Rules: Similar provisions
Existing Act / Rule: Central Excise Act, 1944
Existing Act / Rule No: Notification No.214/86 CE
Analysis:

Job work permission needs to be obtained from Commissioner by special order and such goods can be removed without payment of tax for outward supplies to job worker or by job worker to another job worker further. Such job worker is allowed to return such goods after completion of work without payment of tax or directly supply the goods on payment of tax within India or supply with or without payment of tax for export. However in such case place of job worker should be declared as additional place of business indicated on registration certificate of principal.

This will not necessitate if the job worker is already registered under section 19.

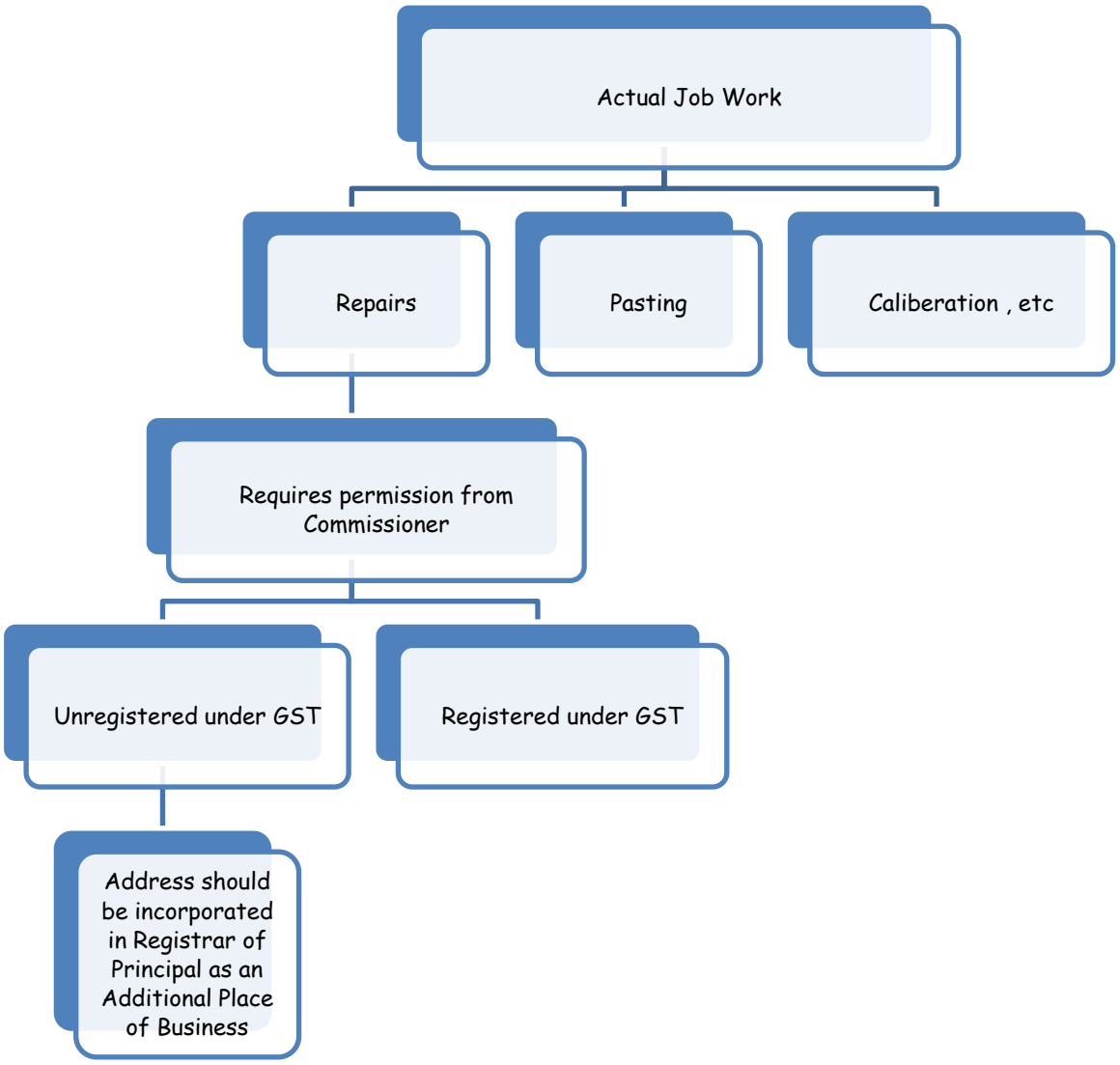
Responsibility for the accountability of the goods and payment of tax will be on principal

Definition of job work has been enhanced which includes any treatment or process which will also cover repairs, calibration, testing etc. etc.

Job Work

- includes carrying out activities as specified in Schedule II

Actual Job Work



Responsibility of the Principal:

- Material Accounting
- Payment of GST

Job work

Job work is understood as the processing or working on goods supplied by the principal so as to complete a part or whole of the process. The work may be the initial process, intermediate process, assembly, packing or any other completion process. The goods sent for job work maybe raw material, component parts, semi-finished goods and even finished goods. The resultant goods could also be a variation of the same or the complete product. Examples of common job works are slitting, machining, welding, painting, electroplating, assembly, powder coating etc.

1. Provision under Central Excise and Service Tax:

A. Meaning of Job work under Central Excise

Job work is defined in Notification No. 214/86 dated 25.03.1986 and under Rule 2(n) of the Cenvat Credit Rules, 2004

"Job work" means processing or working upon of raw materials or semi-finished goods supplied to the job worker/ so as to complete a part or whole of the process resulting in the manufacture or finishing of an article or any operation which is essential for the aforesaid process.

If one were to go by the definition of the term "job work", it is evident the raw materials have to be supplied by another person. In Prestige Engineering India Ltd v CCE Meerut, – 1994 (9) TMI 66, the Supreme Court held that when the job worker contributed his own material to the goods supplied by the customer and engaged in manufacturing, the activity was not one of job work. However, minor additions by the job worker would not take away the fact that the activity was one of job work.

B. Job Work and Manufacture (under Central Excise)

Since excise duty is on 'manufacture', duty liability arises only when the goods are manufactured during job work. The test as to whether the process amounts to manufacture or not would be determined as per section 2(f) of Central Excise Act, 1944 which defines manufacture as including any process incidental or ancillary to the completion of the manufactured product….. Various decision of the Supreme Court have arrived at a conclusion that where the product undergoes a change whereby a new article having a distinctive name, character or use emerges or not from the said process in manufacture (Honourable Supreme Court in Delhi Cloth and General Mills Co. Ltd Vs UOI 1962 (10) TMI 1 – SUPREME COURT OF INDIA)

C. Liability under Central Excise and Service Tax

- **Process amount to manufacture:** If the process undertaken by the job worker amounts to manufacture/ deemed manufacture as per the definition or decided case laws, the job worker would be liable to pay duty of excise on the goods so manufactured. Alternatively, the principal manufacturer who has supplied the goods for job work may furnish a declaration under Notification No. 214/86 dated 25.03.1986 (which exempts goods manufactured by a job worker from duty of excise)based on which job worker would

not be required to charge duty of excise. The goods must be used in manufacturing process by principal manufacturer which should result in a dutiable product being manufactured on which duty of excise is being charged. The activity undertaken by job worker would not be liable to service tax also as any process amounting to manufacture or production of goods is covered by Negative list.

- **Process does not amount to manufacture:** Where the processing undertaken by the job worker does not amount to manufacture, the said job worker could be liable to service tax. But before determining the same, one need to examine the exemption provided in Notification No. 25/2012 ST 20.06.2012 (called as Mega Exemption Notification). As per the said Notification, **job work in relation of any goods on which appropriate duty is payable by the principal manufacturer, is exempted**. Appropriate duty means "duty payable on manufacture or production under a Central Act or a State Act, but shall not include 'Nil' rate of duty or duty wholly exempt". It means that if the duty is charged on final product by principal manufacturer, there is no liability on job worker to charge service tax. On the contrary, if appropriate duty is not paid by principal manufacturer, the job worker would be liable to charge service tax.

D. Valuation

Prior to 2007 valuation of job work was as per the ratio of Ujagar Prints 1989 (1) TMI 124, It was held by Supreme Court that in respect of goods manufactured on job-work basis, assessable value would be the job charges (including the profit of the job-worker if not already included in the job-charges) plus the cost of the materials used in the manufacture of the item (including the cost of the materials supplied free of cost to the job-worker).

Rule 10A had been introduced in Central Excise Valuation (Determination of Price of Excisable goods) Rule 2000, in respect of the goods produced or manufactured by Job Worker which provides for valuation as follows:

- **Goods directly sold from job worker premise:** Where the goods are sold by the raw material supplier/principal manufacturer from the factory of job worker – the value would have to be the transaction value of the goods so sold by the raw material supplier/principal. This will apply only when the raw material supplier and the buyer of the goods are not related and price is the sole consideration for the sale and the goods are sold for delivery at the time of removal from the job worker's factory.

Illustration: Let the value of raw materials supplied by principal be Rs. 1,00,000 and the job workers conversion cost be Rs. 15,000 and his profit margin be Rs. 5,000. If the principal sells the goods processed by the job worker at Rs. 1,50,000. Then assessable value would be Rs. 1,50,000 (that is the price charged by the principal for sale of the processed goods).

- **Goods not sold from job worker premise**: In a case where the goods are not sold by the principal manufacturer at the time of removal of goods from the factory of job-worker, but are transferred to some other place from where the said goods are to be sold after their clearance from the factory of the job worker – the normal transaction value of

such goods sold from such other place at or about the same time has to be adopted. This, in other words follows the principle of depot based valuation under Central Excise applicable where goods are cleared to depots of manufacturers and sold therefrom. Where such goods are not sold at or about the same time, then the normal transaction value of such goods at the time nearest to the time of removal of said goods from the factory of job worker is to be adopted. The cost of transport from the premises where from the goods are sold, to the place of delivery, would not be included in assessable value. Valuation under service tax would be on gross amount charged towards labour charges. Where the nature of work undertaken is works contract, value would be arrived at as per options provided under Rule 2A of Service Tax (Determination of Value) Rules, 2006.

2. Provisions under CST/VAT Act:

A. Interstate job work: The goods may be sent outside state for job work. In the absence of any sale, there would be no liability on principal manufacturer to charge CST. The material may be sent along with a declaration that the goods have been sent on job work.

The work undertaken by job worker may or may not involve use of material. Where no material is used, there is no liability to charge CST as there is no transfer of property involved. When the job worker uses materials there would be a transfer of property in goods involved and the transaction would be taxable. The taxability would depend upon the following:

a. Material Billed separately: This would be a divisible contract in which job worker would charge the applicable CST on the materials transferred by him. He would also bill pure labour charges. In such cases the work order, purchase order or contract should be clear on the values ascribed towards the material and labour. It is advisable to keep the valuation of each of the components in such bifurcated contract near to the reality.

b. Composite Billing: In this case the value of material would be included in the total amount. This is called works contract. The material portion would be liable to CST. The various State governments have specified some deemed deduction for labour where the works contract or cannot arrive at the actual value of goods. The example could be annual maintenance contracts, galvanizing, electroplating, powder coating, painting of components, re-melting of scrap zinc/ brass etc. These transactions are liable for tax deduction at source when they provide services to the specified institutions.

Similarly, there could be contracts such as painting of portrait etc. in which some consumables are used. In these cases though there is a material transfer, the activity has been understood clearly to be service by the Court's by applying dominant motive test and consequently there is no liability to charge CST.

B. Job work within state: Where principal manufacturer and job worker are located within same state, there would be no liability on principal manufacturer to charge VAT in the absence of sales. The liability charge VAT would be same as discussed above in case of interstate job works.

3. Applicability of GST on job work

Having discussed the impact under Central Excise, Service Tax and CST/VAT, now we shall discuss the taxability under proposed GST regime. Job work strategy of caring operation through job worker need to be redesign considering the GST burden on supply of goods to the job worker.

The taxable events under present laws are manufacture (Central Excise), provision of service (Service Tax) and sale (CST/VAT) respectively for applicability of different kind of taxes. Under proposed GST regime, all these concepts would lose relevance and the taxable event would only be "supply of goods" and "supply of services". The goods supplied by principal supplier to job worker would be supply of goods chargeable to CGST/SGST in case of intra state job work and IGST, in case of inter- state job work. The job worker would be entitled to take the credit of tax charged by principal supplier. When the goods would be supplied back by job worker, he is also required to charge the tax in the same manner as charged by principal supplier. Following could be certain aspects which would be relevant under GST:

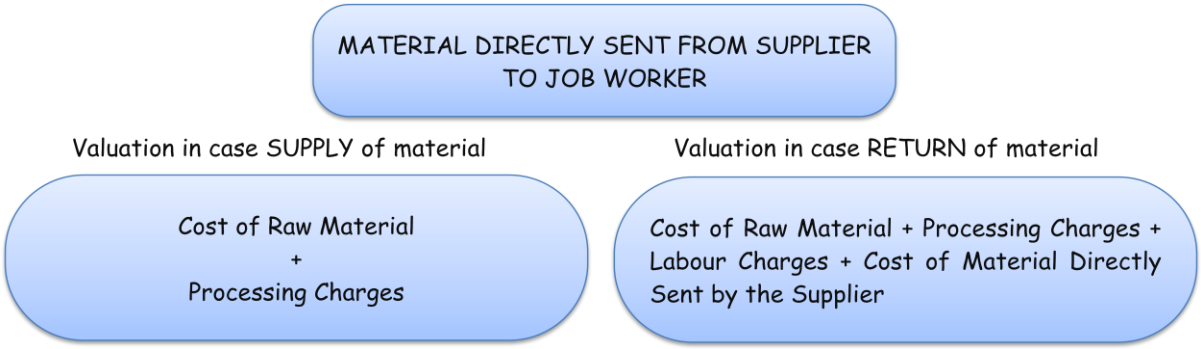
- **Valuation:** Supply of goods by principal supplier to job worker would be on account of other than sales. Now the question arises as to on what value the principal supplier is required to charge GST as the principal supplier is not going to receive any consideration from job worker towards such supply. One possible option could be the price to be arrived at based on intrinsic value of goods. This can be arrived at by taking the price of comparable goods. Another option could be wherein tax to be charged on the cost of product being supplied which could be determined based on cost accounting record. Similarly, job worker may charge duty based on intrinsic value of goods in the form in which it is supplied by him after processing. This can be done based on the price at which supplied by principal supplier + his job work charges (including material and labour).
- **Nature of taxes and credit:** In case of job work within state, both principal supplier and job worker would be required to charge CGST and SGST. In case of inter-state movement, IGST would be charged. The tax charged by one party would be eligible as credit to another which may be adjusted against discharging their output liability.
- **Treatment of additional 1 % tax:** In case of interstate supply of goods, additional 1% tax would also be levied for initial 2 years. However, it is proposed not to levy this tax where supply of goods is made without consideration. Hence, principal supplier would not be required to charge this additional tax on supply of goods to job worker. Similarly, the job worker needs not to charge this tax to the extent material supplied by principal supplier. However, he has added certain material from his sources, there would be transfer of property in goods to that extent and this supply may be liable to additional tax of 1%. The tax so charged will not be admissible as credit to the principal supplier.
- **Tax on supply of capital goods:** There would be no distinction between capital goods and other goods in the GST regime. Hence, the supply of capital goods by principal supplier will also entail levy of GST on the value of goods supplied. The value could be arrived at the book value/intrinsic value/value of similar goods etc. Where the value of

capital goods supplied is very large, this is likely to result in substantial cash outflow by principal supplier. The tax so charged though would be available as credit to job worker but it may be possible that the liability of job worker on output is very less due to which the same may remain unutilised for very long period.

- **Requirement of submission of forms**: Under present law, the principal supplier and job worker is required to transfer the material on the basis of Annexure –II challan, delivery challan, forms under CST/VAT Act etc. All these requirements are expected to be done away under proposed GST regime. Though there could be some documentary evidence/format which may be prescribed to capture the transactions other than of supply.
- **Booking of revenue in books of account**: The distinction between supply and sale will continue in the post GST regime also. All supply may not be considered sales. As the transaction would not be on account of sale, it shall not be recorded as revenue in the books of principal supplier as well as job worker as revenue can be booked only when there is transfer of property in goods which is guided by Accounting Standards issued by ICAI. If all supplies are treated as revenue in the books of account, the revenue would be inflated in the books of both principal supplier as well as job worker which would be incorrect. It could be possible that separate series of invoice/documentary evidence may be permitted to record such transaction so that these can be distinguished from sale.

Note: Treatment of Additional Tax in case of Job Work

Principle supplier would not be required to charge this Additional Tax on supply of goods. Similarly, the Job Worker needs not to charge this tax to the extent material supplied by principle supplier. However if job worker add certain material from his source, there would be transfer of property in goods to that extent and this supply may be liable to Additional Tax of 1%.



Type of Work	Valuation in case Supply of material	Valuation in case return of material
Pure Job Work	Cost of Raw material + processing charges	Cost of Raw material + processing charges + Labour charges
Material supplied to the job worker	Cost of Raw material + processing charges	Cost of Raw material + processing charges + Labour charges + Cost of Material supplied to Job Worker
Material added by the job worker	Cost of Raw material + processing charges	Cost of Raw material + processing charges + Labour charges + Cost of Material added by Job Worker
Material directly sent from supplier to job worker	Cost of Raw material + processing charges	Cost of Raw material + processing charges + Labour charges + Cost of Material directly sent by the supplier

Probable Issues: Since goods supplied to job worker will not be exempted the following issues need to be adjusted:

1. Impact of works contract
2. Registration of each job worker, otherwise there will be impact of GST in cost
3. Job Worker includes any person undertaking process, repairs, re-publishing, testing, calibration etc. For each supplies against each operation GST will be charged & Job work will be able to take the ITC credit otherwise it will be a item of cost.

Provisions of Chapter XIB - Electronic Commerce - represented from the Model GST Law 2016

CHAPTER - XIB

ELECTRONIC COMMERCE

43B. Definitions

In this Chapter, unless the context otherwise requires, -

(a) '**aggregator'** means a person, who owns and manages an electronic platform, and by means of the application and a communication device, enables a potential customer to connect with the persons providing service of a particular kind under the brand name or trade name of the said aggregator;

(b) '**brand name or trade name**' means, a brand name or a trade name, whether registered or not, that is to say, a name or a mark, such as an invented word or writing, or a symbol, monogram, logo, label, signature, which is used for the purpose of indicating, or so as to indicate a connection, in the course of trade, between a service and some other person using the name or mark with or without any indication of the identity of that person;

(c) '**branded Services**' means services which are supplied by an electronic commerce operator under its own brand name or trade name, whether registered or not;

(d) '**electronic commerce**' shall mean the supply or receipt of goods and / or services, or transmitting of funds or data, over an electronic network, primarily the internet, by using any of the applications that rely on the internet, like but not limited to e-mail, instant messaging, shopping carts, Web services, Universal Description, Discovery and Integration (UDDI), File Transfer Protocol (FTP), and Electronic Data Interchange (EDI), whether or not the payment is conducted online and whether or not the ultimate delivery of the goods and/or services is done by the operator;

(e) '**electronic commerce operator**' shall include every person who, directly or indirectly, owns, operates or manages an electronic platform that is engaged in facilitating the supply of any goods and/or services or in providing any information or any other services incidental to or in connection there with but shall not include persons engaged in supply of such goods and/or services on their own behalf.

43C. Collection of tax at source

(1) Notwithstanding anything to the contrary contained in the Act or in any contract, arrangement or memorandum of understanding, every electronic commerce operator (hereinafter referred to in this section as the "operator") shall, 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 in this behalf by the Central/State Government on the recommendation of the Council.

(2) The power to collect the amount specified in sub-section (1) shall be without prejudice to any other mode of recovery from the operator.

(3) The amount collected under sub-section (1) shall be paid to the 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.

(4)(a) 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 ten days after the end of such calendar month.

(b) The statement under clause (a) shall contain, *inter alia*, the details of the amount collected on behalf of each supplier in respect of all supplies of goods and/or services effected through the operator and the details of such supplies during the said calendar month.

(5) Any amount collected in accordance with the provisions of this section and paid to the credit of the appropriate Government shall be deemed to be a payment of tax on behalf of the concerned supplier and the supplier shall claim credit, in his electronic cash ledger, of the tax collected and reflected in the statement of the operator filed under sub-section (4), in the manner prescribed.

(6) The details of supplies and the amount collected under sub-section (1) during a calendar month, and furnished by every operator under sub-section (4), shall, in the manner and within the period prescribed, be matched with the corresponding details of outward supplies furnished by the concerned supplier in his valid return for the same calendar month or any preceding calendar month.

(7) Where the details of outward supply, on which the tax has been collected, as declared by the operator under sub-section (4) do not match with the corresponding details declared by the supplier under section 25, the discrepancy shall be communicated to both persons in the manner and within the time as may be prescribed.

(8) The value of a supply relating to any payment in respect of which any discrepancy is communicated under sub-section (7) and which is not rectified by the supplier in his valid return for the month in which discrepancy is communicated shall be added to the output liability of the said supplier, in the manner as may be prescribed, for the calendar month succeeding the calendar month in which the discrepancy is communicated.

(9) The concerned supplier shall, in whose output tax liability any amount has been added under sub-section (8), be liable to pay the tax payable in respect of such supply along with interest, at the rate specified under sub-section (1) of section 36 on the amount so added from the date such tax was due till the date of its payment.

(10) Any authority not below the rank of Joint Commissioner may, by notice, either before or during the course of any proceeding under this Act, require the operator to furnish such details relating to—

(a) supplies of goods and/or services effected through such operator during any period, or

(b) stock of goods held by the suppliers making supplies through such operator in the godowns or warehouses, by whatever name called, managed by such operators and declared as additional places of business by such suppliers -

as may be specified in the notice.

(11) Every operator on whom a notice has been served under sub-section (10) shall furnish the required information within five working days of the date of service of such notice.

(12) Any person who fails to furnish the information required by the notice served under sub-section (10) shall, without prejudice to any action that is or may be taken under section 66, be liable to a penalty which may extend to rupees twenty-five thousand.

Explanation— For the purposes of this section, the expression 'concerned supplier' shall mean the supplier of goods and/or services making supplies through the operator."

CHAPTER– XII

ASSESSMENT – Clause Wise Analysis

44. Self-Assessment

Every registered taxable person shall himself assess the taxes payable under this Act and furnish a return for each tax period as specified under section 27.

Explanation.— For the purposes of this section, where goods received in pursuance of an inward supply are returned by the recipient to the supplier within a period of six months from the date of the relevant invoice, the tax payable on such return supply shall be equal to the input tax credit availed of earlier in respect of such inward supply.

Parallel Provision in the existing Act / Rules: Currently under Excise, Service Tax and MVAT assessee himself is required to assess the taxes payable and furnish a return.
Existing Act / Rule: Central Excise Rule 2002 - Rule 6
Finance Act 1994 - Section 70
MVAT Act 2002 - Section 20
Existing Act / Rule No:
Analysis:
Same provision in line with existing Central Excise, Service Tax and VAT Law.
However in case of rejection of inward supplies and return thereof, output tax will be equivalent to input tax availed, in line with existing Cenvat Credit provision, but such goods to be returned within 6 months.

44A. Provisional Assessment

(1) Where the taxable person is unable to determine the value of goods and/or services or determine the rate of tax applicable thereto, he may request the proper officer in writing giving reasons for payment of tax on a provisional basis and the proper officer may pass an order allowing payment of tax on provisional basis at such rate or on such value as may be specified by him.

(2) The payment of tax on provisional basis may be allowed, if the taxable person executes a bond in such form as may be prescribed in this behalf, and with such surety or security as the proper officer may deem fit, binding the taxable person for payment of the difference between the amount of tax as may be finally assessed and the amount of tax provisionally assessed.

(3) The proper officer shall, within a period not exceeding six months from the date of the communication of the order issued under sub-section (1), pass the final assessment order after taking into account such information as may be required for finalizing the assessment:

Provided that the period specified in this sub-section may, on sufficient cause being shown and for reasons to be recorded in writing, be extended by the Joint/Additional Commissioner for a further period not exceeding six months and by the Commissioner for such further period as he may deem fit.

(4) The taxable person shall be liable to pay interest on any amount payable to the Central/State Government, consequent to the order for final assessment under sub- section (3), at the rate specified under sub-section (1) of section 36, from the first day after the due date of payment of tax in respect of the said goods and/or services till the date of actual payment, whether such amount is paid before or after the issue of order for final assessment.

(5) Where the taxable person is entitled to a refund consequent to the order for final assessment under sub-section (3), subject to sub-section (6) of section 38, interest shall be paid on such refund as provided in section 39.

45. Scrutiny of returns

(1) The proper officer may scrutinize the return and related particulars furnished by the taxable person to verify the correctness of the return in such manner as may be prescribed.

(2) The proper officer shall inform the taxable person of the discrepancies noticed, if any, after such scrutiny in such manner as may be prescribed and seek his explanation thereto.

(3) In case the explanation is found acceptable, the taxable person shall be informed accordingly and no further action shall be taken in this regard.

(4) In case no satisfactory explanation is furnished within a period of thirty days of being informed by the proper officer or such further period as may be permitted by him or where the taxable person, after accepting the discrepancies, fails to take the corrective measure within a reasonable period, the proper officer may initiate appropriate action including those under section 49, 50 or section 60, or proceed to determine the tax and other dues under sub-section (6) of section 51 A or under sub- section (6) of section 51 B.

Analysis:

1) Proper officer shall scrcrutinze the returns and related particulars and should inform tax payer in case of discrepancy and seek the explanation needs to be furnished within 30 days or as permitted by the proper officer

2) If such explanation is accepted, it should be informed to taxpayer

3) If such discrepancy is accepted by taxpayer but fails to take corrective measures within a reasonable period recovery proceeding needs to be done in accordance with the provision of section 51 A and 51 B

46. Assessment of non-filers of returns

(1) Where a registered taxable person fails to furnish the return required under section 27 or section 31, even after the service of a notice under section 32, the proper officer may, after allowing a period of fifteen days from the date of service of the notice, proceed to assess the tax liability of the said person to the best of his judgement taking into account all the relevant material which is available or which he has gathered and issue an assessment order within the time limit specified in sub-section (7) of section 51A or sub-section (7) of section 51B, as the case may be.

(2) Where the taxable person furnishes a valid return within thirty days of the service of the assessment order under sub-section (1), the said assessment order shall be deemed to have been withdrawn.

Explanation.— For removal of doubts it is clarified that nothing in this section shall preclude the payment of interest under section 36 or payment of late fee under section 33.

Parallel Provision in the existing Act / Rules:
Under MVAT Where a registered dealer fails to file a return in respect of any period by the prescribed date, the Commissioner may assess the dealer in respect of the said period to the best of his judgment without serving a notice for assessment and without affording an opportunity of being heard.
Existing Act / Rule:
MVAT Act 2002 - Section 23 (3)
Finance Act 1994 - Section 72 (a)
Analysis:
1) Proper notice has to be served to provide the accounts and relevant records and allow 15 days to furnish the same. ON failure to submit the same best judgment assessment to be made based on the information available.

2) If return is filed within 30 days from the receipt of such order than best judgment assessment is deemed to be withdrawn. However proceedings for taxes, interest, late filing fees will continue.

47. Assessment of unregistered persons

Where a taxable person fails to obtain registration even though liable to do so, the proper officer may proceed to assess the tax liability of such taxable person to the best of his judgement for the relevant tax periods and issue an assessment order within a

period of five years from the due date for filing of the annual return for the year to which the tax not paid relates:

Provided that no such assessment order shall be passed without giving a notice to show cause and without giving the person a reasonable opportunity of being heard.

Parallel Provision in the existing Act / Rules:
Under MVAT Where the Commissioner has reason to believe that a dealer is liable to pay tax in respect of any period, but has failed to apply for registration or has failed to apply for registration within the time as required by or under this Act, the Commissioner may , after giving the dealer a reasonable opportunity of being heard, proceed to assess, to the best of his judgment, where necessary, the amount of tax, if any, due from the dealer in respect of that period, and any period or periods subsequent thereto
Existing Act / Rule: MVAT Act 2002
Existing Act / Rule No: Section 23 (4)
Analysis:
The assessment of unregistered person where tax is payable to be determined by best judgement assessment and issue the assessment order within 5 years from due date of filing the annual return. Assessment order to be finalised only after issuing proper Show Cause Notice and after granting personal hearing as nature of justice.

48. Summary assessment in certain special cases

(1) The proper officer may, on any evidence showing a tax liability of a person coming to his notice, with the previous permission of [Additional/Joint Commissioner], proceed to assess the tax liability of such person to protect the interest of revenue and issue an assessment order, if he has sufficient grounds to believe that any delay in doing so will adversely affect the interest of revenue:

Provided that where the taxable person to whom the liability pertains is not ascertainable and such liability pertains to supply of goods, the person in charge of such goods shall be deemed to be the taxable person liable to be assessed and pay tax and amount due under this section.

(2) On any application made within thirty days from the date of receipt of order passed under sub-section (1) by the taxable person or on his own motion, if the Additional/Joint Commissioner considers that such order is erroneous, he may withdraw such order and follow the procedure laid down in section 51

Parallel Provision in the existing Act / Rules:
Under MVAT If the Commissioner is of the opinion that, in respect of any period covered by a return, any turnover of sales or of purchases has not been disclosed, or that tax has been paid at

a lesser rate, set-off has been wrongly claimed, or deduction has been wrongly claimed, then, notwithstanding anything contained in the other provisions of this section, the Commissioner may serve a notice in the prescribed form on the dealer and proceed to asseess him in respect of the said period after giving him a reasonable opportunity of being heard

Under Service Tax If any person, liable to pay service tax - (a) fails to furnish the return under section 70; (b) having made a return, fails to assess the tax in accordance with the provisions of this Chapter or rules made there under, the Central Excise Officer, may require the person to produce such accounts, documents or other evidence as he may deem necessary and after taking into account all the relevant material which is available or which he has gathered, shall by an order in writing, after giving the person an opportunity of being heard, make the assessment of the value of taxable service to the best of his judgment and determine the sum payable by the assessee or refundable to the assessee on the basis of such assessment

Existing Act / Rule:
MVAT Act 2002 - Section 23
Finance Act 1994 - Section 72(b)
Analysis:
In case of having any evidence showing tax liability of any person proper officer may with the prior permission of Additional / Joint Commissioner will access the tax liability for protecting the interest of revenue and issue the assessment order. Where taxable person cannot be ascertained tax liability will be on the person who is in possession of goods and tax will be collected from such person. This provision will be used for such goods where duty paying documents could not be correlated, in line with smuggled goods or in case of goods removed clandestinely.
Such order can be suo-moto withdrawn within 30 days of issue of order if it has been issued erroneously.

Assessment - Detailed

- **Self-Assessment:**

  Registered taxable person shall assess the taxes payable by him.

- **Provisional Assessment:**

  1) Unable to determine the value of goods and/or services or determine the rate of tax applicable may opt for provisional assessment.
  2) The bond needs to be executed in prescribed format along with surety or security as prescribed by the specified officer.
  3) The proper officer within a period of 6 months pass the final assessment order or extended period of further 6 months.
  4) Additional liability to be paid along with interest and for excess payment of tax application for refund to be made.

- **Scrutiny of returns:**

  1) The returns will be scrutinized by the proper officer (no time period specified for scrutiny).
  2) Proper officer will inform the discrepancies and seek explanation from taxable person.
  3) If explanation found acceptable, no further action shall be taken.
  4) In case no satisfactory explanation is furnished within a period of 30 days or extended period or taxable person fails to take corrective action, proper officer may initiate appropriate action.

- **Best judgment Assessment of non-filers of returns & unregistered taxable person.**

CHAPTER-XIII

AUDIT – Clause wise Analysis

49. Audit by tax authorities

(1) The [Commissioner of CGST/Commissioner of SGST] or any officer authorised by him, by way of a general or a specific order, may undertake audit of the business transactions of any taxable person for such period, at such frequency and in such manner as may be prescribed.

(2) The tax authorities referred to in sub-section (1) may conduct audit at the place of business of the taxable person and/or in their office.

(3) The taxable person shall be informed, by way of a notice, sufficiently in advance, not less than fifteen working days, prior to the conduct of audit in the manner prescribed.

(4) The audit under sub-section (1) shall be carried out in a transparent manner and completed within a period of three months from the date of commencement of audit:

Provided that where the [Commissioner] is satisfied that audit in respect of such taxable person cannot be completed within three months from the date of commencement of audit, he may, for the reasons to be recorded in writing, extend the period by a further period not exceeding six months.

Explanation.- For the purposes of this sub-section, 'commencement of audit' shall mean the date on which the records and other documents, called for by the tax authorities, are made available by the taxable person or the actual institution of audit at the place of business, whichever is later.

(5) During the course of audit, the authorised officer may require the taxable person,

(i) to afford him the necessary facility to verify the books of account or other documents as he may require and which may be available at such place,

(ii) to furnish such information as he may require and render assistance for timely completion of the audit.

(6) On conclusion of audit, the proper officer shall without delay inform the taxable person, whose records are audited, of the findings, the taxable person's rights and obligations and the reasons for the findings.

(7) Where the audit conducted under sub-section (1) results in detection of tax not paid or short paid or erroneously refunded, or input tax credit erroneously availed, the proper officer may initiate action under section 51.

Parallel Provision in the existing Act / Rules:

(1) With a view to promoting compliance with the provisions of this Act, the Commissioner may arrange for audit of the business of any registered dealer. For the purpose of this section, the selection of dealers for audit shall be made from amongst the dealers,-

(a) who have not filed returns by the prescribed dates; or

(b) who have claimed refund of tax; or

(c) where the Commissioner is not, prima facie, satisfied with the correctness of any return filed by a dealer or is not satisfied with any claim made, deduction claimed or turnover disclosed in any return filed by the dealer; or

(d) who are selected by the Commissioner on the basis of the application of any criteria or on a random selection basis; or

(e) where the Commissioner has reason to believe that detailed scrutiny of the case is necessary.

Existing Act / Rule: MVAT Act 2002
Existing Act / Rule No: 22
Analysis:

The Commissioner of CGST/ SGST or any officer authorized by him, at the place of business of the taxable person, may undertake audit of the business transactions
after giving proper advance intimation of 15 days

- The audit shall be completed within a period of 3 months or under certain conditions, extend the period.
- On conclusion of audit, the proper officer shall notify its findings to the taxable person.
- Where the audit results in detection of tax not paid or tax short paid or tax erroneously refunded or input tax credit erroneously availed, the proper officer may initiate suitable action for recovery.

50. Special audit

(1) If at any stage of scrutiny, enquiry, investigation or any other proceedings before him, any officer not below the rank of [Deputy/Assistant Commissioner] having regard to the nature and complexity of the case and the interest of revenue, is of the opinion that the value has not been correctly declared or the credit availed is not within the normal limits, he may, with the prior approval of the [Commissioner], direct such taxable person by notice in writing to get his records including books of account examined and audited

by a chartered accountant or a cost accountant as may be nominated by the [Commissioner] in this behalf.

(2) The chartered accountant or cost accountant so nominated shall, within the period of ninety days, submit a report of such audit duly signed and certified by him to the said

[Deputy/Assistant Commissioner] mentioning therein such other particulars as may be specified:

Provided that the proper officer may, on an application made to him in this behalf by the taxable person or the chartered accountant or cost accountant or for any material and sufficient reason, extend the said period by another ninety days.

(3) The provision of sub-section (1) shall have effect notwithstanding that the accounts of the taxable person have been audited under any other provision of this Act or any other law for the time being in force or otherwise.

(4) The taxable person shall be given an opportunity of being heard in respect of any material gathered on the basis of special audit under sub-section (1) which is proposed to be used in any proceedings under this Act or rules made thereunder.

(5) The expenses of, and incidental to, the examination and audit of records under sub-section (1), including the remuneration of such chartered accountant or cost accountant, shall be determined and paid by the [Commissioner] and that such determination shall be final.

(6) Where the special audit conducted under sub-section (1) results in detection of tax not paid or short paid or erroneously refunded, or input tax credit erroneously availed, the proper officer may initiate action under section 51.

Parallel Provision in the existing Act / Rules:

If at any stage of enquiry, investigation or any other proceedings before him, any Central Excise Officer not below the rank of an Assistant Commissioner of Central Excise, having regard to the nature and complexity of the case and the interest of revenue, is of the opinion that the value has not been correctly declared or determined by a manufacturer or any person, he may, with the previous approval of the Chief Commissioner of Central Excise, direct such manufacture or such person to get the accounts of his factory, office, depots, distributors or any other place, as may be specified by the said Central Excise Officer, audited by a cost accountant or chartered accountant nominated by the Chief Commissioner of Central Excise in this behalf

Existing Act / Rule:

Central Excise Act 1944 - Section 14A and 14AA
Finance Act 1994 - Section 72A

Analysis:

1)Considering the nature of transaction and nature of complexities and to protect the interest of revenue Dy. / Asst. Commissioner opinions w.r.t wrong declaration of value or credit exceeding normal limits, special audits can be ordered with prior approval of Commissioner to be carried out by Cost Accountant or Chartered Accountant as nominated by Commissioner.

2) Such Auditors have to furnish report within 90 days or extended period of further 90 days

duly certified and signed by him.

3) Such audit can be recommended if the audit of the same period is carried out by the department

4) Taxable person to be heard before recommending special audit and the situations for which special audit is recommended

5) The remuneration including incidental expenses payable to the auditor shall be determined by the Commissioner and will be final

6) Based on the findings of the auditor recovery proceeding to be initiated (if any) under section 51.

Who will pay the audit fess has not been mentioned anywhere

AUDIT – Gist in Details

- **Departmental Audit:**

1) Business audit will be carried out by department at predefined frequency.

2) Following records needs to be made available to audit party,

   - The records as declared to the CGST/SGST officer;
   - Trial balance or its equivalent;
   - Statements of annual financial accounts, duly audited, wherever required;
   - Cost audit report, if any, under section 148 of the Companies Act, 2013 (18 of 2013);
   - The income-tax audit report, if any, under section 44AB of the Income-tax Act, 1961 (43 of 1961); and
   - any other relevant record,

3) Minimum 15 days notice will be given to the taxable person

4) Audit to be completed within period of 3 months & can be further extended for a period not exceeding 6 months.

- **Special Audit:**

1) Any officer not below the rank of [Deputy/Assistant Commissioner] is of the opinion that the value has not been correctly declared or the credit availed is not within the normal limits, he may, with the prior approval of the [Commissioner] appoint a Chartered Accountant/ Cost Accountant [nominated by Commissioner] to conduct audit of books of accounts of such person.

2) The report should be submitted with 90 days or further extended period of 90 days.

3) On the basis of finding of the report appropriate action will be initiated for recovery of dues.

4) The expenses will be borne by Commissioner.

CHAPTER – XIV DEMANDS AND RECOVERY

51. Determination of tax not paid or short paid or erroneously refunded

A. Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized for any reason other than fraud or any willful-misstatement or suppression of facts

(1) Where any tax has not been paid or short paid or erroneously refunded, or where input tax credit has been wrongly availed or utilized for any reason, other than the reason of fraud or any willful-misstatement or suppression of facts to evade tax, the proper officer shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilized input tax credit, requiring him to show cause why he should not pay the amount specified in the notice along with interest payable thereon under section 36 and penalty leviable under the provisions of this Act or the rules made thereunder.

(2) Where a notice has been issued for any period under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized for such periods other than those covered under subsection(1), on the person chargeable with tax. The service of such statement shall be deemed to be service of notice on such person under the aforesaid sub-section (1), subject to the condition that the grounds relied upon for such tax periods other than those covered under sub-section (1) are the same as are mentioned in the earlier notice.

(3) The person chargeable with tax may, before service of notice under sub-section (1) or, as the case may be, the statement under sub-section (2), pay the amount of tax along with interest payable thereon under section 36 on the basis of his own ascertainment of such tax or the tax as ascertained by the proper officer and inform the proper officer in writing of such payment. The proper officer, on receipt of such information, shall not serve any notice under sub-section (1) or, as the case may be, the statement under sub-section (2), in respect of the tax so paid or any penalty leviable under the provisions of this Act or the rules made there under.

(4) Where the proper officer is of the opinion that the amount paid under sub-section (3) falls short of the amount actually payable, he shall proceed to issue the notice as provided for in sub-section (1) in respect of such amount which falls short of the amount actually payable.

(5) Where any person chargeable with tax under sub-section (1) or under sub-section (2) pays the said tax along with interest payable under section 36 within thirty days of issue of show cause notice, no penalty shall be payable and all proceedings in respect of the said tax shall be deemed to be concluded.

(6) The proper officer shall, after considering the representation, if any, made by person chargeable with tax, determine the amount of tax, interest and a penalty not exceeding ten percent of tax or ten thousand rupees, whichever is higher, due from such person and issue an order.

(7) The proper officer shall issue the order under sub-section (6) within three years from the due date or the actual date, whichever is earlier, for filing of annual return for the year to which the tax not paid or short paid or input tax credit wrongly availed or utilized relates or, as the case may be, within three years from the date of erroneous refund.

B. Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized by reason of fraud or any willful-misstatement or suppression of facts

(1) Where any tax has not been paid or short paid or erroneously refunded or where input tax credit has been wrongly availed or utilized by reason of fraud, or any willful-misstatement or suppression of facts to evade tax, the proper officer shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilized input tax credit requiring him to show cause why he should not pay the amount specified in the notice along with interest payable thereon under section 36 and a penalty equivalent to the tax specified in the notice.

(2) Where a notice has been issued for any period under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized for such periods other than those covered under sub-section (1), on the person chargeable with tax. The service of such statement shall be deemed to be service of notice on such person under the aforesaid sub-section (1), subject to the condition that the grounds relied upon for such periods other than those covered under sub-section(1) are the same as are mentioned in the earlier notice.

(3) The person chargeable with tax may, before service of notice under sub-section (1) or, as the case may be, the statement under sub-section (2), pay the amount of tax along

with interest payable under section 36 and a penalty equivalent to fifteen per cent of such tax on the basis of his own ascertainment of such tax or the tax as ascertained by the proper officer and inform the proper officer in writing of such payment. The proper officer, on receipt of such information, shall not serve any notice under sub- section (1) or, as the case may be, the statement under sub-section (2), in respect of the tax so paid or any penalty leviable under the provisions of this Act or the rules made there under.

(4) Where the proper officer is of the opinion that the amount paid under sub-section (3) falls short of the amount actually payable, he shall proceed to issue the notice as provided for in sub-section (1) in respect of such amount which falls short of the amount actually payable.

(5) Where any person chargeable with tax under sub-section (1) or under sub-section (2) pays the said tax along with interest payable under section 36 and a penalty equivalent to twenty five per cent of such tax within thirty days of communication of the notice, all proceedings in respect of the said tax shall be deemed to be concluded.

(6) The proper officer shall, after considering the representation, if any, made by the person chargeable with tax, determine the amount of tax, interest and penalty due from such person and issue an order.

(7) The proper officer shall issue the order under sub-section (6) within a period of five years from the due date or the actual date, whichever is earlier, for filing of annual return for the year to which the tax not paid or short paid or input tax credit wrongly availed or utilized relates or, as the case may be, within five years from the date of erroneous refund.

(8) Where any person served with an order issued under sub-section (6) pays the tax along with interest payable thereon under section 36 and a penalty equivalent to fifty percent of such tax within thirty days of the communication of order, all proceedings in respect of the said tax shall be deemed to be concluded.

C. General provisions relating to demand of tax

(1) Where the service of notice or issuance of order is stayed by an order of a Court or Tribunal, the period of such stay shall be excluded in computing the period of three years or five years, as the case may be.

(2) Where any Appellate Authority or Tribunal or Court concludes that the notice issued under sub-section B (1) or B (2) is not sustainable for the reason that the charges of fraud or any wilful mis-statement or suppression of facts to evade tax has not been

established against the person to whom the notice was issued, the proper officer shall determine the tax payable by such person for the period of three years, deeming as if the notice were issued under sub-section A (1) or A (2).

(3) An opportunity of personal hearing shall be granted where a request is received in writing from the person chargeable with tax or penalty, or where any adverse decision is contemplated against such person.

(4) The proper officer shall, if sufficient cause is shown by the person chargeable with tax, grant time, from time to time, to the said person and adjourn the hearing for reasons to be recorded in writing:

Provided that no such adjournment shall be granted more than three times to a person during the proceeding.

(5) The proper officer, in his order, shall set out the relevant facts and the basis of his decision.

(6) The amount of tax, interest and penalty demanded in the order shall not be in excess of the amount specified in the notice and no demand shall be confirmed on grounds other than the grounds specified in the notice.

(7) Where the Appellate Authority or Tribunal or Court modifies the amount of tax determined by the proper officer, the amount of interest and penalty shall stand modified accordingly, taking into account the amount of tax so modified.

(8) Interest on the tax short paid or not paid shall be payable whether or not specified in the order determining the tax liability.

(9) The adjudication proceedings shall be deemed to be concluded if the order is not issued within three years as provided for in sub-section A (7) or within five years as provided for in sub-section B (7).

(10) An issue on which the First Appellate Authority or the Appellate Tribunal or the High Court has given its decision which is prejudicial to the interest of revenue in some other proceedings and an appeal to the Appellate Tribunal or the High Court or the Supreme Court against such decision of the First Appellate Authority or the Appellate Tribunal or as the case may be, the High Court is pending, the period spent between the date of the decision of the First Appellate Authority and the date of decision of the Appellate Tribunal or the date of decision of the Appellate Tribunal and the date of the decision of the High Court or as the case may be, the date of the decision of the High Court and the date of

the decision of the Supreme Court shall be excluded in computing the period referred to in sub-section A (7) or sub-section B (7), as the case may be, where proceedings are initiated by way of issue of a show cause notice under this section.

D (1) The provisions of sub-section A, B, C above shall apply, *mutatis mutandis*, to the recovery of interest where interest payable has not been paid or part paid or erroneously refunded.

52. Tax collected but not deposited with the Central or a State Government

(1) Notwithstanding anything to the contrary contained in any order or direction of any Appellate Authority or Tribunal or Court or in any other provision of this Act or the rules made thereunder or any other law, every person who has collected from any other person any amount as representing the tax under this Act, and has not paid the said amount to the Central or a State Government, shall forthwith deposit the said amount to the credit of the Central or a State Government, regardless of whether the supplies in respect of which such amount was collected are taxable or not.

(2) Where any amount is required to be paid to the credit of the Central or a State Government under sub-section (1), and which has not been so paid, the proper officer may serve on the person liable to pay such amount a notice requiring him to show cause why the said amount as specified in the notice, should not be paid by him to the credit of the Central or a State Government and why a penalty equivalent to the amount specified in the notice should not be imposed on him under the provisions of this Act.

(3) The proper officer shall, after considering the representation, if any, made by the person on whom the notice is served under sub-section (2), determine the amount due from such person and thereupon such person shall pay the amount so determined.

(4) The person referred to in sub-section (1) shall in addition to paying the amount referred to in sub-section (1) or (3), as the case may be, also be liable to pay interest thereon at the rate specified under section 36 from the date such amount was collected by him to the date such amount is paid by him to the credit of the Central or a State Government.

(5) An opportunity for personal hearing shall be granted where a request is received in writing from the person to whom the notice was issued to show cause.

(6) The proper officer shall issue an order within one year from the date of issue of the notice.

(7) Where the issuance of order is stayed by an order of the Court or Tribunal, the period of such stay shall be excluded in computing the period of one year.

(8) The proper officer, in his order, shall set out the relevant facts and the basis of his decision.

(9) The amount paid to the credit of the Central Government or a State Government under sub-section (1) or sub-section (3) shall be adjusted against the tax payable, if any by the person in relation to the supplies referred to in sub-section (1).

(10) Where any surplus is left after the adjustment under sub-section (9), the amount of such surplus shall either be credited to the Fund or, as the case may be, refunded to the person who has borne the incidence of such amount.

(11) The person who has borne the incidence of the amount referred to in sub-section (10), may apply for the refund of the same and for such refund, the provisions of section 38 shall apply *mutatis mutandis*.

53. Tax wrongfully collected and deposited with the Central or a State Government

(1) A taxable person who has paid CGST/SGST (in SGST Act) on a transaction considered by him to be an intra-state supply, but which is subsequently held to be an inter-state supply, shall, upon payment of IGST, be allowed to take the amount of CGST /SGST (in SGST Act) so paid as refund subject to the provisions of section 38 and subject to such other conditions as may be prescribed **(CGST Act)**

54. Recovery of tax

(1) Where any amount payable by a person to the credit of the Central or a State Government under any of the provisions of this Act or of the rules made thereunder is not paid, the proper officer shall proceed to recover the amount by one or more of the modes mentioned below: -

(a) the proper officer may deduct or may require any other specified officer to deduct the amount so payable from any money owing to such person which may be under the control of the proper officer or such other specified officer.

(b) the proper officer may recover or may require any other specified officer to recover the amount so payable by detaining and selling any goods belonging to such person which are under the control of the proper officer or such other specified officer.

(c) (i) the proper officer may, by a notice in writing, require any other person from whom money is due or may become due to such person or who holds or may subsequently hold money for or on account of such person, to pay to the credit of the Central or a State Government either forthwith upon the money becoming due or being held, or at or within the time specified in the notice not being before the money becomes due or is held, so much of the money as is sufficient to pay the amount due from such person or the whole of the money when it is equal to or less than that amount;

(ii) every person to whom the notice is issued under this section shall be bound to comply with such notice, and in particular, where any such notice is issued to a post office, banking company or an insurer, it shall not be necessary to produce any pass book, deposit receipt, policy or any other document for the purpose of any entry, endorsement or the like being made before payment is made, notwithstanding any rule, practice or requirement to the contrary;

(iii) in case the person to whom a notice under this section has been issued, fails to make the payment in pursuance thereof to the Central or a State Government, he shall be deemed to be a defaulter in respect of the amount specified in the notice and all the consequences of this Act or the rules made thereunder shall follow;

(iv) the officer issuing a notice under sub-clause (i) may, at any time or from time to time, amend or revoke such notice or extend the time for making any payment in pursuance of the notice;

(v) any person making any payment in compliance with a notice issued under sub-clause (i) shall be deemed to have made the payment under the authority of the person in default and such payment being credited to the appropriate Government shall be deemed to constitute a good and sufficient discharge of the liability of such person to the person in default to the extent of the amount specified in the receipt;

(vi) any person discharging any liability to the person in default after service on him of the notice issued under sub-clause (i) shall be personally liable to the Central or a State Government to the extent of the liability discharged or to the extent of the liability of the person in default for tax, interest and penalty, whichever is less.

(vii) where a person on whom a notice is served under sub-clause (i) proves to the satisfaction of the officer issuing the notice that the money demanded or any part thereof was not due to the person in default or that he did not hold any money for or on account of the person in default, at the time the notice was served on him, nor is the money demanded or any part thereof, likely to become due to the said person or be held for or on account of such person, nothing contained in this section shall be deemed to require the person on whom the notice has been served to pay to the credit of the appropriate Government any such money or part thereof, as the case may be.

(d) the proper officer may, on an authorisation by the competent authority and in accordance with the rules made in this behalf, distrain any movable or immovable property belonging to or under the control of such person, and detain the same until the amount payable is paid; and in case, any part of the said amount payable or of the cost of the distress or keeping of the property, remains unpaid for a period of thirty days next after any such distress, may cause the said property to be sold and with the proceeds of such sale, may satisfy the amount payable and the costs including cost of sale remaining unpaid and shall render the surplus amount, if any, to such person;

(e) the proper officer may prepare a certificate signed by him specifying the amount due from such person and send it to the Collector of the district in which such person owns any property or resides or carries on his business and the said Collector, on receipt of such certificate, shall proceed to recover from such person the amount specified there under as if it were an arrear of land revenue;

(f) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Act 2 of 1974), the proper officer may file an application to the appropriate Magistrate and such Magistrate shall proceed to recover from such person the amount specified thereunder as if it were a fine imposed by him.

(2) Where the terms of any bond or other instrument executed under this Act or any rules or regulations made thereunder provide that any amount due under such instrument may be recovered in the manner laid down in sub-section (1), the amount may, without prejudice to any other mode of recovery, be recovered in accordance with the provisions of that sub-section.

(3) Where any amount of tax, interest or penalty is payable by a person to the credit of the Central Government under any of the provisions of this Act or the rules made thereunder and which remains unpaid, the proper officer of SGST, during the course of recovery of SGST arrears, may recover the amount from the said person as if it were an arrear of SGST and credit the amount so recovered to the account of the Central Government.

(CGST ACT)

(3) Where any amount of tax, interest or penalty is payable by a person to the credit of the State Government under any of the provisions of this Act or the rules made thereunder and which remains unpaid, the proper officer of CGST, during the course of recovery of CGST arrears, may recover the amount from the said person as if it were an arrear of CGST and credit the amount so recovered to the account of the State Government.

(SGST ACT)

55. Payment of tax and other amount in installments.

On an application filed by a taxable person, the [Commissioner/Chief Commissioner] may, for reasons to be recorded in writing, extend the time for payment or allow payment of any amount due under the Act, other than the amount due as per the liability self-assessed in any return, by such person in monthly installments not exceeding twenty four, subject to payment of interest under section 36 with such restrictions and conditions as may be prescribed:

Provided that where there is default in payment of any one installment on its due date, the whole outstanding balance payable on such date shall become due and payable forthwith and shall, without any further notice being served on the person, be liable for recovery.

56. Transfer of property to be void in certain cases

Where a person, after any tax has become due from him, creates a charge on or parts with the property belonging to him or in his possession by way of sale, mortgage, exchange, or any other mode of transfer whatsoever of any of his properties in favour of any other person with the intention of defrauding the Government revenue, such charge or transfer shall be void as against any claim in respect of any tax or any other sum payable by the said person:

Provided that, such charge or transfer shall not be void if it is made for adequate consideration and without notice of the pendency of such proceeding under this Act or, as the case may be, without notice of such tax or other sum payable by the said person, or with the previous permission of the proper officer.

57. Tax to be first charge on property

Notwithstanding anything to the contrary contained in any law for the time being in force, any amount payable by a taxable person or any other person on account of tax,

interest or penalty which he is liable to pay to the Central or a State Government shall be a first charge on the property of such taxable person, or as the case may be, such person.

58. Provisional attachment to protect revenue in certain cases

(1) Where during the pendency of any proceedings under section 46, section 47, section 48 or section 51, the Commissioner is of the opinion that for the purpose of protecting the interest of the Government revenue, it is necessary so to do, he may by order in writing attach provisionally any property belonging to the taxable person in such a manner as may be prescribed.

(2) Every such provisional attachment shall cease to have effect after the expiry of a period of one year from the date of the order made under sub-section (1).

59. Continuation of certain recovery proceedings

(1) Where any notice of demand in respect of any tax, penalty, interest or any other amount payable under this Act, (hereinafter in this section referred to as "Government dues"), is served upon any taxable person and any appeal, revision application is filed or other proceedings is initiated in respect of such Government dues, then -

(a) Where such Government dues are enhanced in such appeal, revision or other proceeding, the Commissioner shall serve upon the taxable person another notice of demand only in respect of the amount by which such Government dues are enhanced and any recovery proceeding in relation to such Government dues as are covered by the notice of demand served upon him before the disposal of such appeal, revision application or proceeding may, without the service of any fresh notice of demand, be continued from the stage at which such proceedings stood immediately before such disposal.

(b) Where such Government dues are reduced in such appeal, revision or in other proceeding –

(i) It shall not be necessary for the Commissioner to serve upon the taxable person a fresh notice of demand;

(ii) The Commissioner shall give intimation of such reduction to him and to the appropriate authority with whom recovery proceeding is pending;

(iii) Any recovery proceedings initiated on the basis of the demand served upon him prior to the disposal of such appeal, revision application or other proceeding may be continued in relation to the amount so reduced from the stage at which such proceedings stood immediately before such disposal.

CHAPTER- XV

INSPECTION, SEARCH, SEIZURE AND ARREST – Clause wise Analysis

60. Power of inspection, search and seizure

(1) Where the CGST/SGST officer, not below the rank of Joint Commissioner, has reasons to believe that -

(a) a taxable person has suppressed any transaction relating to supply of goods and/or services or the stock of goods in hand, or has claimed input tax credit in excess of his entitlement under the Act or has indulged in contravention of any of the provisions of this Act or rules made thereunder to evade tax under this Act; or

(b) any person engaged in the business of transporting goods or an owner or operator of a warehouse or a godown or any other place is keeping goods which have escaped payment of tax or has kept his accounts or goods in such a manner as is likely to cause evasion of tax payable under this Act,

he may authorize in writing any other officer of CGST/SGST to inspect any places of business of the taxable person or the persons engaged in the business of transporting goods or the owner or the operator of warehouse or godown or any other place.

(2) Where the CGST/SGST officer, not below the rank of Joint Commissioner, either pursuant to an inspection carried out under sub-section (1) or otherwise, has reasons to believe that any goods liable to confiscation or any documents or books or things, which in his opinion shall be useful for or relevant to any proceedings under this Act, are secreted in any place, he may authorize in writing any other CGST/SGST officer to search and seize or may himself search and seize such goods, documents or books or things:

Provided that the goods, documents or books or things so seized shall be retained by such officer only for so long as may be necessary for their examination and for any inquiry or proceeding under this Act.

(3) The officer authorised under sub-section (2) shall have the power to seal or break open the door of any premises or to break open any *almirah*, box, receptacle in which any goods, accounts, registers or documents of the person are suspected to be concealed, where access to such premises, *almirah*, box or receptacle is denied.

(4) The person from whose custody any documents are seized under sub-section (2) shall be entitled to make copies thereof or take extracts there from in the presence of an officer of CGST/SGST.

(5) Where any goods are seized under sub-section (2) and no notice in respect thereof is given within sixty days of the seizure of the goods, the goods shall be returned to the person from whose possession they were seized:

Provided that the aforesaid period of sixty days may, on sufficient cause being shown, be extended by the [competent authority] for a further period not exceeding sixty days at a time subject to a maximum of six months.

(6) The Central or a State Government may, having regard to the perishable or hazardous nature of any goods, depreciation in the value of the goods with the passage of time, constraints of storage space for the goods or any other relevant considerations, by notification, specify the goods or class of goods which shall, as soon as may be after its seizure under sub-section (2), be disposed of by the proper officer in such manner as the Central or a State Government may prescribe.

(7) Where any goods, being goods specified under sub-section (6), have been seized by a proper officer under sub-section (2), he shall prepare an inventory of such goods in the manner as may be prescribed in this behalf.

(8) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), relating to search and seizure, shall, so far as may be, apply to search and seizure under this section subject to the modification that sub-section (5) of section 165 of the said Code shall have effect as if for the word "Magistrate", wherever it occurs, the words [Principal Commissioner/Commissioner of CGST/Commissioner of SGST] were substituted.

Existing Act / Rule: Central Excise Act, 1944
Existing Act / Rule No: Section 22
Analysis:

Additional Commissioner / Joint Commissioner of CGST / SGST are authorized to allow (on reason to be leave) inspection, search & Seizure in case of

1) Suppress any transaction or incorrect invoice or wrong declaration of stock or excess credit
2) Transportation or warehousing of non-tax paid goods.

In such circumstances inspection & search of business premises and opening of the lockers etc. and seizure of the documents including books of accounts have been authorized.

This provision will create fear in the minds of small dealers and such authorities are given to both CGST & SGST officers and hence more visits are envisaged.

61. Inspection of goods in movement

(1) The Central or a State Government may require the person in charge of a conveyance carrying any consignment of goods of value exceeding fifty thousand rupees to carry with him such documents as may be prescribed in this behalf.

(2) Where any vehicle referred to in sub-section (1) is intercepted by the proper officer at any place, he may require the person in charge of the said vehicle to produce such documents for verification and the said person shall be liable to produce the documents.

Analysis:

CGST & SGST officers are authorized to intercept any vehicle / conveyance which is carried the non-tax paid goods exceeding Rs. 50,000/- and such vehicle can be detained and seizure can be made on non tax paid goods.

Further, each vehicle should carry tax paying documents to avoid unnecessarily harassment.

62. Power to arrest

(1) If the [Commissioner of CGST or the Commissioner of SGST] has reason to believe that any person has committed an offence punishable under clause (i) or (ii) of sub-section (1) or under sub-section (2) of section 73, he may, by order, authorise any CGST/SGST officer to arrest such person.

(2) Where a person is arrested for any cognizable offence, every officer authorised to arrest a person shall inform such person of the grounds of arrest and produce him before a magistrate within twenty four hours.

(3) In the case of a non-cognizable and bailable offence, the Deputy Commissioner or the Assistant Commissioner of CGST/SGST, as the case may be, shall, for the purpose of releasing an arrested person on bail or otherwise, have the same powers and be subject to the same provisions as an officer-in-charge of a police station has, and is subject to, under section 436 of the Code of Criminal Procedure, 1973 (2 of 1974).

(4) All arrests made under this section shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1973 (2 of 1974) relating to arrest.

Existing Act / Rule: Central Excise Act, 1944
Existing Act / Rule No: Section 13
Analysis:

CGST and SGST officers have been empowered to arrest any person where evasion of tax is noticed, if there is a cognizable offence then such person is required to be produced before magistrate within 24 hours, but if non-cognizable offence then bail can be granted. However, before making such arrest, commissioner CGST / SGST needs to authorise the proper officer

63. Power to summon persons to give evidence and produce documents

(1) Any [CGST/SGST officer], duly authorised by the competent authority in this behalf, shall have power to summon any person whose attendance he considers necessary either to give evidence or to produce a document or any other thing in any inquiry which such officer is making for any of the purposes of this Act.

(2) A summons to produce documents or other things may be for the production of certain specified documents or things or for the production of all documents or things of a certain description in the possession or under the control of the person summoned.

(3) All persons so summoned shall be bound to attend, either in person or by an authorised representative, as such officer may direct; and all persons so summoned shall be bound to state the truth upon any subject respecting which they are examined or make statements and produce such documents and other things as may be required:

Provided that the exemptions under sections 132 and 133 of the Code of Civil Procedure, 1908 (5 of 1908) shall be applicable to requisitions for attendance under this section.

(4) Every such inquiry as aforesaid shall be deemed to be a "judicial proceeding" within the meaning of section 193 and section 228 of the Indian Penal Code, 1860 (45 of 1860).

Parallel Provision in the existing Act / Rules:
Existing Act / Rule: Central Excise Act, 1944
Existing Act / Rule No: Section 14
Analysis:
Powers have been granted to CGST / SGST officers to issue the summons and produce any evidences in case of any investigation and such summons issued and investigations thereafter will be construed as Judicial proceedings under Indian penal code and statement also can be recorded on appearance against summons.

64. Access to business premises

(1) Any CGST/SGST officer authorized by the [Additional/Joint Commissioner of CGST or SGST] shall have access to any business premises to inspect books of account, documents, computers, computer programs, computer software (whether installed in a computer or otherwise) and such other things as he may require and which may be available at such premises, for the purposes of carrying out any audit, scrutiny, verification and checks as may be necessary to safeguard the interest of revenue.

(2) Every person in charge of premises referred to in sub-section (1) shall, on demand, make available to the officer authorized under sub-section (1) or the audit party deputed by the Additional/Joint Commissioner of CGST or SGST or the Comptroller and Auditor General

of India or a cost accountant or chartered accountant nominated under section 50, as the case may be,-

(i) the records as prepared or maintained by the registered taxable person and declared to the CGST/SGST officer as may be prescribed;
(ii) trial balance or its equivalent;
(iii) Statements of annual financial accounts, duly audited, wherever required;
(iv) cost audit report, if any, under section 148 of the Companies Act, 2013 (18 of 2013);
(v) the income-tax audit report, if any, under section 44AB of the Income-tax Act, 1961 (43 of 1961); and
(vi) any other relevant record,

for the scrutiny of the officer or audit party or the cost accountant or chartered accountant, as the case may be, within a reasonable time, not exceeding fifteen working days from the day when such demand is made, or such further period as may be allowed by the said officer or the audit party or the cost accountant or chartered accountant, as the case may be.

Analysis:

Additional Commissioner / Joint Commissioner is authorised CGST / SGST officers who inspect books of account / documents, Computers, computer program, computer software or any other things for carrying out audit, scrutiny verification and checks for safeguarding the revenue.

On visit of such officers / Officers of SAG or Cost Accountant or Chartered Accountant nominated to conduct special audit following documents needs to be given on demand.
Records prepared or maintained Trial Balance, Statement of annual financial accounts duly attested , cost audit report, tax audit report or any other records.

65. Officers required to assist CGST/SGST officers

(1) All officers of Police, Customs and those of State/Central Government engaged in collection of goods and services tax and all officers of State/Central Government engaged in the collection of land revenue, and all village officers are hereby empowered and required to assist the CGST/SGST officers in the execution of this Act.

(2) The Central/State Government may, by notification, empower and require any other class of officers to assist the CGST/SGST officers in the execution of this Act when called upon to do so by the Commissioner of CGST/SGST.

Analysis:

CGST and SGST Officers may be assisted on demand by any officers of Police, Customs, Central & State Govt Officers dealing in GST / collection of land revenue or Panchayat / village and such officers will be empowered to carry the work assigned.

Inspection, Search, Seizure and Arrest – Gist in details

- **Inspection**

1) Power to inspect the business premises. Joint Commissioner and office above this rank can order inspection in writing.

2) Power to search premises and seizure goods / documents. Joint Commissioner and office above this rank can order inspection in writing.

3) Notice be issued within 60 days of seizure of the goods. If not issues, the goods to be returned to the person.

4) Power given to Police as per the provision of Code of Criminal Procedure, 1973 are given to the officers.

5) Inspection of documents of the goods in movement for any consignment carrying goods of value exceeding Rs 50,000/-.

- **Arrest**

1) Commissioner of CGST / SGST can order arrest of the person

2) In case of Cognizable offences, ground of arrests will be informed and the officer will be produced before magistrate within 24 hours.

3) In case of non-cognizable and bailable offence, the officer will have same powers as officer-in-charge of police station.

4) Power to summon persons to give evidence and produce documents

- **Inspection**

1) Power to inspect the business premises. Joint Commissioner and office above this rank can order inspection in writing.

2) Power to search premises and seizure goods / documents. Joint Commissioner and office above this rank can order inspection in writing.

3) Notice be issued within 60 days of seizure of the goods. If not issues, the goods to be returned to the person.

4) Power given to Police as per the provision of Code of Criminal Procedure, 1973 are given to the officers.

5) Inspection of documents of the goods in movement for any consignment carrying goods of value exceeding Rs 50,000/-.

CHAPTER – XVI

OFFENCES AND PENALTIES – Clause wise Analysis

66. Offences and penalties

(1) Where a taxable person who -

i. Supplies any goods and/or services without issue of any invoice or issues an incorrect or false invoice with regard to any such supply;

ii. Issues any invoice or bill without supply of goods and/or services in violation of the provisions of this Act, or the rules made thereunder;

iii. Collects any amount as tax but fails to pay the same to the credit of the appropriate Government beyond a period of three months from the date on which such payment becomes due;

iv. collects any tax in contravention of the provisions of this Act but fails to pay the same to the credit of the appropriate Government beyond a period of three months from the date on which such payment becomes due;

v. fails to deduct the tax in terms of sub-section (1) of section 37, or deducts an amount which is less than the amount required to be deducted under the said sub-section, or where he fails to pay to the credit of the appropriate Government under sub- section (2) thereof, the amount deducted as tax;

(va) fails to collect tax in terms of sub-section (1) of section 43C, or collects an amount which is less than the amount required to be collected under the said sub-section, or where he fails to pay to the credit of the appropriate Government under sub-section (4) thereof, the amount collected as tax;

vi. takes and/or utilizes input tax credit without actual receipt of goods and/or services either fully or partially, in violation of the provisions of this Act, or the rules made thereunder;

vii. fraudulently obtains refund of any CGST/SGST under this Act;

viii. takes or distributes input tax credit in violation of section 17, or the rules made thereunder;

ix. falsifies or substitutes financial records or produces fake accounts and/or documents or furnishes any false information or return with an intention to evade payment of tax due under this Act;

x. is liable to be registered under this Act but fails to obtain registration;

xi. furnishes any false information with regard to particulars specified as mandatory, either at the time of applying for registration, or subsequently;

xii. obstructs or prevents any officer in discharge of his duties under the Act;

xiii. transports any taxable goods without the cover of documents as may be specified in this behalf;

xiv. suppresses his turnover leading to evasion of tax under this Act;

xv. fails to keep, maintain or retain books of account and other documents in accordance with the provisions of this Act or the rules made thereunder;

xvi. fails to furnish information and/or documents called for by a CGST/SGST officer in accordance with the provisions of this Act or rules made thereunder or furnishes false information and/or documents during any proceedings under this Act;

xvii. supplies, transports or stores any goods which he has reason to believe are liable to confiscation under this Act;

xviii. issues any invoice or document by using the identification number of another taxable person;

xix. tampers with, or destroys any material evidence;

xx. disposes off or tampers with any goods that have been detained, seized, or attached under this Act;

shall be liable to a penalty of rupees ten thousand or an amount equivalent to the tax evaded or the tax not deducted or short deducted or deducted but not paid to the Government or input tax credit availed of or passed on or distributed irregularly, or the refund claimed fraudulently, as the case may be, whichever is higher.

(2) Any registered taxable person who repeatedly makes short payment of tax shall be liable to a penalty of rupees ten thousand or ten percent of the tax short paid, whichever is higher.

Explanation.- For the purposes of this sub-section, a taxable person shall be deemed to have made short payments 'repeatedly', if there were short payments in three returns during any six consecutive tax periods.

(3) Any person who

a. aids or abets any of the offences specified in clauses (i) to (xx) of sub-section (1)
b. above;

c. acquires possession of, or in any way concerns himself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner deals

with any goods which he knows or has reason to believe are liable to confiscation under this Act or the rules made thereunder;

d. receives or is in any way concerned with the supply of, or in any other manner deals with any supply of services which he knows or has reason to believe are in contravention of any provisions of this Act or the rules made thereunder;

e. fails to appear before the CGST/SGST officer, when issued with a summon for appearance to give evidence or produce a document in an enquiry;

f. fails to issue invoice in accordance with the provisions of this Act or rules made thereunder, or fails to account for an invoice in his books of account;

shall be liable to a penalty which may extend to rupees twenty five thousand.

Parallel Provision in the existing Act / Rules: CER - 26 (2) (i) Penalty for certain Offences
Existing Act / Rule: Central Excise Rules, 2002 and MVAT Act, 2005
Central Excise Act, 1944
Existing Act / Rule No: 26 (2) (i)

67. General penalty

Any person, who contravenes any of the provisions of this Act or any rules made thereunder for which no penalty is separately provided for in this Act, shall be liable to a penalty which may extend to rupees twenty five thousand.

68. General disciplines related to penalty

(1) No tax authority shall impose substantial penalties for minor breaches of tax regulations or procedural requirements. In particular, no penalty in respect of any omission or mistake in documentation which is easily rectifiable and obviously made without fraudulent intent or gross negligence shall be greater than necessary to serve merely as a warning.

Explanation.- For the purpose of this sub-section –

(a) a breach shall be considered a 'minor breach' if the amount of tax involved is less than rupees five thousand.
(b) an omission or mistake in documentation shall be considered to be easily rectifiable if the same is an error apparent on record.

(2) The penalty imposed shall depend on the facts and circumstances of the case and shall be commensurate with the degree and severity of the breach.

(3) No penalty shall be imposed on any taxable person without giving a notice to show cause and without giving the person a reasonable opportunity of being heard.

(4) The tax authority shall ensure that when a penalty is imposed in an order for a breach of the laws, regulations or procedural requirements, an explanation is provided therein to the persons upon whom the penalty is imposed, specifying the nature of the breach and the applicable law, regulation or procedure under which the amount or range of penalty for the breach has been prescribed.

(5) When a person voluntarily discloses to a tax authority the circumstances of a breach of the tax law, regulation or procedural requirement prior to the discovery of the breach by the tax authority, the tax authority may consider this fact as a potential mitigating factor when establishing a penalty for that person.

(6) The provisions of this section will not apply in such cases where the penalty prescribed under the Act is either a fixed sum or expressed as a fixed percentage.

Parallel Provision in the existing Act / Rules: No parallel provisions except the judgment made laws waiving the penalty with respect to procedural lapses without intention to evade the duty or commit fraud.

Analysis:

General discipline is expected while imposing the penalty. NO penalty can be imposed without issuance of SCN and opportunity of personal hearing as a natural justice, if evasion of tax is less than Rs. 5000 or mistakes can be rectified and when voluntarily disclosures are made.

These provisions will not be applicable where penalty has been prescribed as fix sum or fix percentage

69. Detention of goods and conveyances, and levy of penalty

(1) Where any person –

(i) Transports any goods or stores such goods while they are in transit in violation of the provisions of this Act; or

(ii) Stores or keeps in stock goods or supplies goods which have not been accounted for in the books or records maintained by him in the manner required by this Act;

all such goods and the conveyance used as a means of transport for carrying the said goods shall be liable to detention, in the manner prescribed, by the proper officer and shall be released only after payment of applicable tax, interest and penalty leviable thereon or upon furnishing a security, in such form as may be prescribed, equivalent to the amount of the applicable tax, interest and penalty.

(2) No tax, interest or penalty shall be determined under sub-section (1) without giving a notice to show cause and without giving the person a reasonable opportunity of being heard.

Analysis:

Goods, records & conveyances can be detailed and to be released only after payment of

applicable tax, interest and penalty or upon furnishing security equivalent to such tax interest & penalty

70. Confiscation of goods and levy of penalty

(1) If any person –

i. supplies any goods in contravention of any of the provisions of this Act or rules made thereunder leading to evasion of tax; or

ii. does not account for any goods on which he is liable to pay tax under this Act; or

iii. supplies any goods liable to tax under this Act without having applied for the registration; or

iv. contravenes any of the provisions of this Act or rules made there under with intent to evade payment of tax,

then, all such goods shall be liable to confiscation and the person shall be liable to penalty under section 66.

(2) Whenever confiscation of any goods is authorized by this Act, the CGST/SGST officer adjudging it shall give to the owner of the goods or, where such owner is not known, the person from whose possession or custody such goods have been seized, an option to pay in lieu of confiscation such fine as the said officer thinks fit:

Provided that such fine shall not exceed the market price of the goods confiscated, less the tax chargeable thereon.

(3) Where any fine in lieu of confiscation of goods is imposed under sub-section (2), the owner of such goods or the person referred to in sub-section (1), shall, in addition, be liable to any tax and charges payable in respect of such goods.

(4) No order of confiscation of goods and/or imposition of penalty shall be issued without giving a notice to show cause and without giving the person a reasonable opportunity of being heard.

(5) Where any goods are confiscated under this Act, the title of such goods shall thereupon vest in the appropriate Government.

(6) The proper officer adjudging confiscation shall take and hold possession of the things confiscated and every Officer of Police, on the requisition of such proper officer, shall assist him in taking and holding such possession.

Parallel Provision in the existing Act / Rules: Rule 25. Confiscation and penalty. -
Analysis:

1. Confiscation of goods can be made when it leads to evasion of duty or non accountable of goods / supplies
2. If owner of such goods is not identified, the person on whose possession goods are available which needs to be confiscated and find to be imposed on such person not exceeding to market value of goods.

However, such confiscation or imposing the fine can be against issuance of SCN and opportunity of personal hearing and issue of speaking order

71. Confiscation of conveyances

Any conveyance used as a means of transport for carriage of taxable goods without the cover of documents as may be prescribed in this behalf shall be liable to confiscation, unless the owner of the conveyance proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the conveyance:

Provided that where any such conveyance is used for the carriage of the goods or passengers for hire, the owner of the conveyance shall be given an option to pay in lie of the confiscation of the conveyance a fine equal to the tax payable on the goods being transported thereon.

Parallel Provision in the existing Act / Rules: No parallel provision in existing Act & Rules.

Analysis:

Any vehicle transporting, carrying non tax paid goods can be confiscated and such vehicle can be released only after paying a fine equal to the tax payable.

72. Confiscation or penalty not to interfere with other punishments

No confiscation made or penalty imposed under the provisions of this Act or the rules made thereunder shall prevent the infliction of any other punishment to which the person affected thereby is liable under the provisions of this Act or under any other law.

Parallel Provision in the existing Act / Rules: No confiscation made or penalty imposed under the provisions of the Act or of any rule made thereunder shall prevent the infliction of any other punishment to which the person affected thereby is liable under the provisions of this Act or under any other law.

Offences & Penalties – Gist in details

Following offences will be liable for fine penalty of Rs 10,000 or an amount equivalent to the tax involved therein whichever is higher,

1) Supplies any goods and/or services without issue of any invoice or incorrect / false invoice.
2) Issues any invoice or bill without supply of goods and/or services
3) Collects any amount as tax but fails to pay the same to the credit of the Government beyond a period of 3 months from the date on which such payment becomes due.
4) Fails to deduct TDS or less deduction of TDS
5) Fails to collect taxes (TCS) – E-Commerce Companies
6) Takes and/or utilizes input tax credit without actual receipt of goods and/or services
7) Fraudulently obtains refund of any CGST/SGST under this Act
8) Incorrect distribution of the credit by ISD
9) Production of fake / falsified books of account
10) Fails to obtain registration under the act
11) Submission of wrong information at the time of registration
12) Obstructs or prevents any officer to discharge his duties
13) Transport any taxable goods without cover of documents
14) Suppression of Turnover to evade the duties
15) Fails to maintain the prescribed accounts / records
16) Fails to furnish the information for the audit and some other offences

- **Penalty for repeated short payments**
  - Rs 10,000 or 10% of short payment whichever is higher
  - Short payment in 3 months during any consecutive 6 month period.
- **General Penalty**
  - In cases wherein the Penalty is not separately provided.
  - Rs 25,000/- per offence.
- **Confiscation of goods (this provision is not applicable for services)**
  - The goods are liable for confiscation if any person,

- ✓ Supplies the goods in contravention of the provisions of the Act
- ✓ Does not account for the taxable goods
- ✓ Contravenes the provision of act with intent to evade the payment of tax

- Fine in lieu of confiscation can be paid by the taxpayer on release of the goods. The fine may extend up to market value of such goods.
- Tax required to be paid on the goods will be paid over and above the fine.
- The title of the goods confiscated will be with the Government.

Provisions of Chapter XVII - Prosecution and Compounding of Offences

- represented from the Model GST Law 2016

CHAPTER – XVII

PROSECUTION AND COMPOUNDING OF OFFENCES

73. Prosecution

(1) Whoever commits any of the following offences, namely—

(a) supplies any goods and/or services without issue of any invoice or issues an incorrect or false invoice with regard to any such supply;

(b) issues any invoice or bill without supply of goods and/or services in violation of the provisions of this Act, or the rules made thereunder;

(c) collects any amount as tax but fails to pay the same to the credit of the appropriate Government beyond a period of three months from the date on which such payment becomes due;

(d) collects any tax in contravention of the provisions of this Act but fails to pay the same to the credit of the appropriate Government beyond a period of three months from the date on which such payment becomes due;

(e) takes and/or utilizes input tax credit without actual receipt of goods and/or services either fully or partially, in violation of the provisions of this Act, or the rules made thereunder;

(f) fraudulently obtains refund of any CGST/SGST;

(g) falsifies or substitutes financial records or produces fake accounts and/or documents or furnishes any false information with an intention to evade payment of tax due under this Act;

(h) obstructs or prevents any officer in the discharge of his duties under this Act;

(i) acquires possession of, or in any way concerns himself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner deals with, any goods which he knows or has reason to believe are liable to confiscation under this Act or the rules made thereunder;

(j) receives or is in any way concerned with the supply of, or in any other manner deals with any supply of services which he knows or has reason to believe are in contravention of any provisions of this Act or the rules made thereunder;

(k) fails to supply any information which he is required to supply under this Act or the rules made thereunder or (unless with a reasonable belief, the burden of proving which shall be upon him, that the information supplied by him is true) supplies false information; or

(l) attempts to commit, or abets the commission of, any of the offences mentioned in clauses (a) to (k) of this section;

shall be punishable –

(i) in cases where the amount of tax evaded exceeds two hundred and fifty lakh rupees, with imprisonment for a term which may extend to five years and with fine;

(ii) in cases where the amount of tax evaded exceeds fifty lakh rupees but does not exceed two hundred and fifty lakh rupees, with imprisonment for a term which may extend to three years and with fine;

(iii) in the case of any other offence where the amount of tax evaded exceeds twenty five lakh rupees but does not exceed fifty lakh rupees, with imprisonment for a term which may extend to one year and with fine.

(2) If any person convicted of an offence under this section is again convicted of an offence under this section, then, he shall be punishable for the second and for every subsequent offence with imprisonment for a term which may extend to five years and with fine:

Provided that in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the Court, the imprisonment referred to in sub-sections (1) and (2) shall not be for a term of less than six months.

(3) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), all offences under this Act, except the offences referred to in sub-section (4) shall be non-cognizable and bailable.

(4) The offences relating to taxable goods and/or services where the amount of tax evaded exceeds two hundred and fifty lakh rupees shall be cognizable and non-bailable.

(5) A person shall not be prosecuted for any offence under this section except with the previous sanction of the designated authority.

74. Cognizance of offences

No Court shall take cognizance of any offence punishable except with the previous sanction of the designated authority, and no Court inferior to that of a Magistrate of the First Class, shall try any such offence.

75. Presumption of culpable mental state

(1) In any prosecution for an offence under this Act which requires a culpable mental state on the part of the accused, the Court shall presume the existence of such mental state but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution.

Explanation.— In this section, "culpable mental state" includes intention, motive, knowledge of a fact, and belief in, or reason to believe, a fact.

(2) For the purposes of this section, a fact is said to be proved only when the Court believes it to exist beyond reasonable doubt and not merely when its existence is established by a preponderance of probability.

76. Relevancy of statements under certain circumstances

(1) A statement made and signed by a person before any gazetted officer of CGST/IGST/SGST during the course of any inquiry or proceeding under this Act shall be relevant, for the purpose of proving, in any prosecution for an offence under this Act, the truth of the facts which it contains,**-**

(a) when the person who made the statement is dead or cannot be found, or is incapable of giving evidence, or is kept out of the way by the adverse party, or whose presence cannot be obtained without an amount of delay or expense which, under the circumstances of the case, the Court considers unreasonable; or

(b) when the person who made the statement is examined as a witness in the case before the Court and the Court is of the opinion that, having regard to the circumstances of the case, the statement should be admitted in evidence in the interests of justice.

(2) The provisions of sub-section (1) shall, so far as may be, apply in relation to any proceeding under this Act, other than a proceeding before a Court, as they apply in relation to a proceeding before a Court.

77. Offences by Companies and certain other persons

(1) Where an offence committed by a person under this Act is a company, every person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any negligence on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.- For the purposes of this section, -

(a) "company" means a body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

(3) Where an offence under this Act has been committed by a taxable person being a partnership firm or a Limited Liability Partnership or a Hindu Undivided Family or a trust, the partner or *karta* or managing trustee, as the case may be, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly and the provisions of sub-section (2) shall apply *mutatis mutandis* to such persons.

(4) Nothing contained in this section shall render any such person liable to any punishment provided in this Act**,** if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

78. Compounding of offences

(1) Any offence under the Act may, either before or after the institution of prosecution, be compounded by the Competent Authority on payment, by the person accused of the offence, to the Central Government or the State Government, as the case be, of such compounding amount in such manner as may be prescribed:

Provided that nothing contained in this section shall apply to -

(a) a person who has been allowed to compound once in respect of any of the offences described under clause (a) to (g) of sub-section (1) of section 73 and the offences described under clause (l) which are relatable to offences described under clause (a) to (g) of the said sub-section;

(b) a person who has been allowed to compound once in respect of any offence (other than those in clause (a)) under the Act or under the provisions of any other SGST Act or IGST Act in relation to supplies of value exceeding rupees one crore;

(c) a person who has been accused of committing an offence under the Act which is also an offence under the Narcotic Drugs and Psychotropic Substance Act,1985 (61 of 1985), the Foreign Exchange Management Act, 1999 (42 of 1999) or any other Act other than the CGST/SGST Act;

(d) any other class of persons or offences as may be prescribed:

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

Provided also that compounding shall be allowed only after making payment of tax, interest and penalty involved in such offences.

(2) The amount for compounding of offences under this section shall be as may be prescribed under the rules to be made under sub-section (1), subject to the minimum amount not being less than rupees ten thousand or fifty per cent of the tax involved, whichever is greater, and the maximum amount not being more than rupees thirty thousand or one hundred and fifty per cent of the tax, whichever is greater.

(3) On payment of such compounding amount as may be determined by the competent authority, no further proceedings shall be initiated under the Act against the accused person in respect of the same offence and any criminal proceedings, if already initiated in respect of the said offence, shall stand abated.

Provisions of Chapter XVIII - Appeals

- represented from the Model GST Law 2016

CHAPTER–XVIII

APPEALS

(Sections 79, 81, 82 and 83 shall be applicable for appeals under CGST Law. Sections 84 to 93 are common for CGST and SGST law)

79. Appeals to First Appellate Authority

(1) Any person aggrieved by any decision or order passed against him under this Act by an adjudicating authority, may appeal to the prescribed First Appellate Authority.

(2) The Commissioner of GST may, of his own motion, call for and examine the record of any proceeding in which an adjudicating authority has passed any decision or order under this Act, for the purpose of satisfying himself as to the legality or propriety of the said decision or order and may, by order, direct any GST Officer subordinate to him to apply to the First Appellate Authority for the determination of such points arising out of the said decision or order as may be specified by the Commissioner of GST in his order.

(3) Where, in pursuance of an order under sub-section (2), the authorized officer makes an application to the First Appellate Authority, such application shall be dealt with by the First Appellate Authority as if it were an appeal made against the decision or order of the adjudicating authority and the provisions of this Act relating to appeals shall, so far as may be, apply to such application.

(4) Every appeal under this section shall be filed within three months from the date on which the decision or order sought to be appealed against is communicated to the Commissioner of GST, or, as the case may be, the person preferring the appeal:

Provided that the First Appellate Authority may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of three months, allow it to be presented within a further period of one month.

(5) Every appeal under this section shall be in the prescribed form and shall be verified in the prescribed manner.

(6) No appeal shall be filed under sub-section (1) unless the appellant has deposited a sum equal to ten percent of the amount in dispute arising from the said order, in relation to which the appeal has been filed.

Explanation.- For the purposes of this sub-section, the expression "amount in dispute" shall include –

i. amount determined under section 46 or 47 or 48 or 51;

ii. amount payable under rule-------of the GST Credit Rules 201…; and

iii. amount of fee levied or penalty imposed.

(7) The First Appellate Authority shall give an opportunity to the appellant of being heard, if he so desires.

(8) The First Appellate Authority may, if sufficient cause is shown at any stage of hearing of an appeal, grant time, from time to time, to the parties or any of them and adjourn the hearing of the appeal for reasons to be recorded in writing:

Provided that no such adjournment shall be granted more than three times to a party during hearing of the appeal.

(9) The First Appellate Authority may, at the hearing of an appeal, allow an appellant to go into any ground of appeal not specified in the grounds of appeal, if he is satisfied that the omission of that ground from the grounds of appeal was not wilful or unreasonable.

(10) The First Appellate Authority shall, after making such further inquiry as may be necessary, pass such order, as he thinks just and proper, confirming, modifying or annulling the decision or order appealed against:

Provided that an order enhancing any fee or penalty or fine in lieu of confiscation or confiscating goods of greater value or reducing the amount of refund or input tax credit shall not be passed unless the appellant has been given a reasonable opportunity of showing cause against the proposed order:

Provided further that where the First Appellate Authority is of the opinion that any tax has not been paid or short-paid or erroneously refunded, or where input tax credit has been wrongly availed or utilized, no order requiring the appellant to pay such tax or input tax credit shall be passed unless the appellant is given notice to show cause against the proposed order and the order is passed within the time limit specified under section 51.

(11) The order of the First Appellate Authority disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reasons for the decision.

(12) The First Appellate Authority shall, where it is possible to do so, hear and decide every appeal within a period of one year from the date on which it is filed:

Provided that where the issuance of order is stayed by an order of a Court or Tribunal, the period of such stay shall be excluded in computing the period of one year.

(13) On disposal of the appeal, the First Appellate Authority shall communicate the order passed by him to the appellant and to the adjudicating authority.

(14) A copy of the order passed by the First Appellate Authority shall also be sent to the jurisdictional Commissioner of CGST or the authority designated by him in this behalf and the jurisdictional Commissioner of SGST or the authority designated by him in this behalf.

(15) Every order passed under this section shall, subject to the provisions of section 83, 87 or 88, be final.

80. Left Blank

81. Constitution of the National Appellate Tribunal

(1) The Central Government shall on the recommendation of the GST Council constitute a National Goods and Services Tax Appellate Tribunal (hereinafter referred to as the Appellate Tribunal).

(2) The Appellate Tribunal shall be headed by a National President.

(3) The Appellate Tribunal shall have one branch for each state, which shall be called as the State GST Tribunal.

(4) Every State GST Tribunal will be headed by a State President.

(5) Every State GST Tribunal shall consist of as many Members (Judicial), Members (Technical - CGST) and Members (Technical - SGST) as may be prescribed, to exercise the powers and discharge the functions conferred on the Appellate Tribunal by this Act.

(6) The qualifications, eligibility conditions and the manner of selection and appointment of the National President, the State Presidents, and the Members shall be such as may be prescribed on the recommendations of the Council.

(7) The National President and the State Presidents shall exercise such powers and discharge such functions as may be prescribed on the recommendations of the Council.

(8) On ceasing to hold office, the National President, the State Presidents or other Members of the Appellate Tribunal shall not be entitled to appear, act or plead before the Appellate Tribunal.

82. Appeals to the Appellate Tribunal

(1) Any person aggrieved by an order passed against him under section 79 may appeal to the Appellate Tribunal against such order.

(2) The Appellate Tribunal may, in its discretion, refuse to admit any such appeal where the tax or input tax credit involved or the difference in tax or input tax credit involved or the amount of fine, fee or penalty determined by such order, does not exceed one lakh rupees.

(3) The Board may by order constitute such Committees as may be necessary for the purposes of filing appeals against the orders of the First Appellate Authority. Every such Committee shall consist of two designated officers of GST.

(4) The Committee of designated officers of GST may, if it is of the opinion that an order passed by the First Appellate Authority under sub-section (10) of section 79, is not legal or proper, direct any GST Officer authorized by it in this behalf to apply to the Appellate Tribunal for the determination of such points arising out of the order passed by the First Appellate Authority as may be specified by the Committee in its order:

Provided that where the Committee of designated officers of GST differs in its opinion, it shall be deemed that the Committee has formed the opinion that the order under review is not legal or proper.

(5) Where in pursuance of an order under sub-section (4) the authorized officer makes an application to the Appellate Tribunal, such application shall be dealt with by the Appellate Tribunal as if it were an appeal made against the order of the First Appellate Authority and the provisions of this Act shall, so far as may be, apply to such application, as they apply in relation to appeals filed under sub-section (1).

(6) Every appeal under this section shall be filed within three months from the date on which the order sought to be appealed against is communicated to the Commissioner of GST, or, as the case may be, the person preferring the appeal.

(7) On receipt of notice that an appeal has been preferred under this section, the party against whom the appeal has been preferred may, notwithstanding that he may

not have appealed against such order or any part thereof, file, within forty-five days of the receipt of the notice, a memorandum of cross-objections, verified in the prescribed manner, against any part of the order appealed against and such memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time specified in sub-section (6).

(8) The Appellate Tribunal may admit an appeal or permit the filing of a memorandum of cross-objections after the expiry of the period referred to in sub-section (6) or sub-section (7) respectively, if it is satisfied that there was sufficient cause for not presenting it within that period.

(9) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner and shall be accompanied by a prescribed fee:

Provided that no such fee shall be payable in the case of an appeal filed by the Commissioner referred to in sub-section (5) or a memorandum of cross-objections referred to in sub-section (7).

(10) No appeal shall be filed under sub-section (1) unless the appellant has deposited a sum equal to ten percent of the amount in dispute arising from the said order, in relation to which the appeal has been filed.

Explanation.- For the purposes of this sub-section, the expression "amount in dispute" shall include –

i. amount determined under section 46 or 47 or 48 or 51;

ii. amount payable under rule-------of the GST Credit Rules 201…; and

iii. amount of fee levied or penalty imposed.

(11) Every application made before the Appellate Tribunal, —

(a) in an appeal for rectification of mistake or for any other purpose; or

(b) for restoration of an appeal or an application,

shall be accompanied by a prescribed fee :

Provided that no such fee shall be payable in the case of an application filed by or on behalf of the Commissioner of GST under sub-section (5).

83. Orders of Appellate Tribunal

(1) The Appellate Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or annulling the decision or order appealed against or may refer the case back to the First Appellate Authority or to the original adjudicating authority, with such directions as it may think fit, for a fresh adjudication or decision, as the case may be, after taking additional evidence, if necessary.

(2) The Appellate Tribunal may, if sufficient cause is shown, at any stage of hearing of an appeal, grant time, from time to time, to the parties or any of them and adjourn the hearing of the appeal for reasons to be recorded in writing:

Provided that no such adjournment shall be granted more than three times to a party during hearing of the appeal.

(3) The Appellate Tribunal may amend any order passed by it under sub-section (1) so as to rectify any mistake apparent from the record, if such mistake is noticed by it on its own accord, or is brought to its notice by the Commissioner of GST or the other party to the appeal within a period of three months from the date of the order:

Provided that no amendment which has the effect of enhancing an assessment or reducing a refund or input tax credit or otherwise increasing the liability of the other party, shall be made under this sub-section, unless the Appellate Tribunal has given notice to him of its intention to do so and has allowed him a reasonable opportunity of being heard.

(4) The Appellate Tribunal shall, where it is possible to do so, hear and decide every appeal within a period of one year from the date on which it is filed.

(5) The Appellate Tribunal shall send a copy of every order passed under this section to the First Appellate Authority, or to the original adjudicating authority, as the case may be, the appellant, the jurisdictional Commissioner of CGST and the jurisdictional Commissioner of SGST.

(6) Every order passed under this section shall, subject to the provisions of section 87 or 88, be final.

Provisions of Chapter XVIII - Appeals and Revision

- represented from the Model GST Law 2016

CHAPTER–XVIII

APPEALS AND REVISION

(Sections 79, 80, 81, 82 and 83 shall be applicable for appeals under SGST Law. Sections 84 to 93 are common for CGST and SGST law)

79. Appeals to First Appellate Authority

(1) Any person aggrieved by any decision or order passed against him under this Act by an adjudicating authority, may appeal to the prescribed First Appellate Authority.

(2) Every appeal under this section shall be filed within three months from the date on which the decision or order sought to be appealed against is communicated to the person preferring the appeal:

Provided that the First Appellate Authority may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of three months, allow it to be presented within a further period of one month.

(3) Every appeal under this section shall be in the prescribed form and shall be verified in the prescribed manner.

(4) No appeal shall be filed under sub-section (1) unless the appellant has deposited –

(a) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him, and

(b) a sum equal to ten percent of the remaining amount in dispute arising from the said order, in relation to which the appeal has been filed.

Explanation.- For the purposes of this sub-section, the expression "amount in dispute" shall include –

i. amount determined under section 46 or 47 or 48 or 51;

ii. amount payable under rule-------of the GST Credit Rules 201…; and

iii. amount of fee levied or penalty imposed:

Provided that nothing in this sub-section shall affect the right of the departmental authorities to apply to the First Appellate Authority for ordering a higher amount of pre-deposit, not exceeding fifty percent of the amount in the dispute, in a case which is considered by the Commissioner of GST to be a "serious case".

Explanation .- For the purpose of this proviso, the expression "serious case" shall mean a case involving a disputed tax liability of not less than Rupees Twenty Five Crores and where the Commissioner of GST is of the opinion (for reasons to be recorded in writing) that the department has a very good case against the taxpayer.

(5) The First Appellate Authority shall give an opportunity to the appellant of being heard, if he so desires.

(6) The First Appellate Authority may, if sufficient cause is shown at any stage of hearing of an appeal, grant time, from time to time, to the parties or any of them and

adjourn the hearing of the appeal for reasons to be recorded in writing:

Provided that no such adjournment shall be granted more than three times to a party during hearing of the appeal.

(7) The First Appellate Authority may, at the hearing of an appeal, allow an appellant to go into any ground of appeal not specified in the grounds of appeal, if he is satisfied that the omission of that ground from the grounds of appeal was not wilful or unreasonable.

(8) The First Appellate Authority shall, after making such further inquiry as may be necessary, pass such order, as he thinks just and proper, confirming, modifying or annulling the decision or order appealed against:

Provided that an order enhancing any fee or penalty or fine in lieu of confiscation or confiscating goods of greater value or reducing the amount of refund or input tax credit shall not be passed unless the appellant has been given a reasonable opportunity of showing cause against the proposed order:

Provided further that where the First Appellate Authority is of the opinion that any tax has not been paid or short-paid or erroneously refunded, or where input tax credit has been wrongly availed or utilized, no order requiring the appellant to pay such tax or input tax credit shall be passed unless the appellant is given notice to show cause against the proposed order and the order is passed within the time limit specified under section 51.

(9) The order of the First Appellate Authority disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reasons for the decision.

(10) The First Appellate Authority shall, where it is possible to do so, hear and decide every appeal within a period of one year from the date on which it is filed:

Provided that where the issuance of order is stayed by an order of a Court or Tribunal, the period of such stay shall be excluded in computing the period of one year.

(11) On disposal of the appeal, the First Appellate Authority shall communicate the order passed by him to the appellant and to the adjudicating authority.

(12) A copy of the order passed by the First Appellate Authority shall also be sent to the jurisdictional Commissioner of CGST or the authority designated by him in this behalf and the jurisdictional Commissioner of SGST or the authority designated by him in this behalf.

(13) Every order passed under this section shall, subject to the provisions of sections 80, 83, 87 or 88, be final.

80. Revisional powers of Commissioner

(1) Subject to the provisions of section 93 and any rules made thereunder, the Commissioner may on his own motion or upon information received by him, call for and examine the record of any proceeding under this Act, and if he considers that any decision or order passed under this Act by any officer subordinate to him is erroneous in so far as it is prejudicial to the interest of the revenue, he may, if necessary, stay the operation of such decision or order for such period as he deems fit and after giving the person concerned an opportunity of being heard and after making such further inquiry as

may be necessary, pass such order, as he thinks just and proper, including enhancing or modifying or annulling the said decision or order.

(2) The Commissioner shall not exercise any power under sub-section (1), if.-

(a) the order has been subject to an appeal under section 79 or under section 82 or under section 87 or under section 88; or

(b) more than three years have expired after the passing of the decision or order sought to be revised.

(3) Notwithstanding anything contained in sub-section (2), the Commissioner may pass an order under sub-section (1) on any point which has not been raised and decided in an appeal referred to in clause (a) of sub-section (2), before the expiry of a period of one year from the date of the order in such appeal or before the expiry of a period of three years referred to in clause (b) of that sub-section, whichever is later.

(4) Every order passed in revision under sub-section (1) shall, subject to the provisions of sections 83, 87 or 88, be final.

(5) If the decision or order passed under this Act by an officer subordinate to the Commissioner involves an issue on which the Appellate Tribunal or the High Court has given its decision which is prejudicial to the interest of revenue in some other proceedings and an appeal to the High Court or the Supreme Court against such decision of the Appellate Tribunal or as the case may be, the High Court is pending, the period spent between the date of the decision of the Appellate Tribunal and the date of the decision of the High Court or as the case may be, the date of the decision of the High Court and the date of the decision of the Supreme Court shall be excluded in computing the period referred to in clause (b) of sub-section (2).

(6) Where the issuance of an order under sub-section (1) is stayed by the order of a Court or Tribunal, the period of such stay shall be excluded in computing the period of three years under sub-section (2).

(7) For the purposes of this section, 'record' shall include all records relating to any proceedings under this Act available at the time of examination by the Commissioner.

(8) For the purposes of this section, 'decision' shall include intimation given by any officer subordinate to the Commissioner.

81. Constitution of the National Appellate Tribunal

(1) The Central Government shall on the recommendation of the GST Council constitute a National Goods and Services Tax Appellate Tribunal (hereinafter referred to as the Appellate Tribunal).

(2) The Appellate Tribunal shall be headed by a National President.

(3) The Appellate Tribunal shall have one branch for each state, which shall be called as the State GST Tribunal.

(4) Every State GST Tribunal will be headed by a State President.

(5) Every State GST Tribunal shall consist of as many Members (Judicial), Members (Technical - CGST) and Members (Technical - SGST) as may be prescribed, to exercise

the powers and discharge the functions conferred on the Appellate Tribunal by this Act.

(6) The qualifications, eligibility conditions and the manner of selection and appointment of the National President, the State Presidents, and the Members shall be such as may be prescribed on the recommendations of the Council.

(7) The National President and the State Presidents shall exercise such powers and discharge such functions as may be prescribed on the recommendations of the Council.

(8) On ceasing to hold office, the National President, the State Presidents or other Members of the Appellate Tribunal shall not be entitled to appear, act or plead before the Appellate Tribunal.

82. Appeals to the Appellate Tribunal

(1) Any person aggrieved by an order passed against him under section 79 or under section 80 may appeal to the Appellate Tribunal against such order.

(2) The Appellate Tribunal may, in its discretion, refuse to admit any such appeal where the tax or input tax credit involved or the difference in tax or input tax credit involved or the amount of fine, fee or penalty determined by such order, does not exceed one lakh rupees.

(3) Every appeal under this section shall be filed within three months from the date on which the order sought to be appealed against is communicated to the person preferring the appeal.

(4) On receipt of notice that an appeal has been preferred under this section, the party against whom the appeal has been preferred may, notwithstanding that he may not have appealed against such order or any part thereof, file, within forty-five days of the receipt of the notice, a memorandum of cross-objections, verified in the prescribed manner, against any part of the order appealed against and such memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time specified in sub-section (3).

(5) The Appellate Tribunal may admit an appeal or permit the filing of a memorandum of cross-objections after the expiry of the period referred to in sub-section (3) or sub-section (4) respectively, if it is satisfied that there was sufficient cause for not presenting it within that period.

(6) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner and shall be accompanied by a prescribed fee:

Provided that no such fee shall be payable in the case of an appeal filed by the Commissioner or a memorandum of cross-objections referred to in sub-section (4).

(7) (a) No appeal shall be filed under sub-section (1) unless the appellant has deposited –

(i) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him, and

(ii) a sum equal to ten percent of the remaining amount in dispute arising from the said order, in relation to which the appeal has been filed.

Explanation.- For the purposes of this sub-section, the expression "amount in dispute"

shall include –

i. amount determined under section 46 or 47 or 48 or 51;

iii. amount payable under rule-------of the GST Credit Rules 201…; and

iii. amount of fee levied or penalty imposed:

Provided that nothing in this sub-section shall affect the right of the departmental authorities to apply to the Appellate Tribunal for ordering a higher amount of pre-deposit, not exceeding fifty percent of the amount in the dispute after taking into account the amount deposited in the first appeal, in a case which is considered by the Commissioner of GST to be a "serious case".

Explanation. - For the purpose of this proviso, the expression "serious case" shall mean a case involving a disputed tax liability of not less than Rupees Twenty Five Crores and where the Commissioner of GST is of the opinion (for reasons to be recorded in writing) that the department has a very good case against the taxpayer.

(b) The provisions of clause (a) shall also apply mutatis mutandis to cross objections filed under sub-section (4).

(8) Every application made before the Appellate Tribunal, —

(a) in an appeal for rectification of mistake or for any other purpose; or

(b) for restoration of an appeal or an application,

shall be accompanied by a prescribed fee :

Provided that no such fee shall be payable in the case of an application filed by or on behalf of the Commissioner of GST.

83. Orders of Appellate Tribunal

(1) The Appellate Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or annulling the decision or order appealed against or may refer the case back to the First Appellate Authority, or the revisional authority, as the case may be, or to the original adjudicating authority, with such directions as it may think fit, for a fresh adjudication or decision, as the case may be, after taking additional evidence, if necessary.

(2) The Appellate Tribunal may, if sufficient cause is shown, at any stage of hearing of an appeal, grant time, from time to time, to the parties or any of them and adjourn the hearing of the appeal for reasons to be recorded in writing:

Provided that no such adjournment shall be granted more than three times to a party during hearing of the appeal.

(3) The Appellate Tribunal may amend any order passed by it under sub-section (1) so as to rectify any mistake apparent from the record, if such mistake is noticed by it on its own accord, or is brought to its notice by the Commissioner of GST or the other party to the appeal within a period of three months from the date of the order:

Provided that no amendment which has the effect of enhancing an assessment or reducing a refund or input tax credit or otherwise increasing the liability of the other party, shall be made under this sub-section, unless the Appellate Tribunal has given notice to him of its intention to do so and has allowed him a reasonable opportunity of

being heard.

(4) The Appellate Tribunal shall, where it is possible to do so, hear and decide every appeal within a period of one year from the date on which it is filed.

(5) The Appellate Tribunal shall send a copy of every order passed under this section to the First Appellate Authority or the revisional authority, or the original adjudicating authority, as the case may be, the appellant, the jurisdictional Commissioner of CGST and the jurisdictional Commissioner of SGST.

(6) Save as provided in section 87 or section 88, orders passed by the Appellate Tribunal on an appeal shall be final.

84. Procedure of Appellate Tribunal

(1) The powers and functions of the Appellate Tribunal may be exercised and discharged by Benches constituted by the National President or the State Presidents from amongst the members thereof.

(2) Subject to the provisions contained in sub-section (3), a Bench shall consist of one Member (Judicial), one Member (Technical - CGST) and one Member (Technical - SGST).

(3) The National President or a State President, or any other member of the Appellate Tribunal authorized in this behalf by the National President or a State President, may, sitting singly, dispose of any case which has been allotted to the Bench of which he is a member, where in any disputed case, the tax or input tax credit involved or the difference in tax or input tax credit involved or the amount of fine, fee or penalty involved, does not exceed ten lakh rupees.

(4) If the members of a Bench differ in opinion on any point, the point shall be decided according to the opinion of the majority, if there is a majority; but if the members are equally divided, they shall state the point or points on which they differ and make a reference to the National President or the State President who shall either hear the point or points himself or refer the case for hearing on such point or points by one or more of the other members of the Appellate Tribunal and such point or points shall be decided according to the opinion of the majority of these members of the Appellate Tribunal who have heard the case, including those who first heard it.

(5) Subject to the provisions of this Act, the Appellate Tribunal shall have power to regulate its own procedure and the procedure of the Benches thereof in all matters arising out of the exercise of its powers or of the discharge of its functions, including the places at which the Benches shall hold their sittings.

(6) The Appellate Tribunal shall, for the purposes of discharging its functions, have the same powers as are vested in a court under the Code of Civil Procedure, 1908 (5 of 1908), when trying a suit in respect of the following matters, namely :-

a) discovery and inspection;
b) enforcing the attendance of any person and examining him on oath;
c) compelling the production of books of account and other documents; and
d) issuing commissions.

(7) Any proceeding before the Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purpose of section 196 of the Indian Penal Code (45 of 1860), and the Appellate Tribunal shall be deemed to be a Civil Court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

85. Interest on delayed refund of pre-deposit

Where an amount deposited by the appellant under sub-section (6)/(4) of section 79 or under sub-section (10)/(7) of section 82 is required to be refunded consequent to any order of the First Appellate Authority or of the Appellate Tribunal, as the case may be, interest at the rate specified under section 39 shall be payable in respect of such refund from the date of payment of the amount till the date of refund of such amount.

86. Appearance by authorised representative

(1) Any person who is entitled or required to appear before a GST Officer appointed under this Act, or the First Appellate Authority or the Appellate Tribunal in connection with any proceedings under the Act, may, otherwise than when required under this Act to appear personally for examination on oath or affirmation, subject to the other provisions of this section, appear by an authorized representative.

(2) For the purposes of this section, "authorised representative" means a person authorised by the person referred to in sub-section (1) to appear on his behalf, being —

(a) his relative or regular employee; or

(b) an advocate who is entitled to practice in any court in India, and who has not been debarred from practicing before any court in India; or

(c) any chartered accountant, a cost accountant or a company secretary, who holds a valid certificate of practice and who has not been debarred from practice; or

(d) any person who has acquired such qualifications as the Central Government (or the State Government) may, on the recommendation of the Council, prescribe for this purpose.

(3) Notwithstanding anything contained in this section, no person who was serving in the indirect tax departments of the Government of India or of any State Government, and has retired or resigned from such service after having served for not less than two years as a Gazetted officer in that department shall be entitled to appear as an authorised representative in any proceedings before a GST Officer for a period of one year from the date of his retirement or resignation, as the case may be.

(4) No person, —

a) who has been dismissed or removed from government service; or

b) who is convicted of an offence connected with any proceeding under this Act, the Customs Act, 1962 (52 of 1962), the Central Excise Act, 1944 (1 of 1944) or Chapter V of the Finance Act 1994 (25 of 2014) or under any of the Acts passed by a state legislature dealing with the imposition of taxes on sale of goods or supply of goods and/or services, or

c) who has become an insolvent,

shall be qualified to represent any person under sub-section (1) --

(i) for all times in the case of a person referred to in clause (a),
(ii) for such time as the Commissioner of GST or the competent authority under the Acts referred to in clause (b) may, by order, determine in the case of a person referred to in clause (b), and
(iii) for the period during which the insolvency continues in the case of a person referred to in clause (c).

(5) If any person is found guilty of misconduct by the prescribed authority in connection with any proceedings under this Act or under any of the Acts referred to in clause (b) of sub-section (4), the prescribed authority may direct that he shall thenceforth be disqualified to represent any person under sub-section (1).

(6) Any order or direction under clause (b) of sub-section (4) or sub-section (5) shall be subject to the following conditions, namely:—

a) no such order or direction shall be made in respect of any person unless he has been given a reasonable opportunity of being heard;
b) any person against whom any such order or direction is made may, within one month of the making of the order or direction, appeal to the competent authority [Central/State Government] to have the order or direction cancelled; and
c) no such order or direction shall take effect until the expiration of one month from the making thereof, or, where an appeal has been preferred, until the disposal of the appeal.

87. Appeal to the High Court

(1) The Commissioner of GST or the other party aggrieved by any order passed by the Appellate Tribunal under section 83 may file an appeal to the High Court and the High Court may admit such appeal if it is satisfied that the case involves a substantial question of law.

(2) Notwithstanding the provisions of sub section (1), no appeal shall lie to High Court against an order passed by the Appellate Tribunal under section 83 if such order relates, among other things, to:-

i) a matter where two or more States, or a State and Center, have a difference of views regarding the treatment of a transaction(s) being intra-State or inter-State; or
ii) a matter where two or more States, or a State and Center, have a difference of views regarding place of supply.

(3) An appeal under sub-section (1) shall be -

a) filed within one hundred and eighty days from the date on which the order appealed against is received by the Commissioner of GST or the other party;
b) accompanied by a prescribed fee ;
c) in the form of a memorandum of appeal precisely stating therein the substantial question of law involved.

(4) The High Court may admit an appeal after the expiry of the period of one hundred and eighty days referred to in clause (a) of sub-section (3), if it is satisfied that there was sufficient cause for not filing the same within that period.

(5) Where the High Court is satisfied that a substantial question of law is involved in

any case, it shall formulate that question.

(6) The appeal shall be heard only on the question so formulated, and the respondents shall, at the hearing of the appeal, be allowed to argue that the case does not involve such question:

Provided that nothing in this sub-section shall be deemed to take away or abridge the power of the Court to hear, for reasons to be recorded, the appeal on any other substantial question of law not formulated by it, if it is satisfied that the case involves such question.

(7) The High Court shall decide the question of law so formulated and deliver such judgment thereon containing the grounds on which such decision is founded and may award such cost as it deems fit.

(8) The High Court may determine any issue which -

a) has not been determined by the Appellate Tribunal; or
b) has been wrongly determined by the Appellate Tribunal, by reason of a decision on such question of law as herein referred to above.

(9) When an appeal has been filed before the High Court, it shall be heard by a bench of not less than two Judges of the High Court, and shall be decided in accordance with the opinion of such Judges or of the majority, if any, of such Judges.

(10) Where there is no such majority, the Judges shall state the point of law upon which they differ and the case shall, then, be heard upon that point only, by one or more of the other Judges of the High Court and such point shall be decided according to the opinion of the majority of the Judges who have heard the case including those who first heard it.

(11) Where the High Court delivers a judgment in an appeal filed before it under this section, effect shall be given to such judgment by either side on the basis of a certified copy of the judgment.

(12) Save as otherwise provided in this Act, the provisions of the Code of Civil Procedure, 1908 (5 of 1908), relating to appeals to the High Court shall, as far as may be, apply in the case of appeals under this section.

88. Appeal to the Supreme Court

(1) An appeal shall lie to the Supreme Court from any judgment or order passed by the High Court in an appeal made under section 87, in any case which, on its own motion or on an oral application made by or on behalf of the party aggrieved, immediately after passing of the judgment or order, the High Court certifies to be a fit one for appeal to the Supreme Court.
(2) An appeal shall lie to the Supreme Court from any order passed by the Appellate Tribunal under section 83 where such order is of the nature referred to in sub section (2) of section 87.

89. Hearing before Supreme Court

(1) The provisions of the Code of Civil Procedure, 1908 (5 of 1908), relating to appeals to the Supreme Court shall, so far as may be, apply in the case of appeals under

section 88 as they apply in the case of appeals from decrees of a High Court :

Provided that nothing in this sub-section shall be deemed to affect the provisions of section 90.

(2) The costs of the appeal shall be at the discretion of the Supreme Court.

(3) Where the judgment of the High Court is varied or reversed in the appeal, effect shall be given to the order of the Supreme Court in the manner provided in section 87 in the case of a judgment of the High Court.

90. Sums due to be paid notwithstanding appeal etc.

Notwithstanding that an appeal has been preferred to the High Court or the Supreme Court, sums due to the Government as a result of an order passed by the Appellate Tribunal under sub-section (1) of section 83 or an order passed by the High Court under section 87, as the case may be, shall be payable in accordance with the order so passed.

91. Exclusion of time taken for copy

In computing the period of limitation prescribed for an appeal or application under this Chapter, the day on which the order complained of was served, and if the party preferring the appeal or making the application was not furnished with a copy of the order when the notice of the order was served upon him, the time required for obtaining a copy of such order, shall be excluded.

92. Appeal not to be filed in certain cases

(1) The Board or the State Government may, on the recommendation of the Council, from time to time, issue orders or instructions or directions fixing such monetary limits, as it may deem fit, for the purposes of regulating the filing of appeal or application by the GST officer under the provisions of this Chapter.

(2) Where, in pursuance of the orders or instructions or directions, issued under sub-section (1), the GST officer has not filed an appeal or application against any decision or order passed under the provisions of this Act, it shall not preclude such GST officer from filing appeal or application in any other case involving the same or similar issues or questions of law.

(3) Notwithstanding the fact that no appeal or application has been filed by the GST Officer pursuant to the orders or instructions or directions issued under sub-section (1), no person, being a party in appeal or application shall contend that the GST officer has acquiesced in the decision on the disputed issue by not filing an appeal or application.

(4) The Appellate Tribunal or court hearing such appeal or application shall have regard to the circumstances under which appeal or application was not filed by the GST Officer in pursuance of the orders or instructions or directions issued under sub-section (1).

93. Non Appealable decisions and orders

Notwithstanding anything to the contrary in any provisions of this Act, no appeal shall lie against any decision taken or order passed by a GST officer if such decision taken or order passed relates to any one or more of the following matters:-

(a) An order of the Commissioner or other competent authority for transfer of proceeding from one officer to another officer;
(b) An order pertaining to the seizure or retention of books of account, register and other documents; or
(c) An order sanctioning prosecution under the Act; or
(d) An order passed under section 55.

Provisions of Chapter XIX - Advance Ruling - represented from the Model GST Law 2016

CHAPTER– XIX

ADVANCE RULING

94. Definitions

In this Chapter, unless the context otherwise requires, -

(a) "advance ruling" means a written decision provided by the Authority or, as the case may be, the Appellate Authority to an applicant on matters or on questions specified in sub-section (2) of section 97 or sub-section (1) of section 99, as the case may be, in relation to the supply of goods and/or services proposed to be undertaken or being undertaken by the applicant;

(b) "applicant" means any person registered or desirous of obtaining registration under the Act.

(c) "application" means an application made to the Authority under sub-section (1) of section 97;

(d) "Authority" means the Authority for Advance Ruling, constituted under section 95;

(e) "Appellate Authority" means the Appellate Authority for Advance Ruling constituted under section 96.

95. Authority for Advance Ruling

(1) The Authority shall be located in each State.

(2) The Authority shall comprise one member CGST and one member SGST to be appointed respectively by the Central Government and the State Government.

(3) The qualifications, eligibility conditions, method and the process of appointment of the members shall be as may be prescribed.

96. Appellate Authority for Advance Ruling

(1) The Appellate Authority shall be located in each State.

(2) The Appellate Authority shall comprise the Chief Commissioner of CGST as designated by the Board and the Commissioner of SGST having jurisdiction over the applicant.

97. Application for advance ruling

(1) An applicant desirous of obtaining an advance ruling under this Chapter may make an application in such form and in such manner as may be prescribed, stating the question on which the advance ruling is sought.

(2) The question on which the advance ruling is sought shall be in respect of,

(a) classification of any goods and/or services under the Act;
(b) applicability of a notification issued under provisions of the Act having a bearing on the rate of tax;
(c) the principles to be adopted for the purposes of determination of value of the goods and/or services under the provisions of the Act;
(d) admissibility of input tax credit of tax paid or deemed to have been paid;
(e) determination of the liability to pay tax on any goods and/or services under the Act;

(f) whether applicant is required to be registered under the Act;

(g) whether any particular thing done by the applicant with respect to any goods and/or services amounts to or results in a supply of goods and/or services, within the meaning of that term.

(3) The application shall be accompanied by a fee as may be prescribed.

98. Procedure on receipt of application

(1) On receipt of an application, the Authority shall cause a copy thereof to be forwarded to the officers as may be prescribed and, if necessary, call upon him to furnish the relevant records:

Provided that where any records have been called for by the Authority in any case, such records shall, as soon as possible, be returned to the said prescribed officers.

(2) The Authority may, after examining the application and the records called for and after hearing the applicant or authorized representative of the applicant as well as the authorized representative of the prescribed officers, by order, either admit or reject the application:

Provided that the Authority shall not admit the application where the question raised in the application is, -

(a) already pending in the applicant's case before any First Appellate Authority, the Appellate Tribunal or any Court;

(b) the same as in a matter already decided by the First Appellate Authority, the Appellate Tribunal or any Court;

(c) the same as in a matter already pending in any proceedings in the applicant's case under any of the provisions of the Act;

(d) the same as in a matter in the applicant's case already decided by the adjudicating authority or assessing authority, whichever is applicable:

Provided further that no application shall be rejected under this sub-section unless an opportunity has been given to the applicant of being heard:

Provided also that where the application is rejected, reasons for such rejection shall be given in the order.

(3) A copy of every order made under sub-section (2) shall be sent to the applicant and to the prescribed officers.

(4) Where an application is admitted under sub-section (2), the Authority shall, after examining such further material as may be placed before it by the applicant or obtained by the Authority and after providing an opportunity of being heard to the applicant or the authorized representative of the applicant as well as to the authorized representative of the prescribed or the jurisdictional CGST/SGST officer, pronounce its advance ruling on the question specified in the application.

Explanation. - For the purposes of this sub-section, "authorized representative" shall have the meaning assigned to it in section 86.

(5) Where the members of the Authority differ on any question on which the advance ruling is sought, they shall state the point or points on which they differ and make a reference to the Appellate Authority for hearing and decision on such question.

(6) The Authority or, as the case may be, the Appellate Authority shall pronounce its advance ruling in writing within ninety days of the receipt of application or, as the case may be, reference made under sub-section (5).

(7) Where the members of the Appellate Authority differ on any point or points referred to it under sub-section (5), it shall be deemed that no advance ruling can be issued in respect of the question covered by the reference application.

(8) A copy of the advance ruling pronounced by the Authority or, as the case may be, the Appellate Authority duly signed by the Members and certified in the prescribed manner shall be sent to the applicant and the jurisdictional CGST / SGST officer and, as the case may be, to the Authority, as soon as may be, after such pronouncement.

99. Appeal to the Appellate Authority

(1) The prescribed or jurisdictional CGST/SGST officer or, as the case may be, an applicant aggrieved by any advance ruling pronounced under sub-section (4) of section 98, may appeal to the Appellate Authority.

(2) Every appeal under this section shall be filed within a period of thirty days from the date on which the ruling sought to be appealed against is communicated to the prescribed or the jurisdictional CGST/SGST officer or, as the case may be, the applicant.

(3) Every appeal under this section shall be in the prescribed form and shall be verified in the prescribed manner.

100. Orders of the Appellate Authority

(1) The Appellate Authority may, after giving the parties to the appeal, an opportunity of being heard, pass such order as it thinks fit, confirming or modifying the ruling appealed against.

(2) The order referred to in sub-section (1) shall be passed within a period of ninety days from the date of filing appeal under section 99.

(3) Where the members of the Appellate Authority differ on any point or points referred to in appeal, it shall be deemed that no advance ruling can be issued in respect of the question covered under the appeal.

(4) A copy of the advance ruling pronounced by the Appellate Authority duly signed by the Members and certified in the prescribed manner shall be sent to the applicant, the prescribed or the jurisdictional CGST / SGST officer and to the Authority, as soon as may be, after such pronouncement.

101. Rectification of advance ruling

The Authority or, as the case may be, the Appellate Authority may amend any order passed by it under section 98 or section 100, as the case may be, so as to rectify any mistake apparent from the record, if such mistake is noticed by the Authority or, as the case may be, the Appellate Authority on its own accord, or is brought to its notice by the prescribed or the jurisdictional CGST / SGST officer or the applicant within a period of six months from the date of the order:

Provided that no rectification which has the effect of enhancing the tax liability or reducing the amount of admissible input tax credit shall be made unless the Authority or, as the case may be, the Appellate Authority has given notice to the applicant or, as the

case may be, the appellant of its intention to do so and has allowed him a reasonable opportunity of being heard.

Explanation.— For the removal of doubts, it is hereby clarified that the Authority or, as the case may be, the Appellate Authority shall not, while rectifying any mistake apparent from record, amend substantive part of its order.

102. Applicability of advance ruling

(1) The advance ruling pronounced by the Authority or, as the case may be, the Appellate Authority under this chapter shall be binding only -

(a) on the applicant who had sought it in respect of any matter referred to in sub-section (2) of section 97 of the application for advance ruling;
(b) on the jurisdictional tax authorities in respect of the applicant.

(2) The advance ruling referred to in sub-section (1) shall be binding as aforesaid unless the law, facts or circumstances supporting the original advance ruling have changed.

103. Advance ruling to be void in certain circumstances

(1) Where the Authority or, as the case may be, the Appellate Authority finds that advance ruling pronounced by it under sub-section (4) of section 98 or under sub-section (1) of section 100 has been obtained by the applicant or, as the case may be, the appellant by fraud or suppression of material facts or misrepresentation of facts, it may, by order, declare such ruling to be void *ab initio* and thereupon all the provisions of the Act shall apply (after excluding the period beginning with the date of such advance ruling and ending with the date of order under this sub-section) to the applicant as if such advance ruling had never been made:

Provided that no order shall be passed under this sub-section unless an opportunity has been given to the applicant of being heard.

(2) A copy of the order made under sub-section (1) shall be sent to the applicant and the prescribed officers.

104. Powers of the Authority and Appellate Authority

(1) The Authority or, as the case may be, the Appellate Authority shall, for the purpose of exercising its powers regarding discovery and inspection, enforcing the attendance of any person and examining him on oath, issuing commissions and compelling production of books of account and other records, have all the powers of a civil court under the Code of Civil Procedure, 1908 (5 of 1908).

(2) The Authority or, as the case may be, the Appellate Authority shall be deemed to be a civil court for the purposes of section 195, but not for the purposes of Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974), and every proceeding before the Authority shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196, of the Indian Penal Code (45 of 1860).

105. Procedure of the Authority and the Appellate Authority

The Authority or, as the case may be, the Appellate Authority shall, subject to the provisions of this Chapter, have power to regulate its own procedure in all matters arising out of the exercise of its powers under the Act.

Provisions of Chapter XX - Settlement of Cases - the law mentions this as a subject but remains silent in its elaboration - represented from the Model GST Law 2016

CHAPTER– XX

SETTLEMENT OF CASES

At present, the provisions for settlement of cases are incorporated under Chapter VIIA of the IGST Act.

Provisions of Chapter XXI - Presumption to Documents

- represented from the Model GST Law 2016

CHAPTER– XXI

PRESUMPTION AS TO DOCUMENTS

106. Presumption as to documents in certain cases

Where any document-

(i) is produced by any person under the Act or any other law, or
(ii) has been seized from the custody or control of any person under the Act or any other law, or
(iii) has been received from any place within or outside India in the course of any proceedings under the Act or any other law

and such document is tendered by the prosecution in evidence against him or any other person who is tried jointly with him, the court shall-

(a) unless the contrary is proved by such person, presume —

(i) the truth of the contents of such document;

(ii) that the signature and every other part of such document which purports to be in the handwriting of any particular person or which the Court may reasonably assume to have been signed by, or to be in the handwriting of, any particular person, is in that person's handwriting, and in the case of a document executed or attested, that it was executed or attested by the person by whom it purports to have been so executed or attested;

(b) admit the document in evidence notwithstanding that it is not duly stamped, if such document is otherwise admissible in evidence.

107. Admissibility of micro films, facsimile copies of documents and computer printouts as documents and as evidence

(1) Notwithstanding anything contained in any other law for the time being in force, —

a) a micro film of a document or the reproduction of the image or images embodied in such micro film (whether enlarged or not); or

b) a facsimile copy of a document; or

c) a statement contained in a document and included in a printed material produced by a computer (hereinafter referred to as a "computer printout"), if the conditions mentioned in sub-section (2) and the other provisions contained in this section are satisfied in relation to the statement and the computer in question; or

d) any information stored electronically in any device or media, including any hard copies made of such information

shall be deemed to be also a document for the purposes of the Act and the rules made thereunder and shall be admissible in any proceedings there under, without further proof or production of the original, as evidence of any contents of the original or of any fact stated therein of which direct evidence would be admissible.

(2) The conditions referred to in sub-section (1) in respect of a computer printout shall be the following, namely:—

a) the computer printout containing the statement was produced by the computer during the period over which the computer was used regularly to store or process information for the purposes of any activities regularly carried on over that period by the person having lawful control over the use of the computer;

b) during the said period, there was regularly supplied to the computer in the ordinary course of the said activities, information of the kind contained in the statement or of the kind from which the information so contained is derived;

c) throughout the material part of the said period, the computer was operating properly or, if not, then any respect in which it was not operating properly or was out of operation during that part of that period was not such as to affect the production of the document or the accuracy of the contents; and

d) the information contained in the statement reproduced or is derived from information supplied to the computer in the ordinary course of the said activities.

(3) Where over any period, the function of storing or processing information for the purposes of any activities regularly carried on over that period as mentioned in clause (a) of sub-section (2) was regularly performed by computers, whether —

a) by a combination of computers operating over that period; or

b) by different computers operating in succession over that period; or

c) by different combinations of computers operating in succession over that period; or

d) in any other manner involving the successive operation over that period, in whatever order, of one or more computers and one or more combinations of computers,

all the computers used for that purpose during that period shall be treated for the purposes of this section as constituting a single computer; and references in this section to a computer shall be construed accordingly.

(4) In any proceedings under this Act and the rules made thereunder where it is desired to give a statement in evidence by virtue of this section, a certificate doing any of the following things, that is to say, —

a) identifying the document containing the statement and describing the manner in which it was produced;

b) giving such particulars of any device involved in the production of that document as may be appropriate for the purpose of showing that the document was produced by a computer;

c) dealing with any of the matters to which the conditions mentioned in sub-section (2) relate, and purporting to be signed by a person occupying a responsible official position in relation to the operation of the relevant device or the management of the relevant activities (whichever is appropriate) shall be evidence of any matter stated in the certificate; and for the purposes of this sub-section it shall be sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it.

(5) For the purposes of this section, —

a) information shall be taken to be supplied to a computer if it is supplied thereto in any appropriate form and whether it is so supplied directly or (with or without human intervention) by means of any appropriate equipment;

b) whether in the course of activities carried on by any official, information is supplied with a view to its being stored or processed for the purposes of those activities by a computer operated otherwise than in the course of those activities, that information, if duly supplied to that computer, shall be taken to be supplied to it in the course of those activities;

c) a document shall be taken to have been produced by a computer whether it was produced by it directly or (with or without human intervention) by means of any appropriate equipment.

Explanation. — For the purposes of this section, —

a) "computer" means any device that receives, stores and processes data, applying stipulated processes to the information and supplying results of these processes; and includes the hard disc thereof or a mirror image of hard disc thereof; and

b) any reference to information being derived from other information shall be a reference to its being derived there from by calculation, comparison or any other process.

Provisions of Chapter XIB - Liability in Special Cases

- represented from the Model GST Law 2016

CHAPTER– XXII

LIABILITY TO PAY IN CERTAIN CASES

108. Liability in case of transfer of business

(1) Where a taxable person, liable to pay tax under this Act, transfers his business in whole or in part, by sale, gift, lease, leave and license, hire or in any other manner whatsoever, the taxable person and the person to whom the business is so transferred shall jointly and severally be liable wholly or, as the case may be, to the extent of such transfer, to pay the tax, interest or any penalty due from the taxable person up to the time of such transfer, whether such tax, interest or penalty has been determined before such transfer, but has remained unpaid or is determined thereafter.

(2) Where the transferee or the lessee of a business referred to in subsection (1) carries on such business either in his own name or in some other name, he shall be liable to pay tax on the supply of goods and/or services effected by him with effect from the date of such transfer and shall, if he is an existing taxable person, apply within the prescribed time for amendment of his certificate of registration.

109. Liability in case of amalgamation /merger of companies

(1) When two or more companies are amalgamated or merged by the order of court or of Tribunal or of the Central Government and the order is to take effect from a date earlier to the date of the order and any two or more of such companies have supplied or received any goods and/or services to or from each other during the period commencing on the date from which the order takes effect till the date of the order, then such transactions of supply and receipt shall be included in the turnover of supply or receipt of the respective companies and shall be liable to tax accordingly.

(2) Notwithstanding anything contained in the said order, for all purposes of this Act, the said two or more companies shall be treated as distinct companies for the period up to the date of the said order and the registration certificates of the said companies shall be cancelled, where necessary, with effect from the date of the said order.

Explanation - Words and expressions used in this section but not defined shall have the respective meanings assigned to them in the Companies Act, 2013 (18 of 2013).

110. Liability in case of company in liquidation

(1) When any company is being wound up whether under the orders of a court or Tribunal or otherwise, every person appointed as receiver of any assets of a company (hereinafter referred to as the "liquidator"), shall, within thirty days after his appointment, give intimation of his appointment to the Commissioner

(2) The Commissioner shall, after making such inquiry or calling for such information as he may deem fit, notify the liquidator within three months from the date on which he receives intimation of the appointment of the liquidator, the amount which in the opinion of the Commissioner would be sufficient to provide for any tax, interest or penalty which is then, or is likely thereafter to become, payable by the company.

(3) When any company is wound up and any tax, interest or penalty determined under this Act on the company for any period, whether before or in the course of or after its liquidation, cannot be recovered, then every person who was a director of such

company at any time during the period for which the tax was due, shall jointly and severally be liable for the payment of such tax, interest or penalty, unless he proves to the satisfaction of the Commissioner that such non-recovery is not attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.
Explanation.- For the purposes of this section, the expressions "company" shall have the meaning respectively assigned to them under clause (20) and clause (68) of section 2 respectively of the Companies Act, 2013 (18 of 2013).

111. Liability of partners of firm to pay tax

Notwithstanding any contract to the contrary, where any firm is liable to pay any tax, interest or penalty under this Act, the firm and each of the partners of the firm shall jointly and severally be liable for such payment:
Provided that where any partner retires from the firm, he or the firm, shall intimate the date of retirement of the said partner to the Commissioner by a notice in that behalf in writing and such partner shall be liable to pay tax, interest or penalty due up to the date of his retirement whether determined or not, on that date:
Provided further that if no such intimation is given within one month from the date of retirement, the liability of such partner under the first proviso shall continue until the date on which such intimation is received by the Commissioner.

112. Liability of guardians, trustees etc.

Where the business in respect of which any tax, is payable under this Act is carried on by any guardian, trustee or agent of a minor or other incapacitated person on behalf of and for the benefit of such minor or other incapacitated person, the tax, interest or penalty shall be levied upon and recoverable from such guardian, trustee or agent, as the case may be, in like manner and to the same extent as it would be determined and recoverable from any such minor or other incapacitated person, as if he were a major or capacitated person and as if he were conducting the business himself, and all the provisions of this Act shall, so far as may be, apply accordingly.

113. Liability of Court of Wards etc.

Where the estate or any portion of the estate of a taxable person owning a business in respect of which any tax, interest or penalty is payable under this Act is under the control of the Court of Wards, the Administrator General, the Official Trustee or any receiver or manager (including any person, whatever be his designation, who in fact manages the business) appointed by or under any order of a court, the tax, interest or penalty shall be levied upon and be recoverable from such Court of Wards, Administrator General, Official Trustee, receiver or manager, as the case may be, in like manner and to the same extent as it would be determined and be recoverable from the taxable person as if he were conducting the business himself, and all the provisions of this Act shall, so far as may be, apply accordingly.

114. Special provision regarding liability to pay tax in certain cases

(1) Where a person, liable to pay tax under this Act, dies, then-

(a) if a business carried on by the person is continued after his death by his legal representative or any other person, such legal representative or other person, shall be liable to pay tax, interest or penalty due from such person under this Act, and

(b) if the business carried on by the person is discontinued, whether before or after his death, his legal representative shall be liable to pay out of the estate of the deceased, to the extent to which the estate is capable of meeting the charge, the tax, penalty or interest due from such person under this Act,-

whether such tax interest or penalty has been determined before his death but has remained unpaid or is determined after his death.

(2) Where a taxable person, liable to pay tax under this Act, is a Hindu Undivided Family or an association of persons and the property of the Hindu Undivided Family or the association of persons, as the case may be, is partitioned amongst the various members or groups of members then each member or group of members shall jointly and severally be liable to pay the tax, interest or penalty due from the taxable person under this Act upto the time of the partition whether such tax, penalty or interest has been determined before partition but has remained unpaid or is determined after the partition.

(3) Where a taxable person, liable to pay tax under this Act, is a firm, and the firm is dissolved, then every person who was a partner shall be jointly and severally liable to pay the tax, interest or penalty due from the firm under this Act, up to the time of dissolution whether such tax, interest or penalty has been determined before the dissolution, but has remained unpaid or is determined after dissolution.

(4) Where a taxable person liable to pay tax under this Act,-

(a) is the guardian of a ward on whose behalf the business is carried on by the guardian, or

(b) is a trustee who carries on the business under a trust for a beneficiary.

then if the guardianship or trust is terminated, the ward or, as the case may be, the beneficiary shall be liable to pay the tax, interest or penalty due from the taxable person upto the time of the termination of the guardianship or trust, whether such tax, interest or penalty has been determined before the termination of guardianship or trust but has remained unpaid or is determined thereafter.

115. Liability in other cases

(1) Where a taxable person is a firm or an association of persons or a Hindu Undivided Family and such firm, association or family has discontinued business-

(a) the tax payable under this Act by such firm, association or family up to the date of such discontinuance may be determined as if no such discontinuance had taken place; and

(b) every person who was at the time of such discontinuance, a partner of such firm, or a member of such association or family, shall, notwithstanding such discontinuance, be liable jointly and severally for the payment of tax and interest determined and penalty imposed and payable by such firm, association or family, whether such tax and interest has been determined or penalty imposed prior to or after such discontinuance and subject as aforesaid, the provisions of this Act shall, so far as may be, apply as if every such person or partner or member were himself a taxable person.

(2) Where a change has occurred in the constitution of a firm or an association of persons, the partners of the firm or members of association, as it existed before and as it exists after the reconstitution, shall, without prejudice to the provisions of section

111, jointly and severally be liable to pay tax, interest and penalty due from such firm or association for any period before its reconstitution.

(3) The provisions of sub-section (1) shall, so far as may be, apply where the taxable person, being a firm or association of persons is dissolved or where the taxable person, being a Hindu Undivided Family, has effected partition with respect to the business carried on by it and accordingly references in that sub-section to discontinuance shall be construed as reference to dissolution or, as the case may be, to partition.

11. Explanation.- For the purpose of this chapter, a limited liability partnership formed and registered under the provisions of the Limited Liability Partnership Act, 2012 (743 of 2012) shall also be considered as a firm.

Provisions of Chapter XXIII

- Miscellaneous Provisions

- represented from the Model GST Law 2016

CHAPTER– XXIII

MISCELLANEOUS PROVISIONS

116. GST compliance rating

(1) Every taxable person shall be assigned a GST compliance rating score based on his record of compliance with the provisions of this Act.
(2) The GST compliance rating score shall be determined on the basis of parameters to be prescribed in this behalf.
(3) The GST compliance rating score shall be updated at periodic intervals and intimated to the taxable person and also placed in the public domain in the manner prescribed.

117. Obligation to furnish information return

(1) Any person, being—

(a) a taxable person; or

(b) a local authority or other public body or association; or

(c) any authority of the State Government responsible for the collection of value added tax or sales tax or state excise duty or an authority of the Central Government responsible for the collection of Excise duty or Customs duty; or

(d) an income tax authority appointed under the provisions of the Income-tax Act, 1961 (43 of 1961); or

(e) a banking company within the meaning of clause (a) of section 45A of the Reserve Bank of India Act, 1934 (2 of 1934); or

(f) a State Electricity Board; or an electricity distribution or transmission licensee under the Electricity Act, 2003 (36 of 2003), or any other entity entrusted, as the case may be, with such functions by the Central Government or the State Government; or

(g) the Registrar or Sub-Registrar appointed under section 6 of the Registration Act, 1908 (16 of 1908); or

(h) a Registrar within the meaning of the Companies Act, 2013 (18 of 2013); or

(i) the registering authority empowered to register motor vehicles under Chapter IV of the Motor Vehicles Act, 1988 (59 of 1988); or

(j) the Collector referred to in clause (c) of section 3 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 2013); or

(k) the recognised stock exchange referred to in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956); or

(l) a depository referred to in clause (e) of sub-section (1) of section 2 of the Depositories Act, 1996 (22 of 1996); or

(m) an officer of the Reserve Bank of India, constituted under section 3 of the Reserve Bank of India Act, 1934 (2 of 1934); or

(n) Goods and Service Tax Network

who is responsible for maintaining record of registration or statement of accounts or any periodic return or document containing details of payment of tax and other details of transaction of goods or services or transactions related to a bank account or consumption of electricity or transaction of purchase, sale or exchange of goods or property or right or interest in a property, under any law for the time being in force, shall furnish an information return of the same in respect of such periods, within such time, in such form (including electronic form) and manner, to such authority or agency as may be prescribed.

(2) Where the prescribed authority considers that the information submitted in the information return is defective, he may intimate the defect to the person who has furnished such information return and give him an opportunity of rectifying the defect within a period of thirty days from the date of such intimation or within such further period which, on an application made in this behalf, the prescribed authority may allow and if the defect is not rectified within the said period of thirty days or, as the case may be, the further period so allowed, then, notwithstanding anything contained in any other provision of this Act, such information return shall be treated as not submitted and the provisions of this Act shall apply.

(3) Where a person who is required to furnish information return has not furnished the same within the time specified in sub-section (1) or sub-section (2), the prescribed authority may serve upon him a notice requiring furnishing of such information return within a period not exceeding ninety days from the date of service of the notice and such person shall furnish the information return.

118. Penalty for failure to furnish information return

If a person who is required to furnish an information return under section 117 fails to do so within the period specified in the notice issued under sub-section (3) thereof, the prescribed authority may direct that such person shall pay, by way of penalty, a sum of one hundred rupees for each day of the period during which the failure to furnish such return continues.

119. Power to collect statistics

(1) The Board/Commissioner, if it considers that for the purposes of the better administration of the Act, it is necessary so to do, may by notification, direct that statistics be collected relating to any matter dealt with, by or in connection with the Act.

(2) Upon such notification being issued, the Commissioner, or any person authorised by the Commissioner in this behalf may call upon all concerned persons to furnish such information or returns as may be specified therein relating to any matter in respect of which statistics is to be collected.

(3) The form in which the persons to whom or, the authorities to which, such information or returns should be furnished, the particulars which they should contain, and the intervals in which such information or returns should be furnished, shall be as may be prescribed.

120. Disclosure of information required under section 119

(1) No information of any individual return or part thereof, with respect to any matter given for the purposes of section 119 shall, without the previous consent in writing of the taxpayer or person or his authorised agent, be published in such manner as to enable any particulars to be identified as referring to a particular taxpayer and no such information shall be used for the purpose of any proceedings under the provisions of the Act.

(2) Except for the purposes of prosecution under the Act, or any other Act, no person who is not engaged in the collection of statistics under the Act or of compilation or computerization thereof for the purposes of the Act, shall be permitted to see or have access to any information or any individual return referred to in that section.

(3) If any person required to furnish any information or return under section 119,-

(a) without reasonable cause fails to furnish such information or return as may by that section be required, or

(b) willfully furnishes or causes to furnish any information or return which he knows to be false,

he shall, on conviction, be punished with fine which may extend to one hundred rupees and in case of a continuing offence to a further fine which may extend to one hundred rupees for each day after the first day during which the offence continues subject to a maximum limit of one thousand rupees.

(4) If any person engaged in connection with the collection of statistics under section 119 or compilation or computerization thereof willfully discloses any information or the contents of any return given or made under that section, otherwise than in execution of his duties under that section or for the purposes of the prosecution of an offence under the Act or under any other Act, he shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both:

Provided that, no prosecution shall be instituted under the subsection, except with the previous sanction of the Central Government or State Government.

(5) Nothing in this section shall apply to the publication of any information relating to a class of dealers or class of transactions, if in the opinion of the competent authority, it is desirable in the public interest, to publish such information.

121. Test purchase of goods and/or services

The [Commissioner] of CGST/SGST or an officer authorized by him may cause purchase of any goods and/or services by any person authorized by him from the business premises of any taxable person, to check issue of tax invoices or bills of supply by such taxable person, and on return of goods so purchased by such officer, such taxable person or any person in charge of the business premises shall refund the amount paid towards the goods after cancelling any tax invoice or bill of supply issued.

122. Drawal of samples

The [Commissioner] of CGST/SGST or an officer authorized by him may take samples of goods from the possession of any taxable persons, where he considers it necessary, and provide a receipt for any samples so taken.

123. Burden of Proof

If any person claims that he is not liable to pay tax under the Act in respect of any supply of goods and/or services, or that he is eligible for input tax credit under section 16, the burden of proving such claim or claims shall lie on him.

124. Persons discharging functions under the Act shall be deemed to be public servants

All persons discharging functions under the Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (45 of 1860).

125. Indemnity

No legal proceedings shall lie against any goods and services tax officer, for anything which is done or intended to be done in good faith under the Act or the rules.

126. Disclosure of information by a public servant

(1) All particulars contained in any statement made, return furnished or accounts or documents produced in accordance with the Act, or in any record of evidence given in the course of any proceedings under the Act (other than proceeding before a Criminal Court), or in any record of any proceedings under the Act shall, save as provided in sub-section (4), be treated as confidential;

(2) Notwithstanding anything contained in the Indian Evidence Act, 1872 (1 of 1872), no Court shall save as aforesaid, be entitled to require any GST officer to produce before it or to give evidence before it in respect of particulars referred to in sub-section (1).

(3) Save as provided in sub-section (4), if any GST officer discloses any of the particulars referred to in sub-section (1), he shall, on conviction, be punished with imprisonment which may extend to six months or with fine or with both:

Provided that, no prosecution shall be instituted under this section except with the previous sanction of the Central Government or the State Government, as the case may be.

(4) Nothing contained in this section shall apply to the disclosure of,-

(a) any such particulars in respect of any such statement, return, accounts, documents, evidence, affidavit or deposition, for the purpose of any prosecution under the Indian Penal Code (45 of 1860) or the Prevention of Corruption Act, 1988 (49 of 1988), or the Act, or any other law for the time being in force; or

(b) any such particulars to the Central Government or the State Government or to any person acting in the execution of this Act, for verification of such particulars or for the purpose of carrying out the object of the Act; or

(c) any such particulars when such disclosure is occasioned by the lawful employment under the Act of any process for the service of any notice or the recovery of any demand; or

(d) any such particulars to a Civil Court or Tribunal constituted under any Central law in any suit or proceeding, to which the Government or any authority under the Act is a party, which relates to any matter arising out of any proceeding under the Act or under any other law for the time being in force authorising any such authority to exercise any powers thereunder; or

(e) any such particulars to any officer appointed for the purpose of audit of tax receipts or refunds of the tax imposed by the Act; or

(f) any such particulars where such particulars are relevant the purposes of any inquiry into the conduct of any GST officer, to any person or persons appointed as an inquiry officer under any relevant law; or

(g) such facts to an officer of the Central Government or any State Government as may be necessary for the purpose of enabling that Government to levy or realise any tax or duty imposed by it; or

(h) any such particulars, when such disclosure is occasioned by the lawful exercise by a public servant or any other statutory authority, of his or its powers under any law for the time being in force; or

(i) any such particulars relevant to any inquiry into a charge of misconduct in connection with any proceedings under the Act against a practising advocate, tax practitioner, a practising cost accountant, a practising chartered accountant, a practising company secretary to the authority empowered to take disciplinary action against the members practising the profession of a legal practitioner, cost accountant, chartered accountant or company secretary, as the case may be; or

(j) any such particulars to any agency appointed for the purposes of data entry on any automated system or for the purpose of operating, upgrading or maintaining any automated system where such agency is contractually bound not to use or disclose such particulars except for the aforesaid purposes; or

(k) any such particulars to an officer of the Central Government or any State Government as may be necessary for the purposes of any other law in force in India; and

(l) any information relating to any class of taxpayers or class of transactions for publication, if, in the opinion of the Competent authority, it is desirable in the public interest, to publish such information.

127. Publication of information respecting persons in certain cases

(1) If the Competent Authority is of opinion that it is necessary or expedient in the public interest to publish the names of any person and any other particulars relating to any proceedings or prosecutions under the Act in respect of such person, it may cause to be published such names and particulars in such manner as it thinks fit.

(2) No publication under this section shall be made in relation to any penalty imposed under the Act until the time for presenting an appeal to the First Appellate Authority under section 79 has expired without an appeal having been presented or the appeal, if presented, has been disposed of.

Explanation. – In the case of firm, company or other association of persons, the names of the partners of the firm, directors, managing agents, secretaries and treasures or managers of the company, or the members of the association, as the case may be, may also be published if, in the opinion of the Competent Authority, circumstances of the case justify it.

128. Assessment proceedings, etc. not to be invalid on certain grounds

(1) No assessment, re-assessment, adjudication, review, revision, appeal, rectification, notice, summons or other proceedings done, accepted, made, issued, initiated, or purported to have been done, accepted, made, issued, initiated in pursuance of any of the provisions of the Act shall be invalid or deemed to be invalid merely by reason of any mistake, defect or omission therein, if such assessment, re-assessment, adjudication, review, revision, appeal, rectification, notice, summons or other proceedings is/are in substance and effect in conformity with or according to the intents, purposes and requirements of the Act or any earlier law.

(2) The service of any notice, order or communication shall not be called in question if the notice, order or communication, as the case may be, has already been acted upon by the person to whom it is issued or where such service has not been called in question at or in the earliest proceedings commenced, continued or finalised pursuant to such notice, order or communication.

129. Rectification of mistakes or errors apparent from record

Without prejudice to the provisions of section 128, and notwithstanding anything contained in any other provisions of this Act, any authority, who has passed or issued any decision or order or summons or notice or certificate or any other document, may rectify any error or mistake which is apparent from record in such decision or order or summons or notice or certificate or any other document, either on its own motion or where such error or mistake is brought to its notice by any CGST / SGST officer or by the affected person within a period of three months from the date of issue of such decision or order or summons or notice or certificate or other document, as the case may be:

Provided that no such rectification shall be done after a period of six months from the date of issue of such decision or order or summons or notice or certificate or any other document:

Provided further that the period of six months referred to in the first proviso shall not apply in such cases where the rectification is purely in the nature of correction of a clerical or arithmetical error or mistake, arising from any accidental slip or omission:

Provided also that the principles of natural justice shall be followed by the authority carrying out such rectification if it adversely affects any person.

Explanation.— For the removal of doubts, it is hereby clarified that the authority shall not, while rectifying any mistake apparent from record, amend substantive part of its decision or order or summons or notice or certificate or any other document passed or, as the case may be, issued under the provisions of this Act.

130. Bar of jurisdiction of civil courts

Save as provided by section 87 and 88, no civil court shall have jurisdiction to deal with or decide any question arising from or relating to anything done or purported to be done under the Act;

131. Levy of fees

Wherever a copy of any order or document is to be provided to any person on an application made by him for that purpose, there shall be paid such fee as may be prescribed, which may include a fee for such application also.

132. Power of Central (or State) Government to make rules

(1) The Central Government (or the State Government) may, on the recommendation of the Council, make rules, including rules conferring the power to issue notifications with retrospective effect under those rules, to carry into effect the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may —

(i) provide for the date for determination of rate of tax and the place of supply of goods or services or both;

(ii) having regard to the normal practice in the supply of goods or services, define or specify the kinds of trade discount to be excluded from the value under section 15 including the circumstances in which and the conditions subject to which such discount is to be so excluded;

(iii) provide for determining the value of taxable supplies in the situations mentioned under section 15;

(iv) provide, subject to such conditions as may be prescribed, for the grant of input tax credit of tax paid on the input supplies of goods or services used in or in relation to the providing of the output taxable supplies of goods or services, and the manner of utilization of such credit;

(v) provide for the lapsing of input tax credit lying unutilized, in the circumstances as may be specified in the rules;

(vi) provide for withdrawal of facilities or imposition of restrictions (including restrictions on utilisation of input tax credit) on taxable person or suspension or revocation of registration of taxable person, for dealing with evasion of tax or misuse of input tax credit;

(vii) provide, subject to such conditions as may be prescribed, for the carrying forward of the unutilized balances of cenvat credit of the duties of excise and the service tax, under the Cenvat Credit Rules 2004, (or of VAT credit under the state VAT credit rules) lying with the taxable persons on the date of their switching over to GST;

(viii) provide for the remission of tax leviable on any taxable supplies, which due to any natural causes are found to be deficient in quantity, the limit or limits of percentage beyond which no such remission shall be allowed and the different limit or limits of percentage for different varieties of the same taxable supply or for different areas or for different seasons;

(ix) specify the persons who shall get themselves registered under section 19 and the time, manner and form in which application for registration shall be made;

(x) provide for the manner of verification of application and issue of registration under the Act and the fees, if any, to be charged therefor;

(xi) provide for the situations and manner of grant of deemed registration under the Act;

(xii) provide for the manner of migration, amendment, surrender, revocation, suspension, cancellation of registration under the Act;

(xiii) provide for the assessment and collection of tax, the authorities by whom functions under the Act are to be discharged, the issue of notices requiring payment, the manner in which tax shall be payable, and the recovery of tax not paid;

(xiv) impose on taxable persons or other persons as may be specified, the duty of furnishing information, maintaining records and filing returns, and may also prescribe the nature of such information and the form of such records and returns, the particulars to be contained therein, and the manner in which they shall be verified;

(xv) provide for the form, manner and frequency of the returns to be furnished and the late fee for delayed furnishing of return under relevant section;

(xvi) provide for charging or payment of interest under the various provisions of the Act;

(xvii) provide for the detention or attachment of goods, plant, machinery or material and other movable or immovable properties for the purpose of exacting the tax on taxable supplies in respect of which breaches of the Act or rules made thereunder have been committed and the disposal of things so detained or attached or confiscated;

(xviii) authorise and regulate the composition of offences against, or liabilities incurred under the Act or the rules made thereunder;

(xix) provide for the amount to be paid for compounding and the manner of compounding of offences under section 78;

(xx) provide for publication, subject to such conditions as may be specified, the names and other particulars of persons found guilty of contravention of any provision of the Act or of any rule made thereunder;

(xxi) provide for the manner of recovery of any amount due to the Central Government (or state government) under section 54;

(xxii) authorise and regulate the inspection and audit of business premises and provide for the taking of samples, and for the making of tests, of any substance produced therein, and for the inspection or search of any place or conveyance used for the production, storage, sale, supply or transport of goods, and so far as such inspection or search is essential for the proper levy and collection of the tax imposed by the Act, of any other taxable supply of goods or services;

(xxiii) specify the form and manner in which application for refund shall be made under section 38;

(xxiv) provide for the manner in which amounts shall be credited to the Consumer Welfare Fund, their utilization, and the form in which the accounts and records relating to the Fund shall be maintained;

(xxv) specify the forms in which appeals, applications and memoranda of cross objections shall be filed and verified under Chapter XVIII of the Act;

(xxvi) provide for the qualifications and the manner of appointment of the National President, the State President, and the Members of the Appellate Tribunal under section 81 of the Act, and other matters related or

incidental thereto;

~~(xxvii) provide for the settlement of cases, in accordance with Chapter ……. of this Act;~~

(xxviii) regulate in such manner as the Central Government / State Government thinks fit, the movement of supplies from any part of India to any other part thereof;

(xxix) regulate the removal of taxable supplies of goods from the place where produced, stored or manufactured or subjected to any process of production or manufacture and their transport to or from the premises of a registered person, or a bonded warehouse, or to a market;

(xxx) provide for the appointment, licensing, management and supervision of bonded warehouses and the procedure to be followed for entry of goods into such warehouses and clearance of goods therefrom;

(xxxi) provide for the distinguishing of supply of goods which have been manufactured after registration, of materials which have been imported, and of supply of goods on which tax has been paid, or which are exempt from tax under this Act, or any other class of goods as may be specified in such rules;

(xxxii) require that taxable supplies of specified goods shall not be made except in prescribed containers, bearing a banderol, stamp or label of such nature and affixed in such manner as may be prescribed;

(xxxiii) provide for the grant of a rebate of the tax paid on supply of goods or services which are exported out of India or shipped for consumption on a voyage to any port outside India including interest thereon;

(xxxiv) provide for rebate of tax paid or payable on the taxable supply of services used as input services in the supply of goods or services exported out of India under section 38;

(xxxv) provide for the charging of fees for the examination of goods intended for export out of India and for rendering any other service by a GST Officer under this Act or the rules made thereunder;

(xxxvi) authorise the Board (or competent authority) or officers of GST, as the case may be, appointed for the purposes of this Act to provide, by written instructions, for supplemental matters arising out of any rule made by the Central Government (or the State Government) under this section;

(xxxvii) provide for the manner of provisional attachment of property under section 58;

(xxxviii) make provisions for determining export of taxable supply of services;

(xxxix) provide for grant of exemption to, or rebate of tax paid on, taxable supply of services which are exported out of India;

(xl) provide for manner of administering of payment of taxes under the compounding of tax;

(xli) provide for dealing with situations where goods are returned;

(xlii) provide for specifying the details to be given in the invoices, the maintenance of accounts, the furnishing of audit reports, and matters related thereto;

(xliii) provide for the qualifications and the manner of appointment of the Advance Ruling authority under section 95 of the Act, and other matters related to functioning of the authority;

(xliv) provide for the qualifications of tax return preparers, tax practitioners and authorized representatives under various provisions of the Act, the manner of their selection or appointment or nomination, their codes of conduct, and other matters related or incidental thereto;

(xlv) provide for matters relating to tax deducted at source;

(xlvi) provide for matters covered by Chapter XXV;

(xlvii) provide for the suspension of certain facilities admissible under this Act or the rules made thereunder in case of repeat violations of conditions and restrictions as may be prescribed; and

(xlviii) any other matter related to administering or enforcing the provisions of the Act.

(3) The power to make rules conferred by this section shall on the first occasion of the exercise thereof include the power to give retrospective effect to the rules or any of them from a date not earlier than the date on which the provisions of this Chapter come into force.

(4) In making rules under this section, the Central Government (or State Government) may provide that any person committing a breach of any rule shall, where no other penalty is provided by the Act, be liable to a penalty not exceeding ten thousand rupees.

132A. General power to make Regulations

(1) The Board or the Commissioner SGST may make regulations consistent with this Act and rules, generally to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such regulations may provide for all or any of the following matters namely-

(a) .....
(b) .....
(c) .....

133. Delegation of powers

The Competent Authority may, by notification in the Gazette direct that subject to such conditions, if any, as may be specified in the notification, any power exercisable by any authority or officer under the Act may be exercisable also by another authority or officer as may be specified in such notification.

134. Instructions to GST Officers

The Competent Authority may, if it considers it necessary or expedient so to do for the purpose of uniformity in the implementation of the Act, issue such orders, instructions or directions to the GST Officers as it may deem fit, and thereupon all GST officers and all other persons employed in the execution of the Act shall observe and follow such orders, instructions or directions:

Provided that no such orders, instructions or directions shall be issued—

a) so as to require any GST Officer to make a particular assessment or to dispose of a particular case in a particular manner; or

b) so as to interfere with the discretion of the First Appellate Authority in the exercise of his appellate functions.

135. Removal of difficulties

(1) If any difficulty arises in giving effect to any provision of the Act, the Central Government / State Government may, by general or special order published in the Gazette, do anything not inconsistent with the provisions of the Act which appears to it to be necessary or expedient for the purpose of removing the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date of effect of the provision giving rise to the difficulty.

(2) Every order made under this section shall be laid, as soon as may be, after it is made, before Parliament / State Legislature.

136. Service of notice in certain circumstances

(1) Any decision, order, summons, notice or other communication under the Act or the rules made thereunder shall be served by any one of the following methods, namely: -

(a) by giving or tendering it directly or by a messenger including a courier to the addressee or the taxpayer or to his manager or to agent duly authorized or an advocate or a tax practitioner holding authority to appear in the proceeding on behalf of the taxpayer or to a person regularly employed by him in connection with the business, or to any adult member of family residing with the taxpayer, or

(b) by post or courier with acknowledgement due, to the person for whom it is intended or his authorised agent, if any at his last known place of business or residence, or

(c) by facsimile message, if such address is furnished, or

(d) by sending a communication to his e-mail address, or

(e) on dashboard of the taxpayer if available on the web-site, or

(f) by sending a message on his registered mobile number, or

(g) by publication in a newspaper circulating in the locality in which the taxpayer or the person to whom it is issued is last known to have resided, carried on business or personally worked for gain, or

(h) if none of the modes aforesaid is practicable, by affixing it in some conspicuous place at his last known place of business or residence, or

(i) if the mode prescribed under (h) is also not practicable for any reason, then by affixing a copy thereof on the notice board of the officer or authority who or which passed such decision or order or issued such summons or notice.

(2) Every decision, order, summons, notice or any communication shall be deemed to have been served on the date on which it is tendered or published or a copy thereof is affixed in the manner provided in sub-section (1).

(3) When such decision, order, summons, notice or any communication is sent by registered post, it shall be deemed to have been received by the addressee at the expiry of the period normally taken by a registered letter in transit unless the contrary is proved.

137. Rounding off of tax etc.

The amount of tax, interest, penalty, fine or any other sum payable, and the amount of refund or any other sum due, under the provisions of the Act shall be rounded off to the nearest rupee and, for this purpose, where such amount contains a part of a rupee consisting of paise then, if such part is fifty paise or more, it shall be increased to one rupee and if such part is less than fifty paise it shall be ignored.

138. Effect of amendments, etc., of rules, notifications or orders

Where any rule, notification or order made or issued under the Act or any notification or order issued under such rule, is amended, repealed, superseded or rescinded, then, unless a different intention appears, such amendment, repeal, supersession or rescinding shall not -

(a) revive anything not in force or existing at the time at which the amendment, repeal, supersession or rescinding takes effect; or
(b) affect the previous operation of any rule, notification or order so amended, repealed, superseded or rescinded or anything duly done or suffered thereunder; or
(c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any rule, notification or order so amended, repealed, superseded or rescinded; or
(d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed under or in violation of any rule, notification or order so amended, repealed, superseded or rescinded; or
(e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid, and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if the rule, notification or order, as the case may be, had not been amended, repealed, superseded or rescinded.

139. Publication of rules and notifications and laying of rules before Parliament / State Legislature

(1) All rules made and notifications issued under the Act shall be published in the Official Gazette.

(2) Every rule made under the Act, every notification issued under section -----, section ----, section ----- and section ----- (*depending on the final full draft*) and every order made under section -----, section ----, section ----- and section ----- (*depending on the final full draft*), other than an order relating to goods or services or both of strategic, secret, individual or personal nature, shall be laid, as soon as may be after it is made or issued, before Parliament / State Legislature, while it is in session, for a total period of thirty days which may be comprised in one session, or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, Parliament / State Legislature agree in making any modification in the rule or notification or order, or Parliament / State Legislature agree that the rule should not be made or notification or order should not be issued or made, the rule or notification or order shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification or order.

Provisions of Chapter XXIV

- Repeal and Savings

- represented from the Model GST Law 2016

CHAPTER– XXIV

REPEAL AND SAVING

140. Repeal and saving

(1) From the date of commencement of the Act, the (State) General Sales Tax/Value Added Tax Act, the Central Excise Act 1944, and the Central Excise Tariff Act 1985 shall apply only in respect of goods included in the entry 84 and entry 54 of the Union List and the State List respectively, of the Schedule VII to the Constitution of India.

Provided that the aforesaid restriction of the application of the statutes referred above shall not—

(a) Revive anything not in force or existing at the time at which the restriction takes effect; or

(b) Affect the previous operation of the unrestricted Acts or anything duly done or suffered thereunder; or

(c) Affect any right, privilege, obligation, or liability acquired, accrued or incurred under the unrestricted Acts; or

(d) Affect any tax, surcharge, penalty, interest as are due or may become due or any forfeiture or punishment incurred or inflicted in respect of any offence or violation committed under the provisions of the unrestricted Acts; or

(e) Affect any investigation, enquiry, assessment proceeding, any other legal proceeding or remedy in respect of any such tax, surcharge, penalty, interest, right, privilege, obligation, liability, forfeiture or punishment, as aforesaid, and any such investigation, enquiry, assessment proceeding, other legal proceeding or remedy may be instituted, continued or enforced, and any such tax, surcharge, penalty, interest, forfeiture or punishment may be levied or imposed as if these Acts had not been so restricted.

(f) Affect any proceeding including that relating to an appeal, revision, review or reference, instituted before the appointed day under the earlier law and such proceeding shall be continued under the earlier law as if this Act had not come into force and the said law had not been repealed.

(2) The following Acts are hereby repealed, to the extent mentioned hereunder, namely:- (*as per the taxes subsumed under GST ……*.)

(a) The Entry Tax Act,……...
(b) The Entertainment Tax, ……...
(c) The Luxury Tax Act, ……...
(d) Duty of Excise on Medicinal and Toilet Preparation Act, ……
(e) Chapter V of the Finance Act, 1994.

(3) The repeals referred to in sub-section (2) shall not—

(a) Revive anything not in force or existing at the time at which the repeal takes effect; or

(b) Affect the previous operation of the repealed Acts or anything duly done or suffered thereunder; or

(c) Affect any right, privilege, obligation, or liability acquired, accrued or incurred under the repealed Acts; or

(d) Affect any tax, surcharge, penalty, interest as are due or may become due or any forfeiture or punishment incurred or inflicted in respect of any offence or violation committed under the provisions of the repealed Acts; or

(e) Affect any investigation, enquiry, assessment proceeding, any other legal proceeding or remedy in respect of any such tax, surcharge, penalty, interest, right, privilege, obligation, liability, forfeiture or punishment, as aforesaid, and any such investigation, enquiry, assessment proceeding, other legal proceeding or remedy may be instituted, continued or enforced, and any such tax, surcharge, penalty, interest, forfeiture or punishment may be levied or imposed as if these Acts had not been enacted.

TRANSITIONAL PROVISIONS

- **General Provisions :** Continuing of officers of Central Excise, VAT etc officers as GST officers
- **Migration of existing taxpayers to GST:** Every person registered under any of the earlier laws shall be issued a certificate of registration on a provisional basis
- Amount of CENVAT credit carried forward in a return
- No Provision for arrangement of CENVAT, which was not taken prior to appointed day
- Availment / Reversal facilities on stock of input and input contents in WIP & finished goods.
- Unavailed cenvat credit on capital goods
- Credit of eligible duties and taxes in respect of inputs held in stock :
- Credit of eligible duties and taxes on inputs held in stock upon switching over from composition scheme:
- Amount payable upon switching over to composition scheme:
- Exempted goods returned to the place of business on or after the appointed day:
- Duty paid goods returned to the place of business on or after the appointed day:
- Inputs removed for job work and returned on or after the appointed day
- Semi-finished goods removed for job work and returned on or after the appointed day
- Finished goods removed for carrying out certain processes and returned on or after the appointed day
- Revision in price
- Pending refund claims
- Claim of cenvat credit to be disposed of under the earlier law
- Finalization of proceedings relating to output duty liability
- Treatment of the amount recovered or refunded in pursuance of assessment or adjudication proceedings
- Treatment of the amount recovered or refunded pursuant to revision of returns

- Treatment of long term construction / works contracts
- Progressive or periodic supply of goods or services
- Treatment of retention payments
- Credit distribution of service tax by ISD
- Tax paid on goods lying with agents
- Tax paid on capital goods lying with agents
- Treatment of branch transfers
- Goods sent on approval basis returned on or after the appointed day
- Deduction of tax source

141. General provisions

Notwithstanding anything contained elsewhere in the Act and until specifically so or otherwise prescribed or notified or done in accordance with the provisions of the Act,

(a) All persons appointed by the respective Governments for discharging various functions under the Central/State laws relating to taxes on goods or services (which are being subsumed in GST) and continuing in office on the appointed day, shall be deemed to have been appointed as GST officers/Competent Authorities under the respective provisions of the Act.

(b) The Central Government (or the State Government) may issue orders or make rules consistent with the need for smooth transition to GST including the need to take care of matters not specifically covered hereinbefore so long as such matters are not in conflict with the purposes of the Act.

142. Migration of existing taxpayers to GST

(1) On the appointed day, every person registered under any of the earlier laws shall be issued a certificate of registration on a provisional basis in such form and manner as may be prescribed.

(2) The certificate of registration issued under sub-section (1) shall be valid for a period of six months from the date of its issue:

Provided that the said validity period may be extended for such further period as the Central/State Government may, on the recommendation of the Council, notify.

(3) Every person to whom a certificate of registration has been issued under sub-section (1) shall, within the period specified under sub-section (2), furnish such information as may be prescribed.

(4) On furnishing of such information, the certificate of registration issued under sub-section (1) shall, subject to the provisions of section 19, be granted on a final basis by the Central/State Government.

(5) The certificate of registration issued to a person under sub-section (1) may be cancelled if such person fails to furnish, within the time specified under sub-section (2), the information prescribed under sub-section (3).

(6) The certificate of registration issued to a person under sub-section (1) shall be deemed to have not been issued if the said registration is cancelled in pursuance of an application filed by such person that he was not liable to registration under section 19.

143. Amount of CENVAT credit carried forward in a return to be allowed as input tax credit

(1) A registered taxable person shall be entitled to take, in his electronic credit ledger, credit of the amount of cenvat credit carried forward in a return, furnished under the earlier law by him, in respect of the period ending with the day immediately preceding the appointed day in such manner as may be prescribed:

Provided that the taxable person shall not be allowed to take credit unless the said amount was admissible as cenvat credit under the earlier law and is also admissible as input tax credit under this Act.

(2) The amount taken as credit under sub-section (1) shall be recovered as an arrear of tax under this Act from the taxable person if the said amount is found to be recoverable as a result of any proceeding instituted, whether before or after the appointed day, against such person under the earlier law.

(CGST Law)

(1) A registered taxable person shall be entitled to take, in his electronic credit ledger, credit of the amount of Value Added Tax carried forward in a return, furnished under the earlier law by him, in respect of the period ending with the day immediately preceding the appointed day in such manner as may be prescribed:

Provided that the taxable person shall not be allowed to take credit unless the said amount was admissible as credit of input tax under the earlier law and is so admissible under this Act.

(2) The amount taken as credit under sub-section (1) shall be recovered as an arrear of tax under this Act from the taxable person if the said amount is found to be recoverable as a result of any proceeding instituted, whether before or after the appointed day, against such person under the earlier law. **(SGST Law)**

Analysis:

This transition provision enables carry forward of unutilized input credit under the CENVAT Credit Rules, 2004 and the State level VAT Acts into the GST regime. This provision deals with the methodology of carry forward as per the return filed under the earlier law.

144. Unavailed cenvat credit on capital goods, not carried forward in a return, to be allowed in certain situations

(1) A registered taxable person shall be entitled to take, in his electronic credit ledger, credit of the unavailed cenvat credit in respect of capital goods, not carried forward in a return, furnished under the earlier law by him, for the period ending with the day immediately preceding the appointed day in such manner as may be prescribed:

Provided that the taxable person shall not be allowed to take credit unless the said credit was admissible as cenvat credit under the earlier law and is also admissible as input tax credit

under this Act:

Explanation 1.- For the purposes of this section, the expression "unavailed cenvat credit" means the amount that remains after subtracting the amount of cenvat credit

already availed in respect of capital goods by the taxable person under the earlier law from the aggregate amount of cenvat credit to which the said person was entitled in respect of the said capital goods under the earlier law.

Explanation 2.- Capital goods means the goods as defined under clause (a) of rule 2 of CENVAT Credit Rules, 2004.

(2) The amount taken as credit under sub-section (1) shall be recovered as an arrear of tax under this Act from the taxable person if the said amount is found to be recoverable as a result of any proceeding instituted, whether before or after the appointed day, against such person under the earlier law.

(CGST Law)

(1) A registered taxable person shall be entitled to take, in his electronic credit ledger, credit of the unavailed input tax credit in respect of capital goods, not carried forward in a return, furnished under the earlier law by him, for the period ending with the day immediately preceding the appointed day in such manner as may be prescribed :

Provided that the taxable person shall not be allowed to take credit unless the said credit was admissible as input tax credit under the earlier law and is so admissible under this Act:

Explanation.- For the purposes of this section, the expression "unavailed input tax credit" means the amount that remains after subtracting the amount of input tax credit already availed in respect of capital goods by the taxable person under the earlier law from the aggregate amount of input tax credit to which the said person was entitled in respect of the said capital goods under the earlier law.

(2) The amount taken as credit under sub-section (1) shall be recovered as an arrear of tax under this Act from the taxable person if the said amount is found to be recoverable as a result of any proceeding instituted, whether before or after the appointed day, against such person under the earlier law. **(SGST Law)**

Analysis:

It is important to note that such credit carried forward under the earlier law is also admissible as INPUT CREDIT under GST Law.

Input Tax Credit

Particulars	CGST	SGST
Credit to be carried forward	CENVAT Credit	Input credit under the relevant State VAT Law
Relevant Law	CENVAT Credit Rules,2004	Relevant State VAT Law
Laws to be subsumed and the relevant credit	CENTRAL EXCISE SERVICE TAX	Relevant State VAT Law

Input Tax Credit : Conditions to be satisfied

❖ must qualify for input credit under both, the existing law and the GST Law
❖ must have been reflected as input credit carried forward in the return filed viz., last monthly return or quarterly return or half-yearly return, as the case may be
Example: In case of incorrect claim under the old law: Will be recovered as an arrear of tax under the GST Act. Applicable interest and penalties will apply under GST Laws. CENVAT Credit = CGST Credit VAT Credit = SGST Credit Under no circumstances this credit can be interchanged.

Illustration:

Assume that GST is applicable from 1st April,2017, and the amount of credit as per return for the period ending 31st March,2017, is as follows:

Particulars of Input Tax Credit	Credit amount as per Return
Central Excise	Rs.2,00,000
Service Tax	Rs.1,00,000
Education Cess	Rs.10,000
Secondary and Higher Education Cess	Rs.5,000
Krishi Kalyan Cess	Rs.5,000
Additional Duty u/s 3(1) of CTA	Rs.40,000
Additional Duty u/s 3(5) of CTA	Rs.30,000
Input Tax Credit under VAT	Rs.50,000
Total	Rs.4,40,000

(A1) If the tax payer is a Manufacturer : Amount of opening CGST to be brought forward as per the GST Law as on 1st April,2017

Particulars of Input Tax Credit	Credit amount as per Return
Central Excise	Rs.2,00,000
Service Tax	Rs.1,00,000
Education Cess	Rs.10,000
Secondary and Higher Education Cess	Rs.5,000
Additional Duty u/s 3(1) of CTA	Rs.40,000
Additional Duty u/s 3(5) of CTA	Rs.30,000
Total	Rs.3,85,000

(A2) If the tax payer is a Manufacturer : Amount of opening SGST to be brought forward as per the GST Law as on 1st April,2017

Particulars of Input Tax Credit	Credit amount as per Return
Input Tax Credit under VAT	Rs.50,000

Note: Krishi Kalyan Cess will not be allowed for carry forward of credit for a manufacturer.

(B) If the tax payer is a Service Provider

CGST Components	CGST Value
Central Excise	Rs.2,00,000
Service Tax	Rs.1,00,000
Education Cess	Rs.10,000
Secondary and Higher Education Cess	Rs.5,000
Krishi Kalyan Cess	Rs.5,000
Additional Duty u/s 3(1) of CTA	Rs.40,000
Additional Duty u/s 3(5) of CTA	Rs.30,000
Total	Rs.3,85,000

Note: Krishi Kalyan Cess will be allowed to be carried forward for a Service Provider.

Analysis:

Will the credit be available if the invoice is made on or before 31st March,2017 but is received by the suppliers on or after 1st April,2017

- for service providers, Krishi Kalyan Cess is allowable as CENVAT Credit under the CENVAT Credit Rules,2004, while Swachh Bharat Cess is not. So, Swarat Bharat Cess will not be carried forward while Krishi Kalyan Cess will be carried forward as CGST. However, for Manufacturer even KKC will not be allowed.
- the amount of duty, tax or cess carried forward as per the accounts will be immaterial. The input tax credit carried forward as per the last return under the earlier for the period ending with the day preceding the day when the GST becomes applicable will only be taken into account.

CENVAT Credit on Capital Goods

The unavailed portion of CENVAT Credit relating to capital goods under the earlier laws not carried forward through a return can be availed, provided such credit are admissible under the GST Laws.

Particulars	CGST	SGST
Details of credit to be carried forward	❖ Central excise paid on capital goods ❖ countervailing duty paid on capital goods ❖ special additional duty paid on capital goods	- VAT paid on capital goods

CENVAT Credit on Capital Goods: Conditions to be satisfied:

1. Should qualify for eligible input credit under both the existing law and the GST law
2. would be in respect of input credit which is not carried forward in the return filed for the last period under the existing law

Note: In case of incorrect claim under the old law:

- It will be recovered as an arrear of tax under the GST Act. Applicable interests and penalties will apply under GST Laws

Example on CENVAT Credit on Capital Goods:

- Balance CENVAT Credit on capital gods which has not been availed in the first year will be available in any financial year subsequent to the financial year in which it was purchased.
- Also, the CENVAT credit rules does not prescribe any time limit for availment of CENVAT Credit on Capital Goods
- Even, the GST law does not contain any time limit for availment of Input Tax Credit on Capital Goods.

Therefore, the Input Tax Credit on Capital Goods which has not been availed till 1st April,2017 will be **allowed without any time limit.**

145. Credit of eligible duties and taxes in respect of inputs held in stock to be allowed in certain situations

(1) A registered taxable person, who was not liable to be registered under the earlier law or who was engaged in the manufacture of exempted goods under the earlier law but which are liable to tax under this Act, shall be entitled to take, in his electronic credit ledger, credit of eligible duties and taxes in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day subject to the following conditions:

(i) such inputs and / or goods are used or intended to be used for making taxable supplies under this Act;

(ii) the said taxable person was eligible for cenvat credit on receipt of such inputs and/or goods under the earlier law but for his not being liable for registration or the goods remaining exempt under the said law;

(iii) the said taxable person is eligible for input tax credit under this Act;

(iv) the said taxable person is in possession of invoice and/or other prescribed documents evidencing payment of duty / tax under the earlier law in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day; and

(v) such invoices and /or other prescribed documents were issued not earlier than twelve months immediately preceding the appointed day.

(2) The amount of credit under sub-section (1) shall be calculated in accordance with generally accepted accounting principles in such manner as may be prescribed.

(3) The amount taken as credit under sub-section (1) shall be recovered as an arrear of tax under this Act from the taxable person if the said amount is found to be recoverable as a result of any proceeding instituted, whether before or after the appointed day, against such person under the earlier law.

Explanation.— For the purpose of this section and section 146, the expression "eligible duties and taxes" means-

(i) the duty of excise specified in the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986);

(ii) the duty of excise specified in the Second Schedule to the Central Excise Tariff Act, 1985 (5 of 1986);

(iii) the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Textile and Textile Articles) Act, 1978 (40 of 1978);

(iv) the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957(58 of 1957);

(v) the National Calamity Contingent Duty leviable under section 136 of the Finance Act, 2001(14 of 2001);

(vi) the additional duty leviable under sub-section (1) of section 3 of the Customs Tariff Act, 1975 (51 of 1975);

(vii) the additional duty leviable under sub-section (5) of section 3 of the Customs Tariff Act, 1975 (51 of 1975); and

(viii) the service tax leviable under section 66B of the Finance Act, 1994 (32 of 1994) ;—

in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day.

(CGST Law)

(1) A registered taxable person, who was not liable to be registered under the earlier law or who was engaged in the sale of exempted goods under the earlier law but which are liable to tax under this Act, shall be entitled to take, in his electronic credit ledger, credit of the Value Added Tax in respect of inputs held in stock and inputs contained in semi- finished or finished goods held in stock on the appointed day subject to the following conditions:

(i) such inputs and / or goods are used or intended to be used for making taxable supplies under this Act;

(ii) the said taxable person was eligible for input tax credit on purchase of such inputs and/or goods under the earlier law but for his not being liable for registration or the goods remaining exempt under the said law;

(iii) the said taxable person is eligible for input tax credit under this Act;

(iv) the said taxable person is in possession of invoice and/or other prescribed documents evidencing payment of tax under the earlier law in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day; and

(v) such invoice and /or other prescribed documents were issued not earlier than twelve months immediately preceding the appointed day.

(2) The amount of credit under sub-section (1) shall be calculated in accordance with generally accepted accounting principles in such manner as may be prescribed.

(3) The amount taken as credit under sub-section (1) shall be recovered as an arrear of tax under this Act from the taxable person if the said amount is found to be recoverable as a result of any proceeding instituted, whether before or after the appointed day, against such person under the earlier law.

(SGST Law)

Analysis:

Situation 1:

An unregistered manufacturer in Mumbai having a turnover of Rs.70 lacs in the current financial year was availing SSI exemption. He will now be liable to tax under GST as his turnover is greater than the threshold of Rs.10 lacs which has been prescribed under the GST.

Situation 2:

A trader supplying goods on e-commerce having an aggregate turnover of Rs.1 lacs was not required to be registered as per the State VAT law earlier. Now, as per the definition of taxable person, as per Section 9 read with Schedule III, there is no threshold for such category of persons. Therefore, he will be liable to pay tax under GST though he was below the taxable turnover earlier.

Conditions:

- the taxable person has not been registered under the earlier law. the person must be a registered taxable person under the GST laws;
- the person must not have been liable for registration under the earlier laws
- he must have been engaged in the manufacture of exempted goods under the earlier Laws but those goods must be liable to tax under GST laws

This provision is applicable only for inputs (not capital goods)

146. Credit of eligible duties and taxes on inputs held in stock to be allowed to a taxable person switching over from composition scheme

(1) A registered taxable person, who was either paying tax at a fixed rate or paying a fixed amount in lieu of the tax payable under the earlier law (hereinafter referred to in this section as a "composition taxpayer"), shall be entitled to take, in his electronic credit ledger, credit of eligible duties and taxes in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed date subject to the following conditions:

(i) such inputs and / or goods are used or intended to be used for making taxable supplies under this Act;

(ii) the said person is not paying tax under section 8;

(iii) the said taxable person was eligible for cenvat credit on receipt of such inputs and/or goods under the earlier law but for his being a composition taxpayer under the said law;

(iv) the said taxable person is eligible for input tax credit under this Act;

(v) the said taxable person is in possession of invoice and/or other prescribed documents evidencing payment of duty / tax under the earlier law in respect of inputs held in stock and inputs contained in semi- finished or finished goods held in stock on the appointed day; and

(vi) such invoices and /or other prescribed documents were issued not earlier than twelve months immediately preceding the appointed day.

(2) The amount of credit under sub-section (1) shall be calculated in accordance with generally accepted accounting principles in such manner as may be prescribed.

(3) The amount taken as credit under sub-section (1) shall be recovered as an arrear of tax under this Act from the taxable person if the said amount is found to be recoverable as a result of any proceeding instituted, whether before or after the appointed day, against such person under the earlier law.

(CGST Law)

(1) A registered taxable person, who was either paying tax at a fixed rate or paying a fixed amount in lieu of the tax payable under the earlier law (hereinafter referred to in this section as a "composition taxpayer"), shall be entitled to take, in his electronic credit ledger, credit of Value Added Tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed date subject to the following conditions:

(i) such inputs and / or goods are used or intended to be used for making taxable supplies under this Act;

(ii) the said person is not paying tax under section 8;

(iii) the said taxable person was eligible to claim input tax credit on purchase of such inputs and/or goods under the earlier law but for his being a composition taxpayer under the said law;

(iv) the said taxable person is eligible for input tax credit under this Act;

(v) the said taxable person is in possession of invoice and/or other prescribed documents evidencing payment of tax under the earlier law in respect of inputs held in stock and inputs contained in semi- finished or finished goods held in stock on the appointed day; and

(vi) such invoices and /or other prescribed documents were issued not earlier than twelve months immediately preceding the appointed day.

(2) The amount of credit under sub-section (1) shall be calculated in accordance with generally accepted accounting principles in such manner as may be prescribed.

(3) The amount taken as credit under sub-section (1) shall be recovered as an arrear of tax under this Act from the taxable person if the said amount is found to be recoverable as a result of any proceeding instituted, whether before or after the appointed day, against such person under the earlier law.

(SGST Law)

Example 1 :

What will happen if the inputs, which are intended for use for making taxable supplies are ultimately used for exempt supplies?

Answer:

If the inputs in stock in respect of which credit was allowed, is ultimately used for exempt supplies instead of taxable supplies, then so much of the credit on inputs as is used for exempt supplies will be disallowed in the electronic credit ledger. If there is no credit remaining as per the electronic credit ledger, then the same will have to be paid in cash by the taxable person.

147. Amount payable in the event of a taxable person switching over to composition scheme

(1) Where a taxable person who has carried forward the amount of eligible credit in a return, furnished under the earlier law, in respect of the period ending with the day immediately preceding the appointed day, switches over to the composition scheme under section 8, he shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date of such switch over:

Provided that after payment of such amount, the balance of input tax credit, if any lying in his electronic credit ledger shall lapse.

(CGST Law)

(1) Where a taxable person who has carried forward the amount of eligible credit on account of Value Added Tax in a return, furnished under the earlier law, in respect of the period ending with the day immediately preceding the appointed day, switches over to the composition scheme under section 8, he shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of input tax in respect of

inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date of such switch over:

Provided that after payment of such amount, the balance of input tax credit, if any lying in his electronic credit ledger shall lapse.

(SGST Law)

148. Exempted goods returned to the place of business on or after the appointed day

Where any goods on which duty had been exempt under the earlier law at the time of removal thereof, not being earlier than six months prior to the appointed day, are returned to any place of business on or after the appointed day, no tax shall be payable thereon if such goods are returned to the said place of business within a period of six months from the appointed day and such goods are identifiable to the satisfaction of the proper officer:

Provided that tax shall be payable by the person returning the goods if the said goods are liable to tax under this Act and are returned after a period of six months from the appointed day.

(CGST Law)

Where any goods on which tax had been exempt under the earlier law at the time of sale thereof, not being earlier than six months prior to the appointed day, are returned to any place of business on or after the appointed day, no tax shall be payable thereon if such goods are returned to the said place of business within a period of six months from the appointed day and such goods are identifiable to the satisfaction of the proper officer:

Provided that tax shall be payable by the person returning the goods if the said goods are liable to tax under this Act and are returned after a period of six months from the appointed day.

Exempted goods returned to the place of business

- this transition provision, provides for non-payment of GST on return of exempted goods - viz., where the removal/ sale, as the case may be was under the earlier law, and the return is under the GST law
- this provision extends exemption in respect of purchase returns, viz., where the purchase was under the earlier law and the corresponding purchase is under the GST law.

Conditions:

Time Period: The section provides for timelines for both, purchase and purchase returns.

(a) Purchase: Should have taken place not earlier than 6(six) months from the date of introduction of GST

(b) Purchase returns: Should be within 6(six) months from the date of introduction of GST

Note: This implies that the difference between the date of purchase and the return thereto cannot exceed 1 (one) year.

Example 1 :

A manufacturer had removed exempted goods for sale worth Rs.5,00,000 on 1st December, 2016. These goods become taxable under GST. GST is assumed to be applicable from 1st April,2017. On 12th June 2017, goods worth Rs.50,000 is returned by the buyer. Since, the goods are returned within 6(six) months from the date of applicability of GST, no tax will be payable.

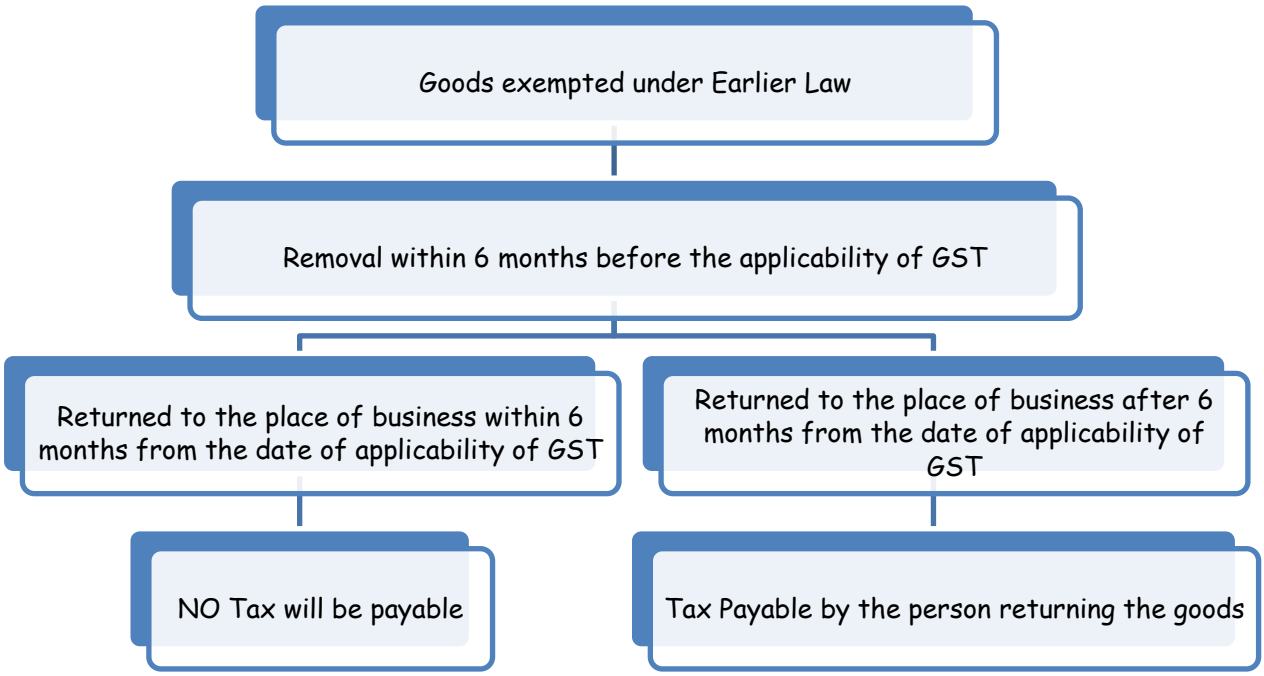
Example 2 :

In example 1, if the goods are returned on 10th October,2017, then the tax will have to be paid by the buyer who returned the goods on the value of Rs.50,000 because 6(six) months elapses (i.e. on 30.09.2017) from the date of applicability of GST.

Example 3 : When will Purchase Returns become taxable ?

The exempted goods returned to the place of business after 6(six) months of the appointed date shall become taxable as per the provisions of Sec.148.

If the above conditions on timelines are not satisfied, the return of goods by the purchaser to any place of business of the taxable person (original supplier), the said exemption would not be available. It would mean that the return of the goods would then qualify as 'supply' in the hands of the person returning the goods and would accordingly be liable to GST.



149. Duty paid goods returned to the place of business on or after the appointed day

(1) Where any goods on which duty had been paid under the earlier law at the time of removal thereof, not being earlier than six months prior to the appointed day, are returned to any place of business on or after the appointed day, no tax shall be payable thereon if such goods are returned to the said place of business within a period of six months from the appointed day and such goods are identifiable to the satisfaction of the proper officer:

Provided that tax shall be payable by the taxable person returning the goods if the said goods are liable to tax under this Act and are returned after a period of six months from the appointed day.

(2) Every taxable person who receives such goods within a period of six months shall be entitled to take credit of the duty paid earlier at the time of removal.

(CGST Law)

(1) Where any goods on which tax had been paid under the earlier law at the time of sale thereof, not being earlier than six months prior to the appointed day, are returned to the supplier thereof on or after the appointed day, no tax shall be payable thereon if such goods are returned to the said supplier within a period of six months from the appointed day and such goods are identifiable to the satisfaction of the proper officer:

Provided that tax shall be payable by the person returning the goods if the said goods are liable to tax under this Act and are returned after a period of six months

from the appointed day.

(2) Every taxable person who receives such goods within a period of six months shall be entitled to take credit of the tax paid earlier at the time of sale.

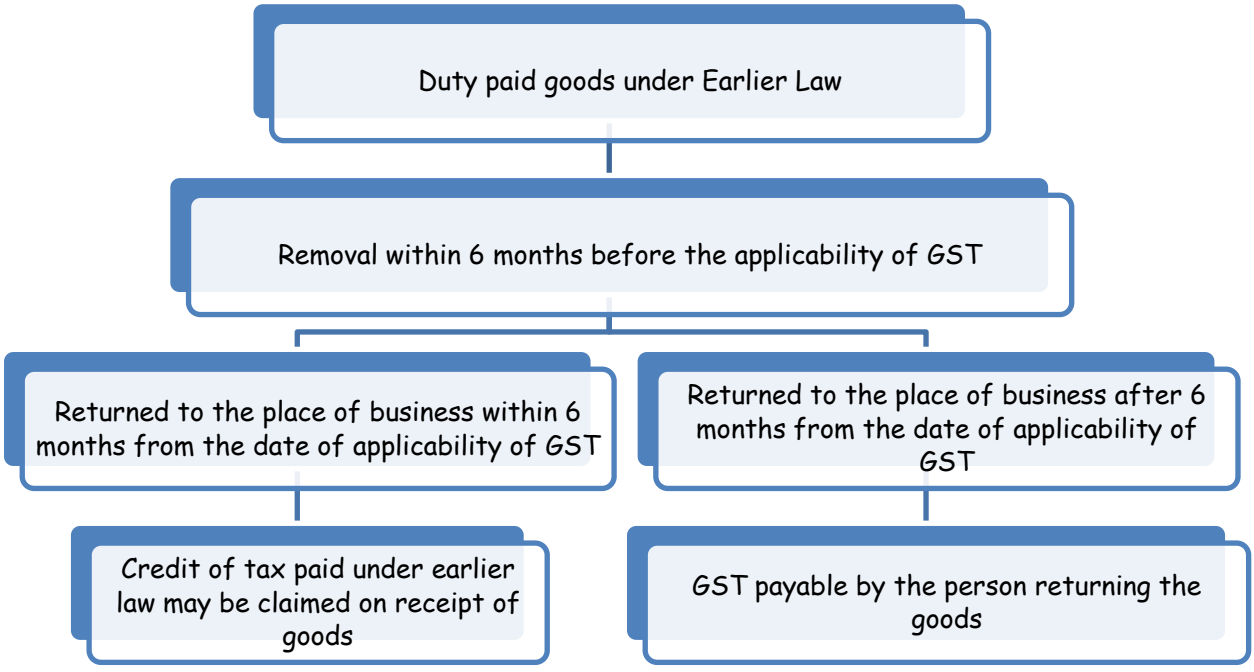
(SGST Law)

Duty paid goods returned to the place of business

Example 1: A manufacturer had removed goods for sale worth Rs.10 lacs on 1st December,2016 after paying the necessary duty under Central Excise Law. Those goods are also taxable under GST. GST is assumed to be applicable from 1st April,2017. On 10th June, 2017, goods worth Rs.70,000 is returned by the buyer. Since, the goods are returned within 6 months from the date of applicability of GST, no tax will be payable.

Example 2:

In example 1, if the goods had been returned on 10th October,2017, then the tax will have to be paid by the buyer who returned the goods on the value of Rs.70,000 because 6(six) months elapses from the date of applicability of GST.



150. Inputs removed for job work and returned on or after the appointed day

(1) Where any inputs received in a factory had been removed as such or removed after being partially processed to a job worker for further processing, testing, repair, reconditioning or any other purpose in accordance with the provisions of earlier law prior to the appointed day and such inputs, after completion of the job work, are returned to the said factory on or after the appointed day, no tax shall be payable if such inputs are returned to the said factory within six months from the appointed day:

Provided that the aforesaid period of six months may, on sufficient cause being shown, be extended by the competent authority for a further period not exceeding two months:

Provided further that tax shall be payable by the job worker if such inputs are liable to tax under this Act, and are returned after a period of six months or the extended period, as the case may be, from the appointed day:

Provided also that tax shall be payable by the manufacturer if such inputs are liable to tax under this Act, and are not returned within a period of six months or the extended period , as the case may be, from the appointed day.

(2) The provisions of sub-section (1) shall apply only if the manufacturer and the job worker declare the details of the inputs held in stock by the job worker on behalf of the manufacturer on the appointed day in such form and manner and within such time as may be prescribed. **(CGST Law)**

(1) Where any inputs received at a place of business had been despatched as such or despatched after being partially processed to a job worker for further processing, testing, repair, reconditioning or any other purpose in accordance with the provisions of earlier law prior to the appointed day and such inputs, after completion of the job work, are returned to the said place of business on or after the appointed day, no tax shall be payable if such inputs are returned to the said place of business within six months from the appointed day:

Provided that the aforesaid period of six months may, on sufficient cause being shown, be extended by the competent authority for a further period not exceeding two months:

Provided further that tax shall be payable by the job worker if such inputs are liable to tax under this Act, and are returned after a period of six months or the extended period, as the case may be, from the appointed day:

Provided also that tax shall be payable by the person despatching the inputs if such inputs are liable to tax under this Act, and are not returned within a period of six months or the extended period, as the case may be, from the appointed day.

(2) The provisions of sub-section (1) shall apply only if the person despatching the inputs and the job worker declare the details of the goods held in stock by the job worker on behalf of the said person on the appointed day in such form and manner and within such time as may be prescribed. **(SGST Law)**

Analysis: Inputs removed for job work and returned

❖ This transition provision is with respect to inputs removed as such or after partial processing from a factory or dispatched from a place of business for the purposes of carrying out any processing, repair, reconditioning or for any other purposes under the existing laws but are returned/ returnable after the date of implementation of GST.
❖ Competent authority to grant extension of time period upto 2 months, yet to be prescribed

Analysis: Inputs removed for job work and returned : Conditions for availing exemption

Particulars	CGST	SGST
Inputs should have been removed from a factory	Factory as defined under Central Excise Law	Registered "Place of Business" under VAT Law
Return of the inputs should be to	Same factory from which it was removed	Same place of business from which it was dispatched
Time period within which the inputs should be returned	Within six months from the date of removal or such extended period (upto 2 months)	Within six months from the date of dispatch or such extended period (upto 2 months)

Inputs removed for job work and returned

Example 1: A manufacturer had removed inputs worth Rs.2 lacs on 1st November 2016 for job work. GST is assumed to be applicable from 1st April,2017. On 15th June,2017, the inputs is returned by the job worker. Since, the inputs are returned within 6 months from the date of applicability of GST, no tax is payable.
Example 2: In Example (1) above, if the goods were returned on 7th October,2017, then **tax will have to be paid** by the **job worker, who returned** the goods because 6 months elapses from the date of applicability of GST.
Example 3: In Example (1) above, if the goods are not returned by the job worker within the period of 6 months from the date of applicability of GST, i.e. till 30th September, 2017, **then tax will have to be paid by the manufacturer.**
Example 4: Is this provision applicable only for removal of inputs for job work ? Answer: Yes, this section is in relation to removal of inputs only for the purpose of job work, which means, inputs should have been removed as such or after partially carrying out process, to the job worker's premises for further processing, testing, repair, reconditioning, etc.
Example 5: Who is liable to pay tax when the processed inputs are not returned within the time limit specified?

Answer:

When the processed inputs are not returned within specified time limit, at the time of removal of processed inputs, the job worker is liable to pay tax under the proposed GST Act and the 'principal manufacturer' or 'person dispatching the inputs' is liable to pay tax on the expiry of specified time limit (i.e. 6 months)

151. Semi-finished goods removed for job work and returned on or after the appointed day

(1) Where any semi-finished goods had been removed from the factory to any other premises for carrying out certain manufacturing processes in accordance with the provisions of earlier law prior to the appointed day and such goods after undergoing manufacturing processes (herein after referred to as "the said goods") are returned to the said factory on or after the appointed day, no tax shall be payable if the said goods are returned to the said factory within six months from the appointed day:

Provided that the aforesaid period of six months may, on sufficient cause being shown, be extended by the competent authority for a further period not exceeding two months:

Provided further that tax shall be payable by the person returning the said goods if such goods are liable to tax under this Act and are returned after a period of six months or the extended period, as the case may be, from the appointed day:

Provided also that tax shall be payable by the manufacturer if such goods are liable to tax under this Act, and are not returned within a period of six months or the extended period, as the case may be, from the appointed day:

Provided also that the manufacturer may, in accordance with the provisions of the earlier law, transfer the said goods to the premises of any registered taxable person for the purpose of supplying therefrom on payment of tax in India or without payment of tax for exports within six months or the extended period, as the case may be, from the appointed day.

(2) The provisions of sub-section (1) shall apply only if the manufacturer and the job-worker declare the details of the goods held in stock by the job-worker on behalf of the manufacturer on the appointed day in such form and manner and within such time as may be prescribed.

(CGST Law)

(1) Where any semi-finished goods had been despatched from the place of business to any other premises for carrying out certain manufacturing processes in accordance with the provisions of earlier law prior to the appointed day and such goods after undergoing manufacturing processes (herein after referred to as the "said goods") are returned to the said place of business on or after the appointed day, no tax shall be payable if the said goods are returned to such place within six months from the appointed day:

Provided that the aforesaid period of six months may, on sufficient cause being shown, be extended by the competent authority for a further period not exceeding two months:

Provided further that tax shall be payable by the person returning the said goods if such goods are liable to tax under this Act and are returned after a period of six months or the extended period, as the case may be, from the appointed day:

Provided also that tax shall be payable by the person despatching the goods if such goods are liable to tax under this Act, and are not returned to him within a period of six months or the extended period, as the case may be, from the appointed day:

Provided also that the person despatching the goods may, in accordance with the provisions of the earlier law, transfer the said goods to the premises of any registered taxable person for the purpose of supplying therefrom on payment of tax in India or without payment of tax for exports within six months or the extended period, as the case may be, from the appointed day.

(2) The provisions of sub-section (1) shall apply only if the person despatching the goods and the job worker declare the details of the goods held in stock by the job worker on behalf of the said person on the appointed day in such form and manner and within such time as may be prescribed.

(SGST Law)

Analysis: Semi- finished goods removed for job work

- This transition provision is with respect to semi-finished goods which were removed from a factory or dispatched from a place of business for the purposes of carrying out any job work (for the purposes of carrying out any manufacturing processes) under the existing Laws but are returned/ returnable after the date of implementation of GST.

Semi-finished goods removed for job work and returned after the appointed date

Example 1: A manufacturer had removed semi-finished goods worth Rs.2 lacs on 1st November 2016 for further processing to a job worker. GST is assumed to be applicable from 1st April,2017. On 15th June,2017, the inputs is returned by the job worker. Since, the inputs are returned within 6 months from the date of applicability of GST, no tax is payable.

Example 2: In Example (1) above, if the goods were returned on 7th October,2017, then **tax will have to be paid** by the **job worker, who returned** the goods because 6 months elapses from the date of applicability of GST.

Example 3: In Example (1) above, if the goods are not returned by the job worker within the period of 6 months from the date of applicability of GST, i.e. till 30th September, 2017, **then tax will have to be paid by the manufacturer.**

152. Finished goods removed for carrying out certain processes and returned on or after the appointed day

Where any excisable goods manufactured in a factory had been removed without payment of duty for carrying out tests or any other process not amounting to manufacture, to any other premises, whether registered or not, in accordance with the provisions of earlier law prior to the appointed day and such goods, after undergoing tests or any other process (herein after referred to as the "said goods") are returned to the said factory on or after the appointed day, no tax shall be payable if the said goods are returned to the said factory within six months from the appointed day:

Provided that the aforesaid period of six months may, on sufficient cause being shown, be extended by the competent authority for a further period of two months:

Provided further that tax shall be payable by the person returning the said goods if such goods are liable to tax under this Act and are returned after a period of six months or the extended period, as the case may be, from the appointed day:

Provided also that the manufacturer may, in accordance with the provisions of the earlier law, transfer the said goods from the said other premises on payment of tax in India or without payment of tax for exports within six months or the extended period, as the case may be, from the appointed day.

(CGST Law)

Where any goods had been despatched from the place of business without payment of tax for carrying out tests or any other process, to any other premises, whether registered or not, in accordance with the provisions of earlier law prior to the appointed day and such goods, after undergoing tests or any other process (herein after referred to as the "said goods") are returned to the said place of business on or after the appointed day, no tax shall be payable if the said goods are returned to such place within six months from the appointed day:

Provided that the aforesaid period of six months may, on sufficient cause being shown, be extended by the competent authority for a further period not exceeding two months:

Provided further that tax shall be payable by the person returning the said goods if such goods are liable to tax under this Act and are returned after a period of six months or the extended period, as the case may be, from the appointed day:

Provided also that the person despatching the goods may, in accordance with the provisions of the earlier law, transfer the said goods from the said other premises on payment of tax in India or without payment of tax for exports within six months or the extended period, as the case may be, from the appointed day.

(SGST Law)

Analysis: Finished goods removed for job work and returned after the appointed date

- This transition provision is with respect of excisable goods which were removed from a factory without payment of duty or dispatched from a place of business for the purposes of carrying out any tests or any other processes and which are returned/ returnable after the date of implementation of GST.

Finished goods removed for job work and returned after the appointed date

Example 1: A manufacturer had removed finished goods worth Rs.2 lacs on 1st November 2016 for carrying out tests to a job worker. GST is assumed to be applicable from 1st April,2017. On 15th June,2017, the inputs is returned by the job worker. Since, the inputs are returned within 6 months from the date of applicability of GST, **no tax is payable**.

Example 2: In Example (1) above, if the goods were returned on 7th October,2017, then **tax will have to be paid** by the **job worker, who returned** the goods because 6 months elapses from the date of applicability of GST.

Example 3: In Example (1) above, if the goods are not returned by the job worker within the period of 6 months from the date of applicability of GST, i.e. till 30th September, 2017, **then tax will have to be paid by the manufacturer**.

153. Issue of supplementary invoices, debit or credit notes where price is revised in pursuance of a contract

(1) Where, in pursuance of a contract entered into prior to the appointed day, the price of any goods and/or services is revised upwards on or after the appointed day, the taxable person who had removed / provided such goods and/or services may issue to the recipient a supplementary invoice or debit note, containing such particulars as may be prescribed, within thirty days of such price revision and for the purposes of this Act such supplementary invoice or debit note shall be deemed to have been issued in respect of an outward supply made under this Act.

(CGST Law)

(1) Where, in pursuance of a contract entered into prior to the appointed day, the price of any goods is revised upwards on or after the appointed day, the taxable person who had sold such goods may issue to the recipient a supplementary invoice or debit note, containing such particulars as may be prescribed, within thirty days of such price revision and for the purposes of this Act such supplementary invoice or debit note shall be deemed to have been issued in respect of an outward supply made under this Act.

(SGST Law)

(2) Where, in pursuance of a contract entered into prior to the appointed day, the price of any goods and/or services is revised downwards on or after the appointed day, the taxable person who had removed / provided such goods and/or services may issue to the recipient a supplementary invoice or credit note, containing such particulars as may

be prescribed, within thirty days of such price revision and for the purposes of this Act such supplementary invoice or credit note shall be deemed to have been issued in respect of an outward supply made under this Act:

Provided that the taxable person shall be allowed to reduce his tax liability on account of issue of the said invoice or credit note only if the recipient of the invoice or credit note has reduced his input tax credit corresponding to such reduction of tax liability. **(CGST Law)**

(2) Where, in pursuance of a contract entered into prior to the appointed day, the price of any goods is revised downwards on or after the appointed day, the taxable person who had sold such goods may issue to the recipient a supplementary invoice or credit note, containing such particulars as may be prescribed, within thirty days of such price revision and for the purposes of this Act such supplementary invoice or credit note shall be deemed to have been issued in respect of an outward supply made under this Act:

Provided that the taxable person shall be allowed to reduce his tax liability on account of issue of the said invoice or credit note only if the recipient of the invoice or credit note has reduced his input tax credit corresponding to such reduction of tax liability.

(SGST Law)

Issue of supplementary invoices, debit or credit notes where price is revised in pursuance of a contract

This is a transition provision with respect to goods and/ or services in respect of which there is either an upward or downward revision of price under a contract which was entered into prior to the date of introduction of GST.

Issue of supplementary invoices, debit or credit notes where price is revised in pursuance of a contract - UPWARD REVISIONS:

For Upward Revisions:

The taxable person shall issue a supplementary invoice or a debit note within 30 days from the date of such revision. The amount of tax involved therein would be deemed to be the tax payable on such supplies under the GST Act (SGST or CGST, as applicable)

It would be deemed to be a supply in the month in which the supplementary invoice/ debit note is issued and the provisions relating to disclosure in the return and payment of tax would apply accordingly.

The supplementary invoice/ debit note would have to comply with the requirements as prescribed under the GST Act.

Issue of supplementary invoices, debit or credit notes where price is revised in pursuance of a contract - UPWARD REVISIONS:

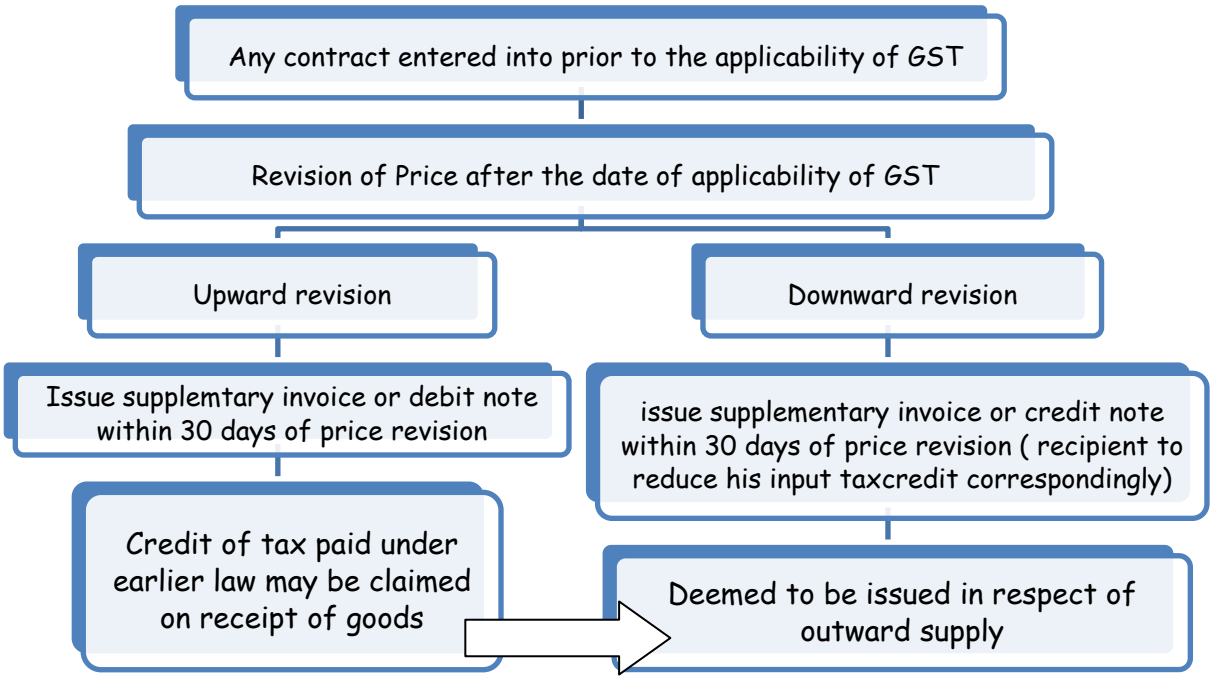
Example 1:

A contract for supply of manpower was entered on 15th March,2017 for Rs.8,00,000. Due to certain negotiations, this price was escalated to Rs.8,20,000 on 15th April,2017. Assuming applicability of GST from 1st April,2017, the supplier should issue a supplementary invoice/ debit note for Rs.20,000 within 30 days from 15th April, 2017, i.e. within 15th May,2017. This supplementary invoice/ debit note will be assumed to be for outward supply of Rs.20,000

Issue of supplementary invoices, debit or credit notes where price is revised in pursuance of a contract - DOWNWARD REVISIONS:

For Downward Revisions:

- The taxable person shall issue a supplementary invoice or a credit note within 30 days from the date of such revision.
- In terms of the supplementary invoice/ credit note, the supplier of goods would be allowed to reduce the tax liability as if the adjustment is under GST Act (CGST or SGST, as applicable)



154. Pending refund claims to be disposed of under earlier law

Every claim for refund of any duty/tax and interest, if any, paid on such duty/tax or any other amount, filed by any person before the appointed day, shall be disposed of in accordance with the provisions of earlier law and any amount eventually accruing to him shall be paid in cash, notwithstanding anything to the contrary contained under the provisions of earlier law other than the provisions of sub-section (2) of section 11B of the Central Excise Act, 1944 (1 of 1944):

Provided that where any claim for refund is fully or partially rejected, the amount so rejected shall lapse.

(CGST Law)

Every claim for refund of any tax and interest, if any, paid on such tax or any other amount, filed by any person before the appointed day, shall be disposed of in accordance with the provisions of earlier law and any amount eventually accruing to him shall be refunded to him in accordance with the provisions of the said law:

Provided that where any claim for refund is fully or partially rejected, the amount so rejected shall lapse.

(SGST Law)

Analysis:

This transition provision is with respect to refund claims/ applications under the earlier law. It provides that the claim for such refund should be processed as prescribed under the relevant earlier law

This section provides that where any person has made an application for refund under the earlier law., viz., Central Excise or Service Tax or VAT/CST or such other laws, the same would have to be processed in terms of the provisions contained in the respective earlier laws.

The provisions of GST laws would have no bearing on the same. It also provides the following:

(i) the refund if allowed would accrue in cash under the earlier law, viz., and would not be credited to the electronic credit ledger or electronic cash ledger

(ii) the refund if rejected, fully or partially would lapse.

Example 1:

An export manufacturer files a claim for refund of Rs.4,00,000 on 15th March,2017. Assuming applicability of GST from 1st April, 2017. The refund claim will be processed under the provision of the earlier law, i.e. Central Excise Law itself. If the refund is considered as admissible by the Department, then the same will be paid in cash subject to the Doctrine of Unjust enrichment.

155. Claim of cenvat credit to be disposed of under the earlier law

(1) Every proceeding of appeal, revision, review or reference relating to a claim for CENVAT credit under the earlier law shall be disposed of in accordance with the provisions of earlier law, and any amount of credit found to be admissible to the claimant shall be refunded to him in cash, notwithstanding anything to the contrary contained under the provisions of earlier law other than the provisions of sub-section (2) of section 11B of the Central Excise Act, 1944 and shall not be admissible as input tax credit under this Act. **(CGST Law)**

(2)Every proceeding of appeal, revision, review or reference relating to recovery of CENVAT credit under the earlier law shall be disposed of in accordance with the provisions of earlier law, and if any amount of credit becomes recoverable as a result of appeal, revision, review or reference, the same shall be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act.

(CGST Law)

(1) Every proceeding of appeal, revision, review or reference relating to a claim for input tax credit under the earlier law shall be disposed of in accordance with the provisions of earlier law, and any amount of credit found to be admissible to the claimant shall be refunded to him in accordance with the provisions of the earlier law and shall not be admissible as input tax credit under this Act.

(SGST Law)

(2) Every proceeding of appeal, revision, review or reference relating to recovery of input tax credit under the earlier law shall be disposed of in accordance with the provisions of earlier law, and if any amount of credit becomes recoverable as a result of appeal, revision, review or reference, the same shall be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act.

(SGST Law)

156. Finalization of proceedings relating to output duty liability

(1) Every proceeding of appeal, revision, review or reference relating to any output duty liability initiated before the appointed day, shall be disposed of in accordance with the provisions of the earlier law, and if any amount becomes recoverable as a result of such appeal, revision, review or reference, the same shall be recovered as an arrear of tax under this Act and amount so recovered shall not be admissible as input tax credit under this Act.

(2)Every proceeding of appeal, revision, review or reference relating to any output duty liability initiated before the appointed day, shall be disposed of in accordance with the provisions of the earlier law, and any amount found to be admissible to the claimant

shall be refunded to him in cash, notwithstanding anything to the contrary contained under the provisions of earlier law other than the provisions of sub-section (2) of section 11B of the Central Excise Act, 1944and shall not be admissible as input tax credit under this Act.

(CGST Law)

(1) Every proceeding of appeal, revision, review or reference relating to any output tax liability initiated before the appointed day, shall be disposed of in accordance with the provisions of the earlier law, and if any amount becomes recoverable as a result of such appeal, revision, review or reference, the same shall be recovered as an arrear of tax under this Act and amount so recovered shall not be admissible as input tax credit under this Act.

(2) Every proceeding of appeal, revision, review or reference relating to any output tax liability initiated before the appointed day, shall be disposed of in accordance with the provisions of the earlier law, and any amount found to be admissible to the claimant shall be refunded to him in accordance with the provisions of the earlier law and shall not be admissible as input tax credit under this Act.

(SGST Law)

157. Treatment of the amount recovered or refunded in pursuance of assessment or adjudication proceedings

(1) Where in pursuance of an assessment or adjudication proceedings instituted, whether before or after the appointed day, under the earlier law, any amount of tax, interest, fine or penalty becomes recoverable from the taxable person, the same shall be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act.

(CGST Law)

(1) Where in pursuance of an assessment proceedings instituted, whether before or after the appointed day, under the earlier law, any amount of tax, interest, fine or penalty becomes recoverable from the taxable person, the same shall be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act.

(SGST Law)

(2) Where in pursuance of an assessment or adjudication proceedings instituted, whether before or after the appointed day, under the earlier law, any amount of tax, interest, fine or penalty becomes refundable to the taxable person, the

same shall be refunded to him in cash under the earlier law, notwithstanding anything to the contrary contained in the said law other than the provisions of sub-section (2) of section 11B of the Central Excise Act, 1944.

(CGST Law)

(2) Where in pursuance of an assessment proceedings instituted, whether before or after the appointed day, under the earlier law, any amount of tax, interest, fine or penalty becomes refundable to the taxable person, the same shall be refunded to him in accordance with the provisions of earlier law.

(SGST Law)

158. Treatment of the amount recovered or refunded pursuant to revision of returns

(1) Where any return, furnished under the earlier law, is revised and if, pursuant to such revision, any amount is found to be recoverable from the taxable person, the same shall be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act.

(CGST Law)

(1) Where any return, furnished under the earlier law, is revised and if, pursuant to such revision, any amount is found to be recoverable from the taxable person, the same shall be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act.

(SGST Law)

(2) Where any return, furnished under the earlier law, is revised and if, pursuant to such revision, any amount is found to be refundable to any taxable person, the same shall be refunded to him in cash under the earlier law, notwithstanding anything to the contrary contained in the said law other than the provisions of sub-section (2) of section 11B of the Central Excise Act, 1944.

(CGST Law)

(2) Where any return, furnished under the earlier law, is revised and if, pursuant to such revision, any amount is found to be refundable to any taxable person, the amount shall be refunded to the said person in accordance with the provisions of the earlier law.

(SGST Law)

159. Treatment of long term construction / works contracts

The goods and/or services supplied on or after the appointed day in pursuance of a contract entered into prior to the appointed day shall be liable to tax under the provisions of this Act.

(CGST Law)

The goods and/or services supplied on or after the appointed day in pursuance of a contract entered into prior to the appointed day shall be liable to tax under the provisions of this Act.

(SGST Law)

160. Progressive or periodic supply of goods or services

Notwithstanding anything contained in section 12 and 13, no tax shall be payable on the supply of goods and/or services made on or after the appointed day if the consideration for the said supply has been received prior to the appointed day and the duty or tax payable thereon has already been paid under the earlier law.

(CGST Law)

Notwithstanding anything contained in section 12 and 13, no tax shall be payable on the supply of goods and/or services made on or after the appointed day if the consideration for the said supply has been received prior to the appointed day and the duty or tax payable thereon has already been paid under the earlier law.

(SGST Law)

161. Treatment of retention payments

Notwithstanding anything contained in section 12 and 13, no tax shall be payable on the supply of goods and/or services made before the appointed day where a part consideration for the said supply is received on or after the appointed day, but the full duty or tax payable on such supply has already been paid under the earlier law.

(CGST Law)

Notwithstanding anything contained in section 12 and 13, no tax shall be payable on the supply of goods and/or services made before the appointed day where a part consideration for the said supply is received on or after the appointed day, but the full duty or tax payable on such supply has already been paid under the earlier law.

(SGST Law)

162. Credit distribution of service tax by ISD (Input Service Distributor)

Notwithstanding anything to the contrary contained in this Act, the input tax credit on account of any services received prior to the appointed day by an Input Service Distributor shall be eligible for distribution as credit under this Act even if the invoice(s) relating to such services is received on or after the appointed day.

(CGST Law)

162A.Tax paid on goods lying with agents to be allowed as credit

Where any goods belonging to the principal are lying at the premises of the agent on the appointed day, the agent shall be entitled to take credit of the tax paid on such goods subject to fulfilment of the following conditions:

(i) the agent is a registered taxable person under this Act;

(ii) both the principal and the agent declare the details of stock of goods lying with such agent on the date immediately preceding the appointed dayin such form and manner and within such time as may be prescribed in this behalf;

(iii) the invoices for such goods had been issued not earlier than twelve months

immediately preceding the appointed day; and

(iv) the principal has either reversed or not availed of the input tax credit in respect of such goods.

(Only in SGST Law)

162B. Tax paid on capital goods lying with agents to be allowed as credit

Where any capital goods belonging to the principal are lying at the premises of the agent on the appointed day, the agent shall be entitled to take credit of the tax paid on such capital goods subject to fulfillment of the following conditions:

(i) the agent is a registered taxable person under this Act;

(ii) both the principal and the agent declare the details of the stock of capital goods lying with such agent on the date immediately preceding the appointed day in such form and manner and within such time as may be prescribed in this behalf;

(iii) the invoices for such capital goods had been issued not earlier than twelve months immediately preceding the appointed day; and

(iv) the principal has either not availed of the input tax credit in respect of such capital goods or, having availed of such credit, has reversed the said credit, to the extent availed of by him. **(Only in SGST Law)**

162C. Treatment of branch transfers

Notwithstanding anything to the contrary contained in this Act, any amount of input tax credit reversed prior to the appointed day shall not be admissible as credit of input tax under this Act.

(Only in SGST Law)

162D. Goods sent on approval basis returned on or after the appointed day

Where any goods sent on approval basis, not earlier than six months before the appointed day, are rejected or not approved by the buyer and returned to the seller on or after the appointed day, no tax shall be payable thereon if such goods are returned within six months from the appointed day:

Provided that the aforesaid period of six months may, on sufficient cause being shown, be extended by the competent authority for a further period not exceeding two months:

Provided further that the tax shall be payable by the person returning the goods if such goods are liable to tax under this Act, and are returned after a period of six months or the extended period, as the case may be, from the appointed day: Provided also that tax shall be payable by the person who has sent the goods on approval basis if such goods are liable to tax under this Act, and are not returned within a period of six months or the extended period , as the case may be, from the appointed day.

(SGST Law)

162 E. Deduction of tax source

Where a supplier has made any sale of goods in respect of which tax was required to be deducted at source under the earlier law and has also issued an invoice for the same before the appointed day, no deduction of tax at source under section 37 shall be made by the deductor under the said section where payment to the said supplier is made on or after the appointed day.

GST - Model Law 2016

Clause-wise Analysis

Finalized by:

Taxation Committee

The Institute of Cost Accountants of India

www.icmai.in

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
PART - I : PRELIMINARY						State of Jammu & Kashmir has not been excluded as regards the application of the tax regime that is applicable to the rest of India and therefore GST will be applicable in Jammu & Kashmir also.
2	**1**	"actionable claim" shall have the meaning assigned to it in section 3 of the Transfer of Property Act, 1882	As per section 3 of the Transfer of Property Act, 1882	Finance Act 1994 as amended	Sec 65B(1)	There is no change in the definition but actionable claim has been included in the definition of service and therefore supply of actionable claim will attract GST.
2	**2**	"address of delivery" means the address of the recipient of goods and/or services indicated on the tax invoice issued by a taxable person for delivery of such goods and/or services;	Section 2(2) amended and definition of "address of delivery" means the address of the recipient of goods and/or services indicated on the tax invoice issued by a taxable person for delivery of such goods and/or services; is included			New insertion mainly to determine taxable event of IGST / CGST in the case of Inter-State / Intra State delivery of the goods, when supplies are made on consignment basis other than job work. Now, address on record will be different and address of delivery may be different and taxable event of applicability of IGST / CGST will be based on address of delivery, where goods are delivered / delivery is terminated.
2	**3**	"address on record" means the address of the recipient as available in the records of the supplier	No Such Definition	-	-	
2	**4**	"adjudicating authority" means any authority competent to pass any order or decision under this Act, but does not include the Board, the First Appellate Authority and the Appellate Tribunal;	authority competent to pass any order or decision under this Act, but does not include the Board, the Commissioner (Appeals) and the Appellate Tribunal;	The Central Excise Act, 1944	Sec 2(a)	No Change
2	**5**	"agent" means a person who carries on the business of supply or receipt of goods and/or services on behalf of another, whether disclosed or not and includes a factor, broker, commission agent, arhatia, del credere agent, intermediary or an auctioneer or any other mercantile agent, by whatever name called, and whether of the same description as hereinbefore mentioned or not;				This definition has been newly inserted, since person who supply the goods and / or services on behalf of other registered taxable person, whether an agent or otherwise, irrespective of threshold limit needs to be obtained the registration and also discharge the liability as applicable. Now, C&F Agent can operate on their own registration number than that of opening the branches / depos and operate through C&F Agent.
2	**6**	"aggregate turnover" means the aggregate value of all taxable and non-taxable supplies, exempt supplies and exports of goods and/or services of a person having the same PAN, to be computed on all India basis and excludes taxes, if any, charged under the CGST Act, SGST Act and the IGST Act, as the case may be; Explanation.- Aggregate turnover does not include the value of supplies on which tax is levied on reverse charge basis and the value of inward supplies.				Aggregate Turnover defined on all India Level including all types of suplies (exemted/non-exmpted/export/service) for a person having the same PAN (PAN India basis). It is in the same line of the turnover which is considered for calculations under Rule 5 & 6 of existing Cenvat Credit Rules 2004. Therefore, almost number of assesses will be covered considering lower threshold limit and they have to be access different authorities (Central & State) .
2	**7**	agriculture means with all its grammatical variations and cognate expressions, includes floriculture, horticulture, sericulture, the raising of crops, grass or garden produce and also grazing, but does not include dairy farming, poultry farming, stock breeding, the mere cutting of wood or grass, gathering of fruit, raising of man-made forest or rearing of seedlings or plants; Explanation.– For the purpose of this clause, the expression 'forest' means the forest to which the Indian Forest Act, 1927 applies.	cultivation of plants and rearing of all life-forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products;	Finance Act 1994 as amended	Sec 65B(3)	No change. The supply of agriculture produce will be out of perview of GST Since the definition of Agriculture of produce has been removed, which was existence in finance act, there may be additional litigations.

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
2	8	agriculturist means a person who cultivates land personally, for the purpose of agriculture;	No Such Definition	-	-	
2	9	Appellate Tribunal means the National Goods and Services Tax Appellate Tribunal constituted under section 81	The Customs, Excise and Service Tax Appellate Tribunal constituted under section 129 of the Customs Act, 196	Finance Act 1994 as amended	Sec 65B(10)	CESTAT may be converted into National Goods & Service Tax Appellate Tribunal, where there will be two president members of, where one presidnet member from central (CGST / IGST) and another will be from State (SGST) and each state may have the Appellate Tribunal. It will also help to speed up of pending litigations.
2	10	appointed day means the date on which section 1 of this Act comes into effect;	No Such Definition	-	-	It is expected appointed day will be 1st April 2017
2	11	“appropriate Government” means the Central Government in case of the IGST and the CGST, and the State Government in case of the SGST;				Central Govt will be apprpriate Govt for CGST & IGST and respective State Govt will be appropriate Govt for SGST.
2	12	“assessment” means determination of tax liability under this Act and includes self-assessment, re-assessment, provisional assessment, summary assessment and best judgement assessment;	No Such Definition	-	-	Definition is self-explanatory
2	13	"associated enterprise" shall have the meaning assigned to it in section 92A of the Income Tax Act, 1961;	assigned to it in section 92A of the Income-tax Act, 1961;	Point of Taxation Rules	Rule 2(b) - Omitted	Supply to associate enterprise will be subject to valuation (existing custom valuation rules) since it is treated as supply to related parties
2	14	“audit” means detailed examination of records, returns and other documents maintained or furnished by the taxable person under this Act or rules made thereunder or under any other law for the time being in force to verify, inter alia, the correctness of turnover declared, taxes paid, refund claimed and input tax credit availed, and to assess his compliance with the provisions of this Act or rules made thereunder;				Definition is self-explanatory
2	15	“authorized bank” shall mean a bank or a branch of a bank authorised by the Government to collect the tax or any other amount payable to the appropriate government under this Act;“authorized bank” shall mean a bank or a branch of a bank authorised by the Government to collect the tax or any other amount payable to the appropriate government under this Act;				New insertion
2	16	Board means the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963	the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1 963 (54 of 1963);	Finance Act 1994 as amended	Sec 65B(16)	Board has been defined as CBEC which will deal with law pertaining to CGST / IGST

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
2	17	(17) "business" includes – (a) any trade, commerce, manufacture, profession, vocation or any other similar activity, whether or not it is for a pecuniary benefit; (b) any transaction in connection with or incidental or ancillary to (a) above; (c) any transaction in the nature of (a) above, whether or not there is volume, frequency, continuity or regularity of such transaction; (d) supply or acquisition of goods including capital assets and services in connection with commencement or closure of business; (e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members, as the case may be; (f) admission, for a consideration, of persons to any premises; and (g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;	No Such Definition	-	-	• While the definition of 'business' does not exist in the present Excise / Service tax Law, the same has been defined under the CST Act / State VAT legislations. • The Model law appears to have borrowed the term from the latter. This definition assumes significance as the proposed levy is qua activities undertaken in the course or furtherance of business. • Profession and vocation has also now been included within the definition of business.
2	18	"business vertical" shall have the meaning assigned to a 'business segment' in Accounting Standard 17 issued by the Institute of Chartered Accountants of India;				It is the option of the assessee whether to take separate registration business vertical wise or not and hence business vertical has been defined. • The AS-17 prescribes principles for segmental reporting in the financial information for different types of products and services that an enterprise produces. The said AS defined 'business segment' to mean a distinguishable component of an enterprise that is engaged in providing an individual product or service or a group of related products or services and that is subject to risks and returns that are different from those of other business segments. The said AS further provides factors that should be considered in determining whether products or services are related. • This definition is relevant since there may be separate registrations for different business verticals. • This definition is also relevant in respect of input service distribution. However AS-17 is going to be replaced, for which effective date has not ben notified , however Accounting Standard is going to be replaced with IND-AS.
2	19	"capital assets' shall have the meaning as assigned to it in the Income Tax Act, 1961 (43 of 1961) but the said expression shall not include jewellery held for personal use or property not connected with the business	No Such Definition	-	-	Capital Asset has been defined so as to include in the definition of the business as well as applicability of GST in case of take over or use for personal use.

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
2	20	"capital goods" means: - (A) the following goods, namely:- (i) all goods falling within Chapter 82, Chapter 84, Chapter 85, Chapter 90, heading 6805, grinding wheels and the like, and parts thereof falling under heading 6804 of the Schedule to this Act; (ii) pollution control equipment; (iii) components, spares and accessories of the goods specified at (i) and (ii); (iv) moulds and dies, jigs and fixtures; (v) refractories and refractory materials; (vi) tubes and pipes and fittings thereof; (vii) storage tank; and (viii) motor vehicles other than those falling under tariff headings 8702, 8703, 8704, 8711 and their chassis but including dumpers and tippers used- (1) at the place of business for supply of goods; or (2) outside the place of business for generation of electricity for captive use at theplace of business; or (3) for supply of services, (B) motor vehicle designed for transportation of goods including their chassis registered in the name of the supplier of service, when used for (i) supplying the service of renting of such motor vehicle;	(a) "capital goods" means:- (A) the following goods, namely:- (i) all goods falling under Chapter 82, Chapter 84, Chapter 85, Chapter 90, heading 6805, grinding wheels and the like, and parts thereof falling under heading 6804 and wagons of sub-heading 860692 of the First Schedule to the Excise Tariff Act; (ii) pollution control equipment; (iii) components, spares and accessories of the goods specified at (i) and (ii); (iv) moulds and dies, jigs and fixtures; (v) refractories and refractory materials; (vi) tubes and pipes and fittings thereof; (vii) storage tank; and (viii) motor vehicles other than those falling under tariff headings 8702, 8703, 8704, 8711 and their chassis but including dumpers and tippers used- (1) in the factory of the manufacturer of the final products, or (1A) outside the factory of the manufacturer of the final products for generation of electricity or for pumping of water for captive use within the factory;	Cenvat Credit Rules 2004	2(a)	In line with definition under Cenvat Credit Rules,2004
2	21	"casual taxable person" means a person who occasionally undertakes transactions involving supply of goods and/or services in the course or furtherance of business whether as principal, agent or in any other capacity, in a taxable territory where he has no fixed place of business;	No Such Definition	-	-	Casual Taxable person has been defined mainly to obtain registration for undertaking business for short period / temporary basis in different states than that of fixed place of the business
2	22	"CGST" means the tax levied under the Central Goods and Services Tax Act,2016				CSGT will be replaced with following taxes (a) Excise Duty (other than Petroleum products) (b) Duty of Excise on Medicinal and Toilet Preparation Act, (c) Chapter V of the Finance Act, 1994.
2	23	Chartered Accountant means a chartered accountant within the meaning of the Chartered Accountants Act, 1949 (38 of 1949);		Finance Act 1994 as amended	Sec 72(4)explanation	No change
2	24	"Commissioner" means the Commissioner of Central Goods and Services Tax /Commissioner of State Goods and Services Tax appointed under section 4 of the Central/State Goods and Services Tax Act, 2016	No Such Definition	-	-	No change
2	25	"common portal" means the common GST electronic portal approved by the Central Government and State Governments, on the recommendation of the Council, for the specified purposes, as may be notified under this Act;				Common portal has been defined mainly to maintain electronic register and cash register
2	26	"company secretary" means a company secretary within the meaning of the Company Secretaries Act, 1980 (56 of 1980);				New Insertion, since they are included as authorized represenntative for appearing before adjudicating authority and appeallate authority

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
2	27	Composite Supply means a supply consisting of - (a) two or more goods; (b) two or more services; or (c) a combination of goods and services provided in the course or furtherance of business, whether or not the same can be segregated;	No Such Definition	-	-	• This is a new concept that has been introduced, which inter alia includes any combination of supplies of two or more goods and / or services. • Relevance: Goods or services combined but bearing differential rates • This provision is silent in respect of transactions which include immovable property. Though definition has been inserted this has not been used in teh present law anywhere. However, it is mainly to cover existing entry in article 269A of Constitutions of the India which will be deleted after constitutional amendments approved by Lok Sabha and to be approved in monsoon session by Rajyasabha
2	28	"consideration" in relation to the supply of goods and/or services to any person, includes (a) any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods and/or services, whether by the said person or by any other person; (b) the monetary value of any act or forbearance, whether or not voluntary, in respect of, in response to, or for the inducement of, the supply of goods and/or services, whether by the said person or by any other person: Provided that a deposit, whether refundable or not, given in respect of the supply of goods and/or services shall not be considered as payment made	includes any amount that is payable for the taxable services provided or to be provided	Finance Act 1994 as amended	67(4)(a)	Consideration includes advance received even for supply of goods and taxable event, even supply of goods will be on advance payment received, which is in line with existing Finance Act 1944. Further, definition has been enhanced so as to include payment made or to be made directly or indirectly in money or kinds.
2	29	“continuous journey” means a journey for which a single or more than one ticket or invoice is issued at the same time, either by a single supplier of service or through an agent acting on behalf of more than one supplier of service, and which involves no stop over between any of the legs of the journey for which one or more separate tickets or invoices are issued; Explanation.- For the purposes of this clause, ‘stopover’ means a place where a passenger can disembark either to transfer to another conveyance or break his journey for a certain period in order to resume it at a later point of time.				No change in the definition which was defined in the Place of Provision of Supply of Service Rules 2012 as amended
2	30	“continuous supply of goods” means a supply of goods which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, whether or not by means of a wire, cable, pipeline or other conduit, and for which the supplier invoices the recipient on a regular or periodic basis	No Such Definition	-	-	The phrase has been defined so as to cover supplies in case of continuous supply of goods, where successive statements of accounts or successive payments are involved, the time of supply shall be the date of expiry of the period to which such successive statements of accounts or successive payments relate. If there are no successive statements of account, the date of issue of the invoice (or any other document) or the date of receipt of payment, whichever is earlier, shall be the time of supply.

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
2	31	“continuous supply of services” means a supply of services which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, for a period exceeding three months with periodic payment obligations and includes supply of such service as the Central or a State Government may, whether or not subject to any condition, by notification, specify	(c) “continuous supply of service” means any service which is provided, or to be provided continuously or on recurrent basis, under a contract, for a period exceeding three months with the obligation for payment periodically or from time to time, or where the Central Government, by a notification in the Official Gazette, prescribes provision of a particular service to be a continuous supply of service, whether or not subject to any condition;	Point of Taxation Rules, 2011	Rule 2(c)	No change in the definition which was already prevailing in Point of Taxtaion Rules 2011 as amended.
2	32	“conveyance” includes a vessel, aircraft and a vehicle				“conveyance” has been defined to attract the provision of confiscation when goods has been carried without payment of GST and conveyance also wil be the factor to decide place of provision of supply of goods where goods are taken on Board for deciding place of supply and termination of delivery for deciding destination based consumption tax for applicability of CGST / IGST, as the case may be.
2	33	"Cost Accountant" means a cost accountant within the meaning of the Cost and Works Accountants Act, 1959 (23 of 1959);		Finance Act 1994 as amended	Sec 72(4) Explanation	No change
2	34	Council means the Goods and Services Tax Council established under Article 279A of the Constitution;	No Such Definition	-	-	Newly defined so as to constitute GST Council under article 279 A for recommendation of applicability, exemption, rate of tax etc. to the parliament
2	35	“credit note” means a document issued by a taxable person as referred to in sub-section (1) of section 24;				Newly inserted, so as to cover documents to be raised for adjustment or levy or tax and matching of the transcations of supplier & recipient. Such debit notes and credit notes to be raised on or before 30th Sept of subsequent financial year, so as to match returns with audited financial accounts. However no such credit notes to be issued in case address on record and address on delivery is different.
2	36	“debit note” means a document issued by a taxable person as referred to in sub-section (2) of section 24				Newly inserted, so as to cover documents to be raised for adjustment or levy or tax and matching of the transcations of supplier & recipient. Such debit notes and credit notes to be raised on or before 30th Sept of subsequent financial year, so as to match returns with audited financial accounts
2	37	“deemed exports”, as notified by the Central Government/State Government on the recommendation of the Council, refer to those transactions in which the goods supplied do not leave India, and payment for such supplies is received either in Indian Rupees or in convertible foreign exchange;				New Insertion in Line with FTP, however, all the categories made in the FTP are not covered in the ambit of deemed exports
2	38	"document" includes written or printed record of any sort and electronic record as defined in the Information Technology Act, 2000 [21 of 2000];	No Such Definition	-	-	Newly inserted so as to cover all documents in electronic form.

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2	39	"earlier law " means any of the following laws, that is to say, (a) . . . (b) . . . (c) . . . as amended from time to time and includes enactments which have validated anything done or omitted to be done under any of the above mentioned laws and also any law repealed by the earlier laws but continued in force under any provisions of the above enumerated laws;	No Such Definition	-	-	Newly inserted so as to repeal old laws which will be subsumed in CGST
2	40	“electronic cash ledger” means the cash ledger in electronic form maintained at the common portal for each registered taxable person in the manner as may be prescribed in this behalf				New Insertion in line with Business Process Reports. Electronic cash ledger will be maintained at Common Portal and not by **Assessee**
2	41	“electronic credit ledger” means the input tax credit ledger in electronic form maintained at the common portal for each registered taxable person in the manner as may be prescribed in this behalf;				New Insertion in line with Business Process Reports. Electronic cash ledger will be maintained at Common Portal and not by **Assessee**
2	42	"Exempt Supply" means supply of any goods and/or services which are not taxable under this Act and includes such supply of goods and/or services which are specified in Schedule . . . of the Act or which may be exempt from tax under section 10;	No such definition but there was a definition for exempted service	-	-	Self-explanatory
2	43	“export of goods” with its grammatical variations and cognate expressions, means taking out of India to a place outside India				Definition replced with the definition. Export of goods and export of services seperately defined. (43) “export of goods” with its grammatical variations and cognate expressions, means taking out of India to a place. In other words, supply to SEZ will not be considered as exports, since it is outside the purview of definition. It is covered under deemed exports

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
2	44	"Export of Service" : the supply of any service shall be treated as "export of service" when (a) the supplier of service is located in India, (b) the recipient of service is located outside India, (c) the place of supply of service is outside India, (d) the payment for such service has been received by the supplier of service in convertible foreign exchange, and (e) the supplier of service and recipient of service are not merely establishments of a distinct person; Explanation.- For the purposes of clause (e), an establishment of a person in India and any of his other establishment outside India shall be treated as establishments of distinct persons.	(1) The provision of any service provided or agreed to be provided shall be treated as export of service when,- (a) the provider of service is located in the taxable territory , (b) the recipient of service is located outside India, (c) the service is not a service specified in the section 66D of the Act, (d) the place of provision of the service is outside India, (e) the payment for such service has been received by the provider of service in convertible foreign exchange, and (f) the provider of service and recipient of service are not merely establishments of a distinct person in accordance with item (b) of Explanation 3 of clause (44) of section 65B of the Act (2) Where any service is exported, the Central Government may, by notification, grant rebate of service tax or duty paid on input services or inputs, as the case may be, used in providing such service and the rebate shall be allowed subject to such safeguards, conditions and limitations, as may be specified, by the Central	Service tax Rules, 1994	Rule 6A	No Change. Simillar definition as per rule 6A of service Tax Rules, 1994
2	45	"First Appellate Authority" means an authority referred to in section 79;				New definition (34A) "First Appellate Authority" means an authority referred to in section 79 of this Act;
2	46	"fixed establishment" means a place (other than the place of business) which is characterised by a sufficient degree of permanence and suitable structure in terms of human and technical resources to supply services, or to receive and use services for its own needs;				Newly inserted definition which is Self-explanatory, so as to include location of place of receipient & supply of services for determination of Point of Taxtaion & Place of Provision of Service for applicability of CGST / IGST and for determining destination based consumption tax and also for obtaining the registration as regular tax payer or casual tax payer.
2	47	"fund" means the Consumer Welfare Fund established under section 40;		Central Excise Act 1944	2(ee)	No change
2	48	"goods'' means every kind of movable property other than actionable claim and money but includes securities, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under the contract of supply; Explanation.– For the purpose of this clause, the term 'moveable property' shall not include any intangible property.	"Goods" means every kind of movable property other than actionable claims and money; and includes stock and shares, growing crops, grass, and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale. [section 2(7)].	Finance Act 1994 as amended	Sec 65(50)	This definition is identical to the definition of 'goods' contained in Section 2(7) of the Sales of Goods Act, 1930. Also by way of explanation, it has been clarified that intangible properties will not fall under the category of goods.
2	49	Government means Central Government and its departments, a State Government and its departments and a Union territory and its departments, but shall not include any entity, whether created by a statute or otherwise, the accounts of which are not required to be kept in accordance with Article 150 of the Constitution or the rules made thereunder;	No Such Definition	-	-	Government has been defined since it has been included in number of provisions in the GST Act including that of levy, exemption, reverse charge, negative list etc. etc.

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
2	**50**	"IGST" means the tax levied under the Integrated Goods and Services Tax Act, 2016;	No Such Definition	-	-	
2	**51**	"import of goods" with its grammatical variations and cognate expressions, means bringing into India from a place outside India;				New Insertion, so as to levy IGST
2	**52**	"import of service" the supply of any service shall be treated as an "import of service" if, (a) the supplier of service is located outside India, (b) the recipient of service is located in India, (c) the place of supply of service is in India, and (d) the supplier of service and the recipient of service are not merely establishments of a distinct person; Explanation 1.- An establishment of a person in India and any of his other establishment outside India shall be treated as establishments of distinct persons. Explanation 2.- A person carrying on a business through a branch or agency or representational office in any territory shall be treated as having an establishment in that territory.				New Insertion, so as to levy IGST
2	**53**	"India" means,- (a) the territory of the Union as referred to in clauses (2) and (3) of Article 1 of the Constitution; (b) its territorial waters, continental shelf, exclusive economic zone or any other maritime zone as defined in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 (80 of 1976); (c) the seabed and the subsoil underlying the territorial waters; (d) the air space above its territory and territorial waters; and (e) the installations, structures and vessels located in the continental shelf of India and the exclusive economic zone of India, for the purposes of prospecting or extraction or production of mineral oil and natural gas and supply thereof;	"India" means,— (a) the territory of the Union as referred to in clauses (2) and (3) of article 1 of the Constitution; (b) its territorial waters, continental shelf, exclusive economic zone or any other maritime zone as defined in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976; (c) the seabed and the subsoil underlying the territorial waters; (d) the air space above its territory and territorial waters; and (e) the installations, structures and vessels located in the continental shelf of India and the exclusive economic zone of India, for the purposes of prospecting or extraction or production of mineral oil and natural gas and supply thereof;	Finance Act 1994 as amended	Sec 65B(27)	No Change. In line Finance Act 1944

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
2	54	“input” means any goods other than capital goods, subject to exceptions as may be provided under this Act or the rules made thereunder, used or intended to be used by a supplier for making an outward supply in the course or furtherance of business;	(k) "input" means- (i) all goods used in the factory by the manufacturer of the final product; or (ii) any goods including accessories, cleared along with the final product, the value of which is included in the value of the final product and goods used for providing free warranty for final products; or (iii) all goods used for generation of electricity or steam or pumping of water for captive use; or (iv) all goods used for providing any output service; or [OLD- output service]; (v) all capital goods which have a value upto ten thousand rupees per piece . but excludes- (A) light diesel oil, high speed diesel oil or motor spirit, commonly known as petrol; (B) any goods used for - (a) construction or execution of works contract of a building or a civil structure or a part thereof; or (b) laying of foundation or making of structures for support of capital goods, except for the provision of service portion in the execution of a works contract or	CENVAT CREDIT Rules, 2004	Rule 2 (k)	Definition is much wider but restricted to recipts of supplies only for furtherance of business for making outward supply and also restricted to the extent of specified in Input Tax Credit
2	55	“input service” means any service, subject to exceptions as may be provided under this Act or the rules made thereunder, used or intended to be used by a supplier for making an outward supply in the course or furtherance of business	(l) "input service" means any service, - (i) used by a provider of output service for providing an output service; or (ii) used by a manufacturer, whether directly or indirectly, in or in relation to the manufacture of final products and clearance of final products upto the place of removal, and includes services used in relation to modernisation, renovation or repairs of a factory, premises of provider of output service or an office relating to such factory or premises, advertisement or sales promotion, market research, storage upto the place of removal, procurement of inputs, accounting, auditing, financing, recruitment and quality control, coaching and training, computer networking, credit rating, share registry, security, business exhibition, legal services, inward transportation of inputs or capital goods and outward transportation upto the place of removal; but excludes ,- (A) service portion in the execution of a works contract and construction services including service listed under clause (b) of section 66E of the Finance Act	CENVAT CREDIT Rules, 2004	Rule 2 (l)	Definition is much wider but restricted to recipts of supplies only for furtherance of business for making outward supply and also restricted to the extent of specified in Input Tax Credit

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
2	56	"Input Service Distributor" means an office of the supplier of goods and / or services which receives tax invoices issued under section 23 towards receipt of input services and issues tax invoice or such other document as prescribed for the purposes of distributing the credit of CGST (SGST in State Acts) and / or IGST paid on the said services to a supplier of taxable goods and / or services having same PAN as that of the office referred to above; Explanation.- For the purposes of distributing the credit of CGST (SGST in State Acts) and / or IGST, Input Service Distributor shall be deemed to be a supplier of services.	"input service distributor" means an office of the manufacturer or producer of final products or provider of output service, which receives invoices issued under rule 4A of the Service Tax Rules, 1994 towards purchases of input services and issues invoice, bill or, as the case may be, challan for the purposes of distributing the credit of service tax paid on the said services to such manufacturer or producer or provider or an outsourced manufacturing unit, as the case may be;	CENVAT CREDIT Rules, 2004	Rule 2 (m)	Newly Insertion which covers availment of input tax credit of services at the offices of recipient of supply of goods & services in the same line with existing cenvat credit rules 2004.
2	57	"input tax" in relation to a taxable person, means the {IGST and CGST}/{IGST and SGST} charged on any supply of goods and/or services to him which are used, or are intended to be used, in the course or furtherance of his business and includes the tax payable under sub-section (3) of section 7;	No Such Definition	-	-	Definition is much wider but restricted to recipts of supplies only for furtherance of business for making outward supply and also restricted to the extent of specified in Input Tax Credit
2	58	"Input Tax Credit" means credit of 'input tax' as defined in section 2(56);	No Such Definition	-	-	Drafting error input tax defined in 2(57) and not in 2(56)
2	59	"intangible property" means any property other than tangible property;	No Such Definition	-	-	Definition ammended
2	60	"invoice" shall have the meaning as assigned to it under section 23	No Such Definition	-	-	Definition ammended
2	61	"inward supply" in relation to a person, shall mean receipt of goods and/or services whether by purchase, acquisition or any other means and whether or not for any consideration;				Definitin is much wider, so as to cover FOC supply also included in the definition of inward supply and such supplies also will be eligible for Input Tax Credit
2	62	"job work" means undertaking any treatment or process by a person on goods belonging to another registered taxable person and the expression "job worker" shall be construed accordingly;	"job work" means processing or working upon of raw material or semi-finished goods supplied to the job worker, so as to complete a part or whole of the process resulting in the manufacture or finishing of an article or any operation which is essential for aforesaid process and the _expression "job worker" shall be construed accordingly;	CENVAT CREDIT Rules, 2004	Rule 2 (n)	Definition has been enhanced which includes any treatement or process which will also cover repairs, caliberation, testing etc. etc.

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
2	63	"local authority" means (a) a "Panchayat" as defined in clause (d) of Article 243 of the Constitution; (b) a "Municipality" as defined in clause (e) of Article 243P of the Constitution; (c) a Municipal Committee, a Zilla Parishad, a District Board, and any other authority legally entitled to, or entrusted by the Central or any State Government with the control or management of a municipal or local fund; (d) a Cantonment Board as defined in section 3 of the Cantonments Act, 2006; (e) a Regional Council or a District Council constituted under the Sixth Schedule to the Constitution; (f) a Development Board constituted under Article 371 of the Constitution; or (g) a Regional Council constituted under Article 371A of the Constitution;	"local authority" means- (a) a Panchayat as referred to in clause (d) of article 243 of the Constitution; (b) a Municipality as referred to in clause (e) of article 243P of the Constitution; (c) a Municipal Committee and a District Board, legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund; (d) a Cantonment Board as defined in section 3 of the Cantonments Act, 2006; (e) a regional council or a district council constituted under the Sixth Schedule to the Constitution; (f) a development board constituted under article 371 of the Constitution; or (g) a regional council constituted under article 371A of the Constitution;	Finance Act 1994 as amended	Sec 65B(31)	No change in the definition. In line with definition in Finance Act 1944
2	64	(64) "location of recipient of service" means: (i) where a supply is received at a place of business for which registration has been obtained, the location of such place of business; (ii) where a supply is received at a place other than the place of business for which registration has been obtained, that is to say, a fixed establishment elsewhere, the location of such fixed establishment; (iii) where a supply is received at more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the receipt of the supply; and (iv) in absence of such places, the location of the usual place of residence of the recipient;	(i) "location of the service receiver" means:- (a). where the recipient of service has obtained a single registration, whether centralized or otherwise, the premises for which such registration has been obtained; (b). where the recipient of service is not covered under sub-clause (a): (i) the location of his business establishment; or (ii) where services are used at a place other than the business establishment, that is to say, a fixed establishment elsewhere, the location of such establishment; or (iii) where services are used at more than one establishment, whether business or fixed, the establishment most directly concerned with the use of the service; and (iv) in the absence of such places, the usual place of residence of the recipient of service. Explanation:-. For the purposes of clauses (h) and (i), "usual place of residence" in case of a body corporate means the place where it is incorporated or otherwise	Place of Provision of Services Rules, 2012	2(i)	No Change in the definition in line with Place of Provision of services 2012

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
2	65	"location of supplier of service" means: (i) where a supply is made from a place of business for which registration has been obtained, the location of such place of business ; (ii) where a supply is made from a place other than the place of business for which registration has been obtained, that is to say, a fixed establishment elsewhere, the location of such fixed establishment; (iii) where a supply is made from more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the provision of the supply; and (iv) in absence of such places, the location of the usual place of residence of the supplier;	(h) "location of the service provider" means- (a). where the service provider has obtained a single registration, whether centralized or otherwise, the premises for which such registration has been obtained; (b). where the service provider is not covered under sub-clause (a): (i) the location of his business establishment; or (ii) where the services are provided from a place other than the business establishment, that is to say, a fixed establishment elsewhere, the location of such establishment; or (iii) where services are provided from more than one establishment, whether business or fixed, the establishment most directly concerned with the provision of the service; and (iv) in the absence of such places, the usual place of residence of the service provider.	Place of Provision of Services Rules, 2012	2(h)	No Change in the definition in line with Place of Provision of services 2012
2	66	"manufacturer" shall have the meaning assigned to it by the Central Excise Act, 1944 (1 of 1944);	manufacture includes any process, - (i) incidental or ancillary to the completion of a manufactured product; (ii) which is specified in relation to any goods in the Section or Chapter notes of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986) as amounting to "manufacture; or (iii) which, in relation to the goods specified in Third Schedule involves packing or re-packing of such goods in a unit container or labeling or re-labeling of containers including the declaration or alteration of retail sale price on it or adoption of any other treatment on the goods to render the product marketable to the consumer,and the word "manufacturer" shall be construed accordingly and shall include not only a person who employs hired labour in the production or manufacture of excisable goods, but also any person who engages in their production or manufacture on his own account;			No Change in line with the definition of Section 2 (f) of Central Excise Act 1944

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
2	67	(67) “market value” shall mean the full amount which a recipient of a supply is required to pay in order to obtain the goods and/or services of like kind and quality at or about the same time and at the same commercial level where the recipient and the supplier are not related	in relation to any goods, means the wholesale price of the goods in the ordinary course of trade in India;	The Customs Act 1962	2(30)	No Change in line with the definition in certain State VAT legislations e.g. Delhi VAT
2	68	“money” means Indian legal tender or any foreign currency, cheque, promissory note, bill of exchange, letter of credit, draft, pay order, traveller cheque, money order, postal or electronic remittance or any such similar instrument when used as consideration to settle an obligation or exchange with Indian legal tender of another denomination but shall not include any currency that is held for its numismatic value;	"money" means Indian legal tender, cheque, promissory note, bill of exchange, letter of credit, draft, pay order, traveller cheque, money order, postal or electronic remittance or any such similar instrument when used as consideration to settle an obligation or exchange with Indian legal tender of another denomination but shall not include any currency that is held for its numismatic value;	Finance Act 1994 as amended	Sec 65B(33)	No change in line with Finance Act 1944
2	69	“non-resident taxable person” means a taxable person who occasionally undertakes transactions involving supply of goods and/or services whether as principal or agent or in any other capacity but who has no fixed place of business in India;	No Such Definition	-	-	No change in accordance with Business Process Reports for registration. Non-resident taxable person also has to take registration with specific category when they do the business in India
2	70	“non-taxable territory” means the territory which is outside the taxable territory;		Finance Act 1994 as amended	Sec 65B(35)	No change in line with Finance Act 1944
2	71	“notification” means notification published in the Official Gazette and the expressions ‘notify’ and ‘notified’ shall be construed accordingly;		Finance Act 1994 as amended	Sec 65B(36)	No change in line with Finance Act 1944
2	72	”output tax” in relation to a taxable person, means the CGST/SGST chargeable under this Act on taxable supply of goods and/or services made by him or by his agent and excludes tax payable by him on reverse charge basis;	No Such Definition	-	-	Newly inserted and out put tax is payable by supplier of goods / services except made applicable to receipient on reverse charge basis.
2	73	“outward supply” in relation to a person, shall mean supply of goods and/or services, whether by sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made by such person in the course or furtherance of business except in case of such supplies where the tax is payable on reverse charge basis;				Newly insertion so as to obtain registration and levy and collection of tax

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
2	74	"person" includes— (a) an individual; (b) a Hindu undivided family; (c) a company; (d) a firm; (e) a Limited Liability Partnership; (f) an association of persons or a body of individuals, whether incorporated or not, in India or outside India; (g) any corporation established by or under any Central, State or Provincial Act or a Government company as defined in section 2(45) of the Companies Act, 2013 (18 of 2013); (h) any body corporate incorporated by or under the laws of a country outside India; (i) a co-operative society registered under any law relating to cooperative societies; (j) a local authority; (k) government; (l) society as defined under the Societies Registration Act, 1860 (21 of 1860); (m) trust; and (n) every artificial juridical person, not falling within any of the preceding sub-clauses;	"person" includes,— (i) an individual, (ii) a Hindu undivided family, (iii) a company, (iv) a society, (v) a limited liability partnership, (vi) a firm, (vii) an association of persons or body of individuals, whether incorporated or not, (viii) Government, (ix) a local authority, or (x) every artificial juridical person, not falling within any of the preceding sub-clauses;	Finance Act 1994 as amended	Sec 65B(37)	No change in line with Finance Act 1944 but also includes LLP being incorporated under the law recently.
2	75	"place of business" includes (a) a place from where the business is ordinarily carried on, and includes a warehouse, a godown or any other place where a taxable person stores his goods, provides or receives goods and/or services; or (b) a place where a taxable person maintains his books of account; or (c) a place where a taxable person is engaged in business through an agent, by whatever name called;	No Such Definition	-	-	Newly inserted. The definition broadly borrows from the definition of 'place of removal' under the CE Act, while expanding the same to include a place where a person maintains his books of account.
2	76	"prescribed'' means prescribed by the rules, regulations or by any notification issued under this Act;	No Such Definition	-	-	
2	77	"principal" means a person on whose behalf an agent carries on the business of supply or receipt of goods and/or services				Newly Insertion so as to exclude the supplies made by agent on behalf of principal. Now agent will be responsible to obtain the registration
2	78	"principal place of business" means the place of business specified as the principal place of business in the certificate of registration where the taxable person keeps and maintains the accounts and records as specified under section 42 ;				principal place of business has been defined so as to determine place of books of account and also to determine the place of supply of the goods in case of delivery of supply of goods to other than third person then principal plac eof business will be the place of third person, where books of accounts are kept.
2	79	"proper officer" in relation to any function to be performed under this Act, means the officer of goods and services tax who is assigned that function by the Board/Commissioner of SGST;	No Such Definition	-	-	No change in line with Cenral Excise Act, Finance Act and respective State VAT Act

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
2	80	"recipient" of supply of goods and/or services means- (a) where a consideration is payable for the supply of goods and/or services, the person who is liable to pay that consideration, (b) where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available, and (c) where no consideration is payable for the supply of a service, the person to whom the service is rendered, and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply; Explanation.- The expression "recipient" shall also include an agent acting as such on behalf of the recipient in relation to the goods and/or services supplied.				The term recipient has been defined for the first time. In the past there have been issues as regards who would be considered to be the service recipient where the beneficiary of services differs from the person making payment for such services. This definition puts to rest these issues, and is in line with settled judgements of the CESTAT.
2	81	regulations" means the regulations made by the Board/Commissioner under any provision of the Act on the recommendation of the Council;				New Insertion
2	82	"related persons" persons shall be deemed to be "related persons'' if only - (a) they are officers or directors of one another's businesses; (b) they are legally recognized partners in business; (c) they are employer and employee; (d) any person directly or indirectly owns, controls or holds five per cent or more of the outstanding voting stock or shares of both of them; (e) one of them directly or indirectly controls the other; (f) both of them are directly or indirectly controlled by a third person; (g) together they directly or indirectly control a third person; or (h) they are members of the same family; Explanation I. - The term "person" also includes legal persons. Explanation II. - Persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire, howsoever described, of the other, shall be deemed to be related.	(i) they are officers or directors of one another"s businesses; (ii) they are legally recognised partners in business; (iii) they are employer and employee; (iv) any person directly or indirectly owns, controls or holds five per cent or more of the outstanding voting stock or shares of both of them; (v) one of them directly or indirectly controls the other; (vi) both of them are directly or indirectly controlled by a third person; (vii) together they directly or indirectly control a third person; or (viii) they are members of the same family. Explanation I. - The term "person" also includes legal persons. Explanation II. - Persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire, howsoever described, of the other shall be deemed to be related for the purpose of these rules, if they fall within the criteria of this sub-rule.	Customs Valuation (Determination of Value of Imported Goods) Rules, 2007	2(2)	This definition has been adopted from the Customs Valuation Rules. The only modification appears to be that under the Customs Valuation Rules persons who are associated in the business of one another where one is the sole agent or sole distributor or sole concessionaire, have to meet one of the eight specified criteria to qualify as being 'related'; however, under the Model law persons associated in the business of one another shall qualify as 'related persons' merely by virtue of being the sole agent or sole distributor or sole concessionaire.

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
2	83	"removal'', in relation to goods, means - (a) dispatch of the goods for delivery by the supplier thereof or by any other person acting on behalf of such supplier, or (b) collection of the goods by the recipient thereof or by any other person acting on behalf of such recipient;	No Such Definition	-	-	Newly inserted so as to include collection of goods by recipient thereof or any other persons acting on behalf of such recipient.
2	84	"return" means any return prescribed or otherwise required to be furnished by or under this Act or rules made thereunder				New Insertion
2	85	"reverse charge'', means the liability to pay tax by the person receiving goods and / or services instead of the person supplying the goods and / or services in respect of such categories of supplies as the Central or a State Government may, on the recommendation of the Council, by notification, specify;	No Such Definition	-	-	This term has been defined for the first time. Reverse Charge also made applicable on supply of goods
2	86	"rules" means the rules made by the Central/State Government under any provision of the Act on the recommendation of the Council;				New Insertion
2	87	"schedule" means a schedule appended to this Act;	No Such Definition	-	-	No change
2	88	"services'' means anything other than goods; Explanation: Services include intangible property and actionable claim but does not include money.	means any activity carried out by a person for another for consideration, and includes a declared service, but shall not include— (a) an activity which constitutes merely,— (i) a transfer of title in goods or immovable property, by way of sale, gift or in any other manner; or (ii) a transaction in money or actionable claim; (b) a provision of service by an employee to the employer in the course of or in relation to his employment; (c) fees taken in any Court or tribunal established under any law for the time being in force. Explanation 1. — For the removal of doubts, it is hereby declared that nothing contained in this clause shall apply to,— (A) the functions performed by the Members of Parliament, Members of State Legislative, Members of Panchayats, Members of Municipalities and Members of other local authorities who receive any consideration in performing the functions of that office as such member; or	-	-	Whether a transaction in intangible property constitutes goods or services has been a recurring issue under the present indirect tax law. The Model law leaves no scope for such disputes, since the definition of 'goods' expressly excludes, and the definition of 'service's expressly includes, 'intangible property'. 'Intangible property' is defined to mean any property other than tangible property, and 'tangible property' has been defined to mean any property that can be touched or felt.
2	89	"SGST" means the tax levied under the State Goods and Services Tax Act;	No Such Definition	-	-	
2	90	"Special Economic Zone'' shall have the meaning assigned to it in clause (za) of section 2 of the Special Economic Zones Act, 2005 [28 of 2005];				No change

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
2	91	"supplier" in relation to any goods and/or services shall mean the person supplying the said goods and/or services and shall include an agent acting as such on behalf of such supplier in relation to the goods and/or services supplied;				New Insertion
2	92	"supply'' shall have the meaning as assigned to it in section 3;	No Such Definition	-	-	No change
2	93	"tangible property" means any property that can be touched or felt;	No Such Definition	-	-	Vide definition
2	94	"tax" means goods and services tax levied on the supply of goods and/or services under this Act and includes any amount payable under section 8;	No Such Definition	-	-	The words "except on the supply of alcoholic liquor for human consumption" has been deleted
2	95	"tax period'' means the period for which the tax return is required to be filed;				No change
2	96	"taxable person'' shall have the meaning as assigned to it in section 9 of this Act;	No Such Definition	-	-	No change
2	97	"taxable supply'' means a supply of goods and/or services which is chargeable to tax under this Act;	No Such Definition	-	-	No change
2	98	"taxable territory'' means the territory to which the provisions of this Act apply	"taxable territory" means the territory to which the provisions of this Chapter apply;	Finance Act 1994 as amended	Sec 65B(52)	No change
2	99	"Tax Return Preparer" means any person who has been approved to act as a Tax Return Preparer under the scheme framed under section 34	"Service Tax Return Preparer" means any individual, who has been authorised to act as a Service Tax Return Preparer under the Scheme framed under this section;	Finance Act 1994 as amended	Sec 71(3(a)	No change in line with Finance Act 1944
2	100	"telecommunication service" means service of any description (including electronic mail, voice mail, data services, audio text services, video text services, radio paging and cellular mobile telephone services) which is made available to users by means of any transmission or reception of signs, signals, writing, images and sounds or intelligence of any nature, by wire, radio, visual or other electro-magnetic means	"internet telecommunication service" includes,— (i)internet backbone services, including carrier services of internet traffic by one Internet Service Provider to another Internet Service Provider, (ii) internet access services, including provision of a direct connection to the internet and space for the customer's web page, (iii) provision of telecommunication services, including fax, telephony, audio conferencing and video conferencing, over the internet;]	Finance Act 1994 as amended	Sec 65(57(a)) & 109(a)	Definition Amended and made it simple
2	101	"time of supply of goods'' shall have the meaning as assigned to it in section 12;	No Such Definition	-	-	Newly inserted to decide point of taxation
2	102	"time of supply of services'' shall have the meaning as assigned to it in section 13;	No Such Definition	-	-	No Change in line with Point of Taxation Rules 2011

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
2	103	"to cultivate personally" means to carry on any agricultural operation on one's own account- (a) by one's own labour, or (b) by the labour of one's family, or (c) by servants on wages payable in cash or kind (but not in crop share) or by hired labour under one's personal supervision or the personal supervision of any member of one's family; Explanation 1. - A widow or a minor or a person who is subject to any physical or mental disability or is a serving member of the armed forces of the Union, shall be deemed to cultivate land personally if it is cultivated by her or his servants or by hired labour. Explanation 2. - In the case of a Hindu Undivided Family, land shall be deemed to be cultivated personally, if it is cultivated by any member of such family.	No Such Definition	-	-	Newly inserted so as to cover the persons who do not cultivate personally by employeeing a labour but by awarding contract of cultivation on sharing basis which is generally called "Batai" such batai other than relation of employer-employee will be covered under the ambite of GST
2	104	"turnover in a State" means the aggregate value of all taxable and non-taxable supplies, including exempt supplies and exports of goods and / or services made within a State by a taxable person and inter-state supplies of goods and / or services made from the State by the said taxable person excluding taxes, if any charged under the CGST Act, SGST Act and the IGST Act, as the case may be;				The definition is wide enough to include all the supplies by a person within the State and inter-state supplies.
2	105	"usual place of residence" means (a) in case of an individual, the place where he ordinarily resides; (b) in other cases, the place where the person, as defined in sub-section (74), is incorporated or otherwise legally constituted;				New Insertion
2	106	"valid return" shall have the meaning assigned to it under sub-section (3) of section 27.				New Insertion
2	107	"works contract" means an agreement for carrying out for cash, deferred payment or other valuable consideration, building, construction, fabrication, erection, installation, fitting out, improvement, modification, repair, renovation or commissioning of any moveable or immovable property;	a contract wherein tran sfer of property in goods involved in the execution of such contract is leviable to tax as sale of goods and such contract is for the purpose of carrying out co nstruction, erection, commissioning, installation, completion, fitting out, improvement, repair, renovation, alteration of any building or structure on land or for carrying out any other similar activity or a part thereof in relation to any building or structure on land;	Finance Act 1994 as amended	Sec 65B(54)	The definition has been adopted from State VAT enactments. The word "movable" has been added. Wide coverage for works contract Suggestion given by us in the Business Process Reports has been adopted.
2	108	"year" means the financial year; and	No Such Definition	-	-	No change

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
2	**109**	"zero-rated supply" means a supply of any goods and/or services on which no tax is payable but credit of the input tax related to that supply is admissible; Explanation.- Exports shall be treated as zero-rated supply.	No Such Definition	-	-	This term has been defined for the first time so as to make eligible to Input tax credit when supplies are made without payment of duty as zero-rated duty.
3		**Meaning & Scope of Supply**				
3	**1**	**Meaning & Scope of Supply** (1) Supply includes (a) all forms of supply of goods and/or services such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business, (b) importation of service, whether or not for a consideration and whether or not in the course or furtherance of business, and (c) a supply specified in Schedule I, made or agreed to be made without a consideration. (2) Schedule II, in respect of matters mentioned therein, shall apply for determining what is, or is to be treated as a supply of goods or a supply of services. (2A) Where a person acting as an agent who, for an agreed commission or brokerage, either supplies or receives any goods and/or services on behalf of any principal, the transaction between such principal and agent shall be deemed to be a supply. (3) Subject to sub-section (2), the Central or a State Government may, upon recommendation of the Council, specify, by notification, the transactions that are to be treated as— (i) a supply of goods and not as a supply of services; or (ii) a supply of services and not as a supply of goods; or				Supply of goods & Services as specified for consideration is included for purpose of levy and collection of tax. However, supplies as mentioned in Schedule 1 will be also considered for supply of goods even without consideration. * Certain supplies even without consideration like permanant transfer / disposal of business assets * Temporary application of buiness asset to a private / non-business use * services put to private / non-business use * assets retained after deregistration * Supply of goods or services by a taxabl e person to another person (taxable / non-taxable) in the course of furtherance of business) In other words free gifts, FOC goods or free services will also be considered as supplies and GST will be payable. The more litigations will arise after Income tax assessment when certain expenditure will be disallowed and accepted for non-business use and thereon demand of GST will be made and litigated. However, supply of goods or services appearing in Schedule II has been declared to be as goods or Services as specified. Fortunately, job work has been excluded from the scope of supply and job work definition has ben enhanced so as to cover repairs, caliberation & testing etc. Further, following supplies / transactions are also included in the scope of supply. 1. Transaction between agent and Principal covered under supply. 2. Importation service without consideration or imporation of service not in cource or furtherance of business is now included in the definition of supply. 3. the supply of any branded service by an aggregator
CHAPTER II : Administration						
4		**Classes of officers under the Central Goods and Services Tax Act**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
4	1	**Classes of officers under the Central Goods and Services Tax Act** 1) There shall be the following classes of officers under the Central Goods and Services Tax Act, namely; (a) Principal Chief Commissioners of CGST or Principal Directors General of CGST, (b) Chief Commissioners of CGST or Directors General of CGST, (c) Principal Commissioners of CGST or Principal Additional Directors General of CGST, (d) Commissioners of CGST or Additional Directors General of CGST, (e) First Appellate Authority, (f) Additional Commissioners of CGST or Additional Directors of CGST, (g) Joint Commissioners of CGST or Joint Directors of CGST, (h) Deputy Commissioners of CGST or Deputy Directors of CGST, (i) Assistant Commissioners of CGST or Assistant Directors of CGST, and (j) such other class of officers as may be appointed for the purposes of this Act.				Existing officers of Central Excise & Service Tax will be renamed as officers of CGST (Principal Chief Commissioner to Assistant Commissioner) and existing VAT officers will be renamed as SGST officers and those will be appointed by respective Govt i.e. Central & State and they will be exercising the power with respective law i.e. CGST, IGST or SGST as the case may be.
4		**Classes of officers under the State Goods and Services Tax Act**				
4	1 2	**Classes of officers under the State Goods and Services Tax Act** (1) There shall be the following classes of officers and persons under the State Goods and Services Tax Act namely. a) Commissioner of SGST, b) Special Commissioners of SGST, c) Additional Commissioners of SGST, d) Joint Commissioners of SGST, e) Deputy Commissioners of SGST, f) Assistant Commissioners of SGST, and g) such other class of officers and persons as may be appointed for the purposes of this Act. [List is indicative] (2) The Commissioner shall have jurisdiction over the whole of the State of (….). All other officers shall have jurisdiction over the whole of the State or over such areas as the Commissioner may, by notification, specify.				
5		**Appointment of officers under the Central Goods and Services Tax Act**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
5	1 2	**Appointment of officers under the Central Goods and Services Tax Act** (1) The Board may appoint such persons as it may think fit to be officers under the Central Goods and Services Tax Act. (2) Without prejudice to the provisions of sub-section (1), the Board may authorize a Principal Chief Commissioner/Chief Commissioner of Central Goods and Services Tax or a Principal Commissioner / Commissioner of Central Goods and Services Tax or an Additional/Joint or Deputy / Assistant Commissioner of Central Goods and Service Tax to appoint officers of Central Goods and Services Tax below the rank of Assistant Commissioner of Central Goods and Services Tax.				
6		**Powers of officers under the Central Goods and Services Tax Act**				
6	1 2 3 4	**Powers of officers under the Central Goods and Services Tax Act** (1) Subject to such conditions and limitations as the Board may impose, an officer of the Central Goods and Services Tax may exercise the powers and discharge the duties conferred or imposed on him under this Act. (2) An officer of Central Goods and Services Tax may exercise the powers and discharge the duties conferred or imposed under this Act on any other officer of Central Goods and Services Tax who is subordinate to him. (3) The Board/Commissioner may, subject to such conditions and limitations as may be specified in this behalf by him, delegate its powers to any other officer subordinate to him. (4) Notwithstanding anything contained in this section, a First Appellate Authority shall not exercise the powers and discharge the duties conferred or imposed on an officer of Central Goods and Services Tax other than those specified in section 79 of this Act. (Note: State laws may have similar provision)				
CHAPTER III : LEVY OF, AND EXEMPTION FROM, TAX						
7		**Levy on all intra-state supplies of goods and services**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
7	1	**Levy on all intra-state supplies of goods and services** (1) 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	Levy on excisable goods produced or manufactured in India	Central Excise Act, 1944	Section 3	1. All supplies of goods & services intra-state wil be attracted CGST & SGST. 2. Tax will also be leviable under reverse charge on supply of goods. 3. Rate of GST will be recommended by GST council and notified by Central & State Govt for CGST & SGST respectively and also will specify categories of supply of goods and/or services the tax on which is payable on reverse charge basis 4. The reverse charge mechanism for goods marks an important deviation, whereby businesses may be required to discharge a levy akin to the 'purchase tax' imposed by certain States under the extant VAT laws.
	2	as may be prescribed. (2) The CGST/SGST shall be paid by every taxable person in accordance with the provisions of this Act.				
	3	(3) Notwithstanding anything contained in sub-section (2), the Central or a State Government may, on the recommendation of the Council, by notification, specify categories of supply of goods and/or services the tax on which is payable on reverse charge basis and the tax thereon shall be paid by the person receiving such goods and/or services and all the provisions of this Act shall apply to such person as if he is the person liable for paying the tax in relation to such goods and/or services.				
			Levy on taxable services provided in taxable territory	Finance Act 1994	Section 66B	
			Levy on sales	MVAT Act, 2005 (or respective State Act) / CST Act, 1956	Section 6	
8		**Composition Levy**				
8	1	**Composition Levy :** (1) Notwithstanding anything to the contrary contained in the Act but subject to subsection (3) of section 7, on the recommendation of the Council, the proper officer of the Central or a State Government may, subject to such conditions and restrictions as may be prescribed, permit 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	Compounded levy for specified products	Central Excise Act, 1944	Section 3A & Rule 15	Composition scheme continues for only intra-state supplies and debarred to taxable person having inter-state supplies. In other words, seperate registration to be taken by taxable person whose turnover is less than aggregate Rs. 50 lacs. and does not have any inter-state supplies. Composition levy will not be applicable for taxability under reverse charge Such composition rate will be recommended by GST council and notified by central / state govt but will not be less than 1% . Such composition levy cannot be recovered from the recipient and no input tax credit will be available to the recipient and also the tax payer. No penalty can be imposed without giving SCN and providing natural justice of personal hearing.
	2	than one percent of the turnover during the year: Provided that no such permission shall be granted to a taxable person who effects any inter-State supplies of goods and/or services. Provided further that no such permission shall be granted to a taxable person unless all the registered taxable persons, having the same PAN as held by the said taxable person, also opt to pay tax under the provisions of this sub-section.				
	3	(2) A taxable person to whom the provisions of sub-section (1) apply shall not collect any tax from the recipient on supplies made by him nor shall he be entitled to any credit of input tax. (3) If the proper officer has reasons to believe that a				
9		**Taxable person**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
9	1	**Taxable person:** (1) Taxable Person means a person who carries on any business at any place in India /State of ____ and who is registered or required to be registered under Schedule III of this Act: Provided that an agriculturist shall not be considered as a taxable person. 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 ten lakh] 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 five lakh] [This threshold of 5 lacs will apply only if a taxable person conducts his business in any of the NE States including Sikkim.]	Manufacturer	Central Excise Act, 1944 / Central Excise Rules, 2002	Section 2(f)(iii)	1. Agriculturist, who cultivates personally are exempted from GST 2. Threshold limit Rs. 10 Lacs of aggregate turnover has been prescribed to taxable person located other than north State 3. The threshold limit of Rs. 5 lacs will for a taxable person conducts his business in any to taxable person located of north state including sikkim 4. Schedule III Specifies the persons required to obtain registration and the taxable person is accordingly defined. Under the existing provisions, the taxable event differs and accordingly the taxable persons are defined. 5. Further following persons will have to be obtained registration. * Existing Registered Unit either with Central Excise, Service Tax or under any State VAT Authorities * The Person who has crossed the turnover of above threshold limit * Transfer on account of succession otherwise * Scheme of amalgamation & demerger * Casual Taxable person, * Person required to pay tax under reverse charge * Person making inter-state supply irrespective of taxable threshold 6. Registration needs to be taken before achiving the turnover of threshold limit less than Rs. 1 lac. 7. No registration to be obtained by such person which has not achieved the aggregate turnover as specified in the threshold limit. 8. The aggregate turnover includes supplies received on behalf of principal also.
	2	(2) The Central Government, a State Government or any local authority shall be regarded as a taxable person in respect of activities or transactions in which they are engaged as public authorities other than the activities or transactions as specified in Schedule IV to this Act.	Person liable to pay tax	Service Tax Rules, 1994	Rule 2(1)(d)	4. Schedule IV has been precribed for certain services carried out by Govt and the same will not be taxable and ofcourse will be exempted.
	3	(3) The following persons shall not be considered as taxable persons for the purposes of this Act – (a) any person who provides services as an employee to his employer in the course of, or in relation to his employment, or by any other legal ties creating the relationship of employer and employee as regards working conditions, remunerations and employer's liability; (b) any person engaged in the business of exclusively supplying goods and/or services that are not liable to tax under this Act; (c) any person, liable to pay tax under sub-section (3) of section 7, receiving services of value not exceeding _____ rupees in a year for personal use, other than for use in the course or furtherance of his business.	Dealer	MVAT Act, 2005	Section 2(8)	**5. The persons dealing exclusively in exempt goods/services are excluded** **6. Person receiving services/goods covered under reverse charge for personal consumption within certain limit of turnover also excluded from definition of taxable person**
10		**Power to grant exemption from tax**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
10	1	**Power to grant exemption from tax** (1) If the Central or a State Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendation of the Council, by notification, exempt generally either absolutely or subject to such conditions as may be specified in the notification, goods and/or services of any specified description from the whole or any part of the tax leviable thereon. Explanation.- Where an exemption under sub-section (1) in respect of any goods and/or services from the whole of the tax leviable thereon has been granted absolutely, the taxable person providing such goods and/or services shall not pay the tax on such goods and/or services.		Central Excise Act, 1944	Section 5A	• The mandate under Section 5A of the CE Act has been extended to this law to ensure that no tax is collected and paid on certain goods/ services enjoying absolute exemption (i.e. such exemptions will have to be compulsorily availed). • The power to insert an Explanation within one year of issuance of a Notification, which would apply ab initio, runs counter to the law declared by the Supreme Court case, which is to the effect that an Explanation does not automatically take effect retrospectively even if it is stated to be "for the removal of doubts". On the contrary, where an Explanation effects a substantive alteration of the provision, it can only apply prospectively. This amendment has similarly been enacted vide the Finance Act, 2016.
10	2	(2) If the Central or a State Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendation of the Council, by special order in each case, exempt from payment of tax, under circumstances of an exceptional nature to be stated in such order, any goods and/or services on which tax is leviable.		Finance Act, 1994	Section 93(1) / Section 66D (Specific provision of negative list)	
10	3	(3) The Central or a State Government may, if it considers necessary or expedient so to do for the purpose of clarifying the scope or applicability of any notification issued under sub-section (1) or order issued under sub-section (2), insert an explanation in such notification or order, as the case may be, by notification at any time within one year of issue of the notification under sub-section (1) or order under sub-section (2), and every such explanation shall have effect as if it had always been the part of the first such notification or order, as the case may be.		Customs Act, 1962	Section 25	
10	4	(4) Every notification issued under sub-section (1) or sub-section (3)and every order issued under sub-section (2) shall (a) unless otherwise provided, come into force on the date of its issue by the Central or a State Government for publication in the Official Gazette; and (b) be made available on the official website of the department of the Central or a State Government.		MVAT Act, 2005	Section 8 (4) / Section 9 (for amendment to Schedule w.r.t. NIL rates)	
11		**Remission of tax on supplies found deficient in quantity**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
11	1	**Remission of tax on supplies found deficient in quantity** (1) The Central or a State Government may, by rules made under this sub-section, provide for remission of tax on such supplies which are found to be deficient in quantity due to any natural causes. (2) Any rules made under sub-section (1) may, having regard to the nature of the supply, fix the limit or limits of percentage beyond which no such remission shall be allowed.				Remission is restricted to short quantity on account of natural causes only which is in line with provisions of Customs Act for liquid or gases where evapuration takes place or fire.
11	1	The Central or a State Government may, by rules made under this sub-section, provide for remission of tax on such supplies which are found to be deficient in quantity due to any natural causes.	Where it is shown to the satisfaction of the Principal Commissioner or Commissioner, as the case may be that goods have been lost or destroyed by natural causes or by unavoidable accident or are claimed by the manufacturer as unfit for consumption or for marketing, at any time before removal, he may remit the duty payable on such goods, subject to such conditions as may be imposed by him by order in writing.	Central excise rules, 2002	21	Covered under section 11
11	2	Any rules made under sub-section (1) may, having regard to the nature of the supply fix the limit or limits of percentage beyond which no such remission shall be allowed.				
12		**Time of supply of goods**				
12	1	**Time of supply of goods** (1) 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. (2) The time of supply of goods shall be the earliest of the following dates, namely,- (a) (i) the date on which the goods are removed by the supplier for supply to the recipient, in a case where the goods are required to be removed or (ii) the date on which the goods are made available to the recipient, in a case where the goods are not required to be removed; or (b) the date on which the supplier issues the invoice with respect to the supply; or (c) the date on which the supplier receives the payment with respect to the supply; or (d) the date on which the recipient shows the receipt of the goods in his books of account.	Duty payable at time of removal	Central Excise Rules, 2002	Rule 4	1. Since time and collection of duty has been substantially changed in existing Tax Era to over GST Era and therefore time & place of supply of goods needs to be redefined. 2. Criticality of determining taxable event for supply of goods as well, which will be depend on number of factors: * removal Date * Date when goods are available to the disposal of the buyer * Invoice issue date * Payment Date * Date of receipt of goods 3. The taxable event will be the earliest date of the above and hence whenever advance is also received there will a taxable event. 4. Continuous supply is already defined where successive payment / account is planned to be received for supply of goods and such continous supply of goods will be notified, perhaps products in nature of gas, petrol chemical products, etc sales of which is at time of consumption may be covered under the concept of continuous supply of goods. 5. Explanation 4 added to clarifythe payment is entered in his books of accounts or

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
		Explanation 1.- The provisions of sub-clause (ii) of clause (a) shall apply in cases where the goods (a) are physically not capable of being moved; or (b) are supplied in assembled or installed form; or (c) are supplied by the supplier to his agent or his principal. Explanation 2.- For the purposes of sub-clause (ii) of clause (a), the expression 'made available to the recipient' shall mean when the goods are placed at the disposal of the recipient. Explanation 3.- For the purposes of clauses (b) and (c) of sub-section (2), the supply shall be deemed to have been made to the extent it is covered by the invoice or, as the case may be, the payment. Explanation 4.- For the purpose of clause (c) of sub-section (2), "the date on which the supplier receives the payment" shall be the date on which the payment is entered in his books of accounts or the date on which the payment is credited to his bank account, whichever is earlier.				the date on which the payment is credited to his bank account, whichever is earlier to be considered as "the date on which the supplier receives the payment" 6. Goods in transit also will be considered as time of supply goods since it is accounted in the books of accounts 7. The time limit for supply under being sent or taken on approval or sale or return or similar terms has been reduced from 12 months to 6 months 8. SubSection 4A has been inserted to determine time of supply under reverse charge 9. Nature of various supplies and time of supply table is separately annexed herewith and marked as **Annexure - A**.
	3	(3) In case of continuous supply of goods, where successive statements of accounts or successive payments are involved, the time of supply shall be the date of expiry of the period to which such successive statements of accounts or successive payments relate. If there are no successive statements of account, the date of issue of the invoice (or any other document) or the date of receipt of payment, whichever is earlier, shall be the time of supply.	Sales	MVAT Act, 2005		

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
	4	(4) For the purposes of sub section (3) above, the Central or a State Government may, on the recommendation of the Council, specify, by notification, the supply of goods that shall be treated as continuous supply of goods; (5) In case of supplies in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be the earliest of	Sales	CST Act, 1956		
	5	the following dates, namely— (a) the date of the receipt of goods, or				
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		(b) the date on which the payment is made, or (c) the date of receipt of invoice, or (d) the date of debit in the books of accounts. Explanation.- For the purpose of clause (b) of sub-section				
	6	(5), "the date on which the payment is made" shall be the date on which the payment is entered in the books of				
	7	accounts of the recipient or the date on which the payment is debited in his bank account, whichever is earlier. (6) If the goods (being sent or taken on approval or sale or return or similar terms) are removed before it is known whether a supply will take place, the time of supply shall be at the time when it becomes known that the supply has taken place or six months from				
13		**Time of supply of service**				
13	**1**	(1) 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. (2) The time of supply of services shall be:-	Invoice issued within 30 days - Date of issue of invoice or receipt of payment, whichever is earlier	Point of Taxation Rules, 2011	Rule 3(a)	1. Provisions of point of Taxation has been kept as it is except for i) Taxability for reverse charge has been made in line with provisions applicable for associated enterprises i.e. (a) the date of receipt of services, or (b) the date on which the payment is made, or (c) the date of receipt of invoice, or (d) the date of debit in the books of accounts. whichever is earlier. 2. Whenever supply of service is terminated before supply of service, taxability event will be on the date of termination of the contract and even though there is no supply of service, there may be taxable event 3. Nature of various supplies and time of supply table is separately annexed herewith and marked as Annexure - A.
	2(a)	(a) the date of issue of invoice or the date of receipt of payment, whichever is earlier, if the invoice is issued within the prescribed period;				
13	**2(b)**	(b) the date of completion of the provision of service or the date of receipt of payment, whichever is earlier, if the invoice is not issued within the prescribed period;	Invoice not issued within 30 days-Date of completion of service	Point of Taxation Rules, 2011	Proviso to Rule 3(a)	

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
13	2(c)	(c) the date on which the recipient shows the receipt of services in his books of account, in a case where the provisions of clause (a) or (b) do not apply. Explanation 1.- For the purposes of clauses (a) and (b), the supply shall be deemed to have been made to the extent it is covered by the invoice or, as the case may be, the payment. Explanation 2.- For the purpose of clause (a) and (b) of sub-section (2), "the date of receipt of payment" shall be the date on which the payment is entered in the books of accounts of the supplier or the date on which the payment is credited to his bank account, whichever is earlier.				Explanation 2 added to clarify the "the date of receipt of payment"
13	3(a)	(3) In case of continuous supply of services, the time of supply shall be - (a) where the due date of payment is ascertainable from the contract, the date on which the payment is liable to be made by the recipient of service, whether or not any invoice has been issued or any payment has been received by the supplier of service;				
13	3(b)	(b) where the due date of payment is not ascertainable from the contract, each such time when the supplier of service receives the payment, or issues an invoice, whichever is earlier;				
13	3(c)	(c) where the payment is linked to the completion of an event, the time of completion of that event;				
13	4 5	(4) For the purposes of sub section (3) above, the Central or a State Government may on the recommendation of the Council, specify, by notification, the supply of services that shall be treated as continuous supply of services; (5) In case of supplies in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be the earliest of the following dates, namely- (a) the date of receipt of services, or (b) the date on which the payment is made, or (c) the date of receipt of invoice, or (d) the date of debit in the books of accounts. Explanation.- For the purpose of clause (b) of sub-section (5), "the date on which the payment is made" shall be the date on which the payment is entered in the books of accounts of the recipient or the date on which the payment is debited in his bank account, whichever is earlier.	Rule 7 - Reverse Charge Basis (Payment within 3 months)-Date on which payment is made to service provider Rule 7 - Reverse Charge Basis (Payment after 3 months)-1st day after 3 months			Explanation added to clarify the "the date of payment"

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
13	(6)	(6) In a case where the supply of services ceases under a contract before the completion of the supply, such services shall be deemed to have been provided at the time when the supply ceases.				
13	(7)(a)	(7) Where it is not possible to determine the time of supply of services in the manner specified in sub-sections (2), (3), (5) and (6), the time of supply shall (a) in a case where a periodical return has to be filed, be the date on which such return is to be filed; or				
13	(7)(b)	(b) in any other case, be the date on which the CGST/SGST is paid.				
14		**Change in rate of tax in respect of supply of services**				
14	1	(1) Notwithstanding anything contained in section 13, the time of supply, in cases where there is a change in the effective rate of tax in respect of services, shall be determined in the following manner, namely:- (a) in case the taxable service has been provided before the change in effective rate of tax – (i) where the invoice for the same has been issued and the payment is also received after the change in effective rate of tax, the time of supply shall be the date of receipt of payment or the date of issue of invoice, whichever is earlier; or (ii) where the invoice has been issued prior to change in effective rate of tax but the payment is received after the change in effective rate of tax, the time of supply shall be the date of issue of invoice; or (iii) where the payment is received before the change in effective rate of tax, but the invoice for the same has been issued after the change in effective rate of tax, the time of supply shall be the date of receipt of payment; (b) in case the taxable service has been provided after the change in effective rate of tax - (i) where the payment is received after the change in effective rate of tax but the		Point of Taxation Rules, 2011	Rule 4	1. No change, except for change w.r.t. place of supply vis-à-vis point of taxation 2. Explantion added w.r.t. date of receipt of payment and provisio inserted to specify that in case of change in rate of tax, the date of receipt of payment shall be the date of credit in the bank account when such credit in the bank account is after four working days from the date of change in the effective rate of tax 3. It is important to note that the aforesaid provision applies only to services. Hence, qua goods, it appears that scenarios of rate change will fall under the default provision for time of supply of goods, viz. Section 12.
15		**Value of taxable supply**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
15	1 2 3 4	15. Value of taxable supply (1) 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. (2) The transaction value under sub-section(1) shall include: (a) 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; (b) 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, to the extent that such value has not been included in the price actually paid or payable; (c) royalties and licence fees related to the supply of goods and/or services being valued that the recipient of supply must pay, either directly or indirectly, as a condition of the said supply, to the extent that such royalties and fees are not included in the price actually paid or payable; (d) any taxes, duties, fees and charges levied under any	In Excise in case where the goods are sold by the assessee, for delivery at the time and place of the removal, the assessee and the buyer of the goods are not related and the price is the sold consideration for the sale, be the transaction value In Service Tax in a case where the provision of service is for a consideration in money, be the gross amount charged by the service provider for such service provided or to be provided by him	Central Excise Act 1944 Finance Act 1994	Section 4 Section 67	1. Basis of Valuation in GST is same as it is in Central Excise and Service Tax 2. Reimbursement of expenses also included in the taxable value 3. It is also specified that post-supply discount which is established as per the agreement and is known at or before the time of supply and specifically linked to relevant invoices shall not be included in the transaction value. 4. Royalties, licese fees related to supply of goods and services, 5. Any taxes, duties, levies, other than CGST, IGST, 6. Incidental expenses, subsidiaries in any manner or form linkd with the supplier 7. Sr. No. 2 to 6 are to be considered in the transaction value / taxable value. 8. However, separate valuation rules in line with customs (determination of value of imported goods) rule 2007 has been notified and value to be determined when transcation value is not the sole consideration or supplier and recipient are related or value is rejected by the proper officer or business transcations undertaken by pure agent, money changer, insurer, air travel agent & distributor or selling agennt of lottery or any agent of supplies as notified by the Govt. Our suggestin of the concept of valuation of MRP / section 4A has been accepted and removed from the provisions.
16	CHAPTER	**Manner of taking input tax credit and utilization thereof**	CENVAT credit rules, 2004	CENVAT credit rules, 2004		
16	1	(1) 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 manufacturer or producer of final products or a provider of taxable service shall be allowed to take credit	CENVAT credit rules, 2004	3(1)	1. Input tax credit can be taken only when such amount of input tax is paid by the supplier. 2. The provision of input tax credit on registration within 30 days of becoming tax payable can be taken and including that on stocks on input and input contents in semi finished and finished goods. 3. Similar provision of restriction to take credit within one year has been retained in GST Law. 4. Input tax credit will not be allowed for the goods / services used for private use or personal use. In other words, input tax credit will be litigated for supplies of goods and services for captive purpose. 5. Input tax credit wil be allowed for zero rated supplies but will not be allowed for exempt supplies and non-taxable supplies.
16	2	(2) A person who has applied for registration under the Act within thirty days from the date on which he becomes liable to registration and has been granted such registration shall, subject to such conditions and restrictions as may be prescribed, be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semifinished or finished goods held in stock on the day immediately preceding the date from which he becomes liable to pay tax under the provisions of this Act.	Input credit is available as per the definitions of "Input", "Capital goods" and "Input Services". 1) "Input" and "Capital goods" used by manufacturer, whether directly or indirectly in or in relation to manufacture of final products and clearance of final products up to the place of removal 2) "Input Services" used by a provider of output service for providing an output service.	CENVAT credit rules, 2004	2(a),(k),(l) & Rule 6	6. Transitional provisions in case of sale, merger, amalgamation, lease, transfer of business are also in line with existing central excise law. 7. Input tax credit is restricted in the similar line of definition of input & input service 8. Input Tax Credit allowed to take in installments as specified by Govt for capital goods 9. Input tax credit will be allowed only upto annual return is filed. 10. New insertion.Provision for Transfer of credit at the time of transition from existing regime to GST 11. Now input tax credit even on capital goods which are used for both taxable and non-taxable goods/services need to be proportionately availed.

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
16	2A	(2A) A person, who takes registration under sub-section (3) of section 19, shall, subject to such conditions and restrictions as may be prescribed, be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date of registration				
16	3	(3) Where any registered taxable person ceases to pay tax under section 8, he shall, subject to such conditions and restrictions as may be prescribed, be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date from which he becomes liable to pay tax under section 7.	The CENVAT credit shall not be allowed on such quantity of input or input service which is used in the manufacture of exempted goods or for provision of exempted services, except in the circumstances mentioned and rules for options & reversal of proportionate credit in sub-rule (2).	CENVAT credit rules, 2004	6	12. The following clause for petrolueum products has been deleted : (b) high speed diesel oil, motor spirit (commonly known as petrol), aviation turbine fuel, petroleum crude oil and aviation gasoline;][the goods not liable to pay GST] In subclause (c), the goods and / or services are being covered and also ITC on goods and / or services in relation to "food and bevarages" cannot be availed 13. provisons w.r.t. switch over to composition levy or at the time of granting of exemption to goods/services has been introduced 14. Input Service credit was allowed to the works contractor involved in construction of renovation of property but now input tax credit will not be allowed and hence real estate sectors will be adversely affected
16	3A	(3A) 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 one year from the date of issue of tax invoice relating to such supply.				
16	4	(4) The amount of credit under sub-section (2), (2A) or sub-section (3) shall be calculated in accordance with generally accepted accounting principles in such manner as may be prescribed.				
16	5	(5) Where the goods and/or services are used by the registered taxable person partly for the purpose of any business and partly for other purposes, the amount of credit shall be restricted to so much of the input tax as is attributable to the purposes of his business.	The CENVAT credit may be utilized for payment of - a) any duty of excise on any final product; or b) an amount equal to CENVAT credit taken on inputs if such inputs are removed as such or after being partially processed; or c) an amount equal to the CENVAT credit taken on capital goods if such capital goods are removed as such; or d) an amount under sub rule (2) of rule 16 of Central Excise Rules, 2002; or e) service tax on any output service	CENVAT credit rules, 2004	4	

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
16	**6**	(6) Where the goods and / or services are used by the registered taxable person partly for effecting taxable supplies and partly for effecting non-taxable supplies, including exempt supplies but excluding zero-rated supplies, the amount of credit shall be restricted to so much of the input tax as is attributable to the taxable supplies including zero-rated supplies.	Excess credit may be carried forward and utilized in manner specified above.	CENVAT credit rules, 2004	4	
16	**7**	(7) The Central or a State Government may, by notification issued in this behalf, prescribe the manner in which the credit referred to in sub-sections (5) and (6) above may be attributed.	A manufacturer who clears a final product or an intermediate product for export without payment of duty under bond or letter of undertaking, or a service provider who provides an output serive which is exported without payment of service tax, shall be allowed refund of CENVAT credit as determined by the following formula subject to procedure, safeguards, conditions and limitations, as may be specified by way of notification. Refund Amount= (Export TO of goods + Export TO of services)/ Total turnover * Net CENVAT credit	CENVAT credit rules, 2004	5	
16	**8**	(8) Where there is a change in the constitution of a registered taxable person on account of sale, merger, demerger, amalgamation, lease or transfer of the business with the specific provision for transfer of liabilities, the said registered taxable person shall be allowed to transfer the input tax credit that remains unutilized in its books of accounts to such sold, merged, demerged, amalgamated, leased or transferred business in the manner prescribed.	No such parallel provision in the existing act/rules; Refund amount has been derived by using above mention formula and any due, tax or penalty which is due on account of any default may be recovered in different manner and not from the amount of the refund claim.	CENVAT credit rules, 2004	5	

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
16	9	(9) Notwithstanding anything contained in sub-section (1), (2), (2A) or (3) input tax credit shall not be available in respect of the following: (a) motor vehicles, except when they are supplied in the usual course of business or are used for providing the following taxable services— (i) transportation of passengers, or (ii) transportation of goods, or (iii) imparting training on motor driving skills; (b) goods and / or services provided in relation to food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, membership of a club, health and fitness centre, life insurance, health insurance and travel benefits extended to employees on vacation such as leave or home travel concession, when such goods and/or services are used primarily for personal use or consumption of any employee; (c) goods and/or services acquired by the principal in the execution of works contract when such contract results in construction of immovable property, other than plant and machinery; (d) goods acquired by a principal, the property in which is not transferred (whether as goods or in some other form) to any other person, which	Exclusion part of definitions of "Input", "Capital goods" and "Input Services".	CENVAT credit rules, 2004	2(a),(k),(l)	
16	10	(10) Where the registered taxable person has claimed depreciation on the tax component of the cost of capital goods under the provisions of the Income Tax Act, 1961, the input tax credit shall not be allowed on the said tax component.	The CENVAT credit shall be taken by the manufacturer or the provider of output service or input service distributor, as the case may be, on the basis of any of the following documents, namely :- a) an invoice issued by a manufacturer, importer, importer from his depot, first stage or second stage dealer. b) Supplementary invoice c) Bill of entry d) a certificate issued by an appraiser of customs in respect of goods imported through a Foreign Post Office e) a challan evidencing payment of service tax f) an invoice, a bill or challan issued by provider of input service fa) a service tax certificate for transportation of goods by rail g) an invoice bill or challan issued by an input service distributor	CENVAT credit rules, 2004	9 (1)	

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
16	11	(11) Notwithstanding anything contained in this section, but subject to the provisions of section 28, no registered taxable person shall be entitled to the credit of any input tax in respect of any supply of goods and/or services to him unless (a) he is in possession of a tax invoice, debit note, supplementary invoice or such other taxpaying document as may be prescribed, issued by a supplier registered under this Act or the IGST Act; (b) he has received the goods and/or services; (c) the tax charged in respect of such supply has been actually paid to the credit of the appropriate Government, either in cash or through utilization of input tax credit admissible in respect of the said supply; and (d) he has furnished the return under section 27: Provided that where the goods against an invoice are received in lots or instalments, the registered taxable person shall be entitled to the credit upon receipt of the last lot or instalment.	Transfer of cenvat credit balance in certain cases	CENVAT credit rules, 2004	10	
16	12	(12) Where any registered taxable person who has availed of input tax credit switches over as a taxable person for paying tax under section 8 or, where the goods and / or services supplied by him become exempt absolutely under section 10, he shall pay an amount, by way of debit in the electronic credit or cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date of such switch over or, as the case may be, the date of such exemption: Provided that after payment of such amount, the balance of input tax credit, if any, lying in his electronic credit ledger shall lapse.	Recovery of CENVAT credit wrongly taken or erroneously refunded	CENVAT credit rules, 2004	14	
16	13	(13) The amount payable under sub-section (12) shall be calculated in accordance with generally accepted accounting principles in such manner as may be prescribed.				
16	14	(14) In case of supply of capital goods on which input tax credit has been taken, the registered taxable person shall pay an amount equal to the input tax credit taken on the said capital goods reduced by the percentage points as may be specified in this behalf or the tax on the transaction value of such capital goods under sub-section (1) of section 15, whichever is higher.				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
16	**15**	(15) A taxable person shall not be entitled to take input tax credit in respect of any invoice for supply of goods and/or services, after the filing of the return under section 27 for the month of September following the end of financial year to which such invoice pertains or filing of the relevant annual return, whichever is earlier.				
16	**16**	(16) Where credit has been taken wrongly, the same shall be recovered from the registered taxable person in the manner as may be prescribed in this behalf.				
16A		**Taking input tax credit in respect of inputs sent for job work**				
16A	**1**	Taking input tax credit in respect of inputs sent for job work (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 one hundred and eighty days of their being sent out: Provided that the "principal" shall be entitled to take credit of input tax on inputs even if the inputs are directly sent to a job worker for job-work without their being first brought to his place of business, and in such a case, the period of one hundred and eighty days shall be counted from the date of receipt of the inputs by the job worker.		CENVAT CREDIT Rules, 2004	Rule 4(1)	Same existing provisions as per Cenvat Credit Rules has been carried forward in GST except for 1. Place of Job worker will have to be included in the registration certificate of principal when goods are supplied directly from teh job worker's premises. 2. All job workers have to be registered 3. Permission of job worker needs to be obtained 4. Goods have to be returned within 180 days 5. If goods are not returned within 180 days, input tax credit will have to be paid alongwith interest and input tax credit alongwith the interest further can be taken on receipt of the goods proportionately
16A	**2**	(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: Provided that the "principal" shall be entitled to take credit of input tax on capital goods even if the capital goods are directly sent to a job worker for job-work without their being first brought to his place of business, and in such a case, the period of two years shall be counted from the date of receipt of the capital goods by the job worker.		CENVAT CREDIT Rules, 2004	Rule 4(1)	

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
16A	**3**	(3) Where the inputs or capital goods, as the case may be, are not received back by the "principal" within the time specified under sub-section (1) or under sub-section (2), as the case may be, he shall pay an amount equivalent to the input tax credit availed of on the said inputs or capital goods, as the case may be, along with interest specified under sub-section (1) of section 36: Provided that the said "principal" may reclaim the input tax credit and interest paid earlier when the inputs or capital goods, as the case may be, are received back by him at his place of business.		CENVAT CREDIT Rules, 2004	Rule 4(1)	
17		**Manner of distribution of credit by Input Service Distributor**				
17	**1**	(1) The Input Service Distributor may distribute, in such manner as may be prescribed, the credit of CGST as IGST and IGST as IGST, by way of issue of a prescribed document containing, inter alia, the amount of input tax credit being distributed or being reduced thereafter, where the Distributor and the recipient of credit are located in different States. (CGST ACT)		CENVAR Credit Rules, 2004	Rule 7	Existing provisions of ISD under Rule 7 & 7A of Cenvat Credit Rules 2004 has been modified so as to cover services and it has been modified to the extent of distribution of CGST & IGST to all locations whereas distributoin of SGST and IGST to all locations in the state but exluding locations outside the state. Distribution of credits by an input service distributor is subject to the following key conditions: o Credit of input services attributable to a supplier shall be distributed only to that supplier o Credit of input services attributable to more than one supplier shall be distributed on pro-rata basis amongst such supplier(s) to whom the input service is attributable
17	**1**	(1) The Input Service Distributor may distribute, in such manner as may be prescribed, the credit of SGST as IGST, by way of issue of a prescribed document containing, inter alia, the amount of input tax credit being distributed or being reduced thereafter, where the Distributor and the recipient of credit are located in different States. (SGST Act)		CENVAR Credit Rules, 2004	Rule 7 & 7A	
17	**2**	(2) The Input Service Distributor may distribute, in such manner as may be prescribed, the credit of CGST and IGST as CGST, by way of issue of a prescribed document containing, inter alia, the amount of input tax credit being distributed or being reduced thereafter, where the Distributor and the recipient of credit, being a business vertical, are located in the same State. (CGST Act)		CENVAR Credit Rules, 2004	Rule 7 & 7A	

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
17	2	(2) The Input Service Distributor may distribute, in such manner as may be prescribed, the credit of SGST and IGST as SGST, by way of issue of a prescribed document containing, inter alia, the amount of input tax credit being distributed or being reduced thereafter, where the Distributor and the recipient of credit, being a business vertical, are located in the same State. (SGST Act)		CENVAR Credit Rules, 2004	Rule 7 & 7A	
17	3	(3) The Input Service Distributor may distribute the credit subject to the following conditions, namely: (a) the credit can be distributed against a prescribed document issued to each of the recipients of the credit so distributed, and such invoice or other document shall contain such details as may be prescribed; (b) the amount of the credit distributed shall not exceed the amount of credit available for distribution; (c) the credit of tax paid on input services attributable to a supplier shall be distributed only to that supplier; (d) the credit of tax paid on input services attributable to more than one supplier shall be distributed only amongst such supplier(s) to whom the input service is attributable and such distribution shall be pro rata on the basis of the turnover in a State of such supplier, during the relevant period, to the aggregate of the turnover of all such suppliers to whom such input service is attributable and which are operational in the current year, during the said relevant period.		CENVAR Credit Rules, 2004	Rule 7 & 7A	
18		**Manner of recovery of credit distributed in excess**				
18	1	1) Where the credit distributed by the Input Service Distributor is in excess of the credit available for distribution by him, the excess credit so distributed shall be recovered from such distributor along with interest, and the provisions of section 51 shall apply mutatis mutandis for effecting such recovery.	No such provision			Recovery in case of excess distribution from distributor and if the distribution is in contravention of the provisions suggested then recovery for the excess credit will be done from the suppliers.
18	2	(2) Where the Input Service Distributor distributes the credit in contravention of the provisions contained in section 17 resulting in excess distribution of credit to one or more suppliers, the excess credit so distributed shall be recovered from such supplier(s) along with interest, and the provisions of section 51 shall apply mutatis mutandis for effecting such recovery.				
18		Explanation. –For the purposes of section 17 and this section, the relevant period shall				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
18		be- (a) if the recipients of the credit have turnover in their States in the financial year preceding the year during which credit is to be distributed, the said financial year; or b) if some or all recipients of the credit do not have any turnover in their States in the financial year preceding the year during which the credit is to be distributed, the last quarter for which details of such turnover of all the recipients are available, previous to the month during which credit is to be distributed.				
19		**Registration :**				
19	1	(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: 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.	Different provision under different acts			1 The concept of a single/centralised registration for multiple places of business has not been provided. 2 Inapplicability of threshold limits to inter-state supplies runs counter to having uniform taxing principles for intra-state and inter-state transactions. 3. Reference of unit identity number has been included for clarification. It has been specified that the registered persons under ealier act need not apply for fresh registeration except for input service distributor. Existing Input service distributor need sto apply for fresh registration. Non Resident taxable person may not have PAN therefore other documents may be prescribed for granting registration to such person. **4. Tax Payer — Threshold limit Agg. Turnover — Registration Agg. Turnover** Located anywhere in India other than North East - Rs. 10 Lacs - Rs. 9 Lacs Located in North East - Rs. 5 Lacs - Rs. 4 Lacs 5. Threshold limit will not be applicable to those taxpayers who make inter-state supplies, Casual Tax Payer, person liable to pay reverse charge, non-residnet tax payer, person required to be paid TDS, Agent , Input Service Disttributor, E-Commerce Operator , persons providing branded services through ecommerce, aggregator or any other persons as notififed. Such person needs to obatin the registration.
19	2	(2) Notwithstanding anything contained in sub-section (1), 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.	New Provision			Business verticle has been defined to mean segments as per Accounting Standard 17. Business Verticle can be based on nature of products, nature of services, production process, type & class of customers, method used to distribute products or provide the services, nature of regulatory enviornment
19	3	(3) A person, though not liable to be registered under Schedule III, may get himself registered voluntarily, and all provisions of this Act, as are applicable to a registered taxable person, shall apply to such person.	Similar provisions			Voluntary registration provision

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
19	4	(4) Every person shall have a Permanent Account Number issued under the Income Tax Act, 1961 (43 of 1961) in order to be eligible for grant of registration under subsection (1), (2) or (3). (4A) Notwithstanding anything contained in sub-section (4), a non-resident taxable person may be granted registration under sub-section (1) on the basis of any other document as may be prescribed.	Similar provisions except of state VAT Acts			PAN will be compulsary
19	5	(5) Where a person who is liable to be registered under this Act fails to obtain registration, the proper officer may, without prejudice to any action that is, or may be taken under this Act, or under any other law for the time being in force, proceed to register such person in the manner as may be prescribed.	Similar provisions			Earlier provision under central excise / finance act / respective state act is continued.
19	6	(6) Notwithstanding anything contained in sub-section (1), any specialized agency of the United Nations Organization or any Multilateral Financial Institution and Organization notified under the United Nations (Privileges and Immunities) Act, 1947 (46 of 1947), Consulate or Embassy of foreign countries and any other person or class of persons as may be notified by the Board / Commissioner, shall obtain a Unique Identity Number, in the manner prescribed, for the purpose(s) notified, including refund of taxes on the notified supplies of goods and/or services received by them.				Provision for Unique ID for specified organisations
19	7	(7) The registration or the Unique Identity Number, shall be granted or, as the case may be, rejected after due verification in the manner and within such period as may be prescribed.				
19	8	(8) The proper officer shall not reject the application for registration or the Unique Identity Number without giving a notice to show cause and without giving the person a reasonable opportunity of being heard. (8A) A certificate of registration shall be issued in the prescribed form, with effective date as may be prescribed.		Service Tax Rules 1994 CBEC Circular No. 997/04/2015 dtd. 28.02.2015	4(5)	NO registration can be rejected without giving the SCN and opportunity of personal hearing as natural justice.
19	9	(9) A registration or an Unique Identity Number shall be deemed to have been granted after the period prescribed under sub-section (7), if no deficiency has been communicated to the applicant by the proper officer within that period.				Though one can understand the logic of this provision but such provisions can be deterimental to the ease of doing business. It is suggested that to have the authority to proper officers of CGST to grant registration or rejection for registered office and for all other offices in different states should be given the authority to SGST officers so as to have single window control.
19	10	(10) Notwithstanding anything contained in sub-section (7), any rejection of application for registration or the Unique Identity Number under the CGST Act / SGST Act shall be deemed to be a rejection of application for registration under the SGST Act / CGST Act.				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
19	11	(11) The grant of registration or the Unique Identity Number under the CGST Act / SGST Act shall be deemed to be a grant of registration or the Unique Identity Number under the SGST/CGST Act provided that the application for registration or the Unique Identity Number has not been rejected under SGST/CGST Act within the time specified in sub section (7).				
19	12	(12) The Central or a State Government may, on the recommendation of the Council, by notification, specify the category of persons who may be exempted from obtaining registration under this Act.				
19A		**Special Provisions related casual taxable person and non-residend taxable person**				
19A	1	(1) The certificate of registration issued to a casual taxable person or a non-resident taxable person shall be valid for a period of ninety days from the effective date of registration. Provided that the proper officer may, at the request of the said taxable person, extend the aforesaid period of ninety days by a further period not exceeding ninety days.	No such provision			New provisions added w.r.t. to registration as casual taxable person and non resident casual person. The certificate of registration in this case will be valid for 90 Days and will be extended maximum upto further 90 days. Such taxable persons needs to deposit advance tax on the basis of esteemated tax liabilty at the time of regiatration. Specific provision to counter check the actual liaility has not been made elsewhere. It is in same line with Business Process Reports for Registration.
19A	2	(2) Notwithstanding anything to the contrary contained in this Act, a casual taxable person or a non-resident taxable person shall, at the time of submission of application for registration under sub-section (1) of section 19, make an advance deposit of tax in an amount equivalent to the estimated tax liability of such person for the period for which the registration is sought: Provided that where any extension of time is sought under sub-section (1), such taxable person shall deposit an additional amount of tax equivalent to the estimated tax liability of such person for the period for which the extension is sought.	No such provision			Covered in above
19A	3	(3) The amount deposited under sub-section (2) shall be credited to the electronic cash ledger of such person and shall be utilized in the manner provided under section 35.	No such provision			Covered in above
20		**Amendment of registration**				
20	1	(1) Every registered taxable person shall inform the proper officer of any changes in				Existing procedure for amendment continues. However, amendment can be rejected subject to issuance of SCN and opprtunity of being heard is provided to the taxable person.
20		the information furnished at the time of registration, or that furnished subsequently, in	Similar provision			
20		the manner and within such period as may be prescribed.				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
20	2	(2) The proper officer may, on the basis of information furnished under sub-section (1) or as ascertained by him, approve or reject amendments in the registration particulars in the manner and within such period as may be prescribed: Provided that approval of the proper officer shall not be required in respect of amendment of such particulars as may be prescribed.				
20	3	(3) The proper officer shall not reject the request for amendment in the registration particulars without giving a notice to show cause and without giving the person a reasonable opportunity of being heard.				
20	4	(4) Any rejection or, as the case may be, approval of amendments under the CGST				
21		**Cancellation of Registration:**				
21	1	(1) The proper officer may, either on his own motion or on an application filed, in the prescribed manner, by the registered taxable person or by his legal heirs, in case of death of such person, cancel the registration, in such manner and within such period as may be prescribed, having regard to the circumstances where, - (a) the business has been discontinued, transferred fully for any reason including death of the proprietor, amalgamated with other legal entity, demerged or otherwise disposed of; or (b) there is any change in the constitution of the business; or (c) the taxable person, other than the person registered under sub-section (3) of section 19, is no longer liable to be registered under Schedule III.	Simillar provision			In case of composition scheme if a person fails to furnish returns for consecutive 3 quarters registration may be cancelled. Input credit on inputs held as stock, inputs contained in semi finished or finished goods and output tax payable whichever is higher needs to be paid at the time of cancellation. In case of capital goods tax on transation value also needs to be condidered to determine the tax liability. cancellation of registration can be on own motion on account of business discontinues, amalgamation, demerger, dispose of and death of the proprietor, change of consequences of business, below threshold limit
21	2	(2) The proper officer may, in the manner as may be prescribed, cancel the registration of taxable person from such date, including any anterior date, as he may deem fit, where, - (a) the registered taxable person has contravened such provisions of the Act or the rules made thereunder as may be prescribed; or (b) a person paying tax under section 8 has not furnished returns for three consecutive tax periods; or (c) any taxable person, other than a person specified in clause (b), has not furnished returns for a continuous period of six months; or (d) any person who has taken voluntary registration under sub-section (3) of section 19 has not commenced business within six months from the date of registration.	Similar provisions			Registration may be cancelled by the Proper officer on 1. contravention of any of the provisions of the act 2. not furnished the returns for 3 consecutive tax period OR 3. continuous period of 6 months 4. not commencing the business within 6 months from the date of registration (Nil return for 6 months)

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
21	3	(3) Where any registration has been obtained by means of fraud, wilful misstatement or suppression of facts, the proper officer may cancel the registration with retrospective effect, subject to the provisions of section 29				Regsitration can be cancelled when such registration can be obtained by means of fraud, wilful misstatement of supression of facts and such cancellation will be from retrospective period from the date of registration
21	4	(4) The proper officer shall not cancel the registration without giving a notice to show cause and without giving the person a reasonable opportunity of being heard.				cancellation of registration can not be without issuance of SCN and providing the opportunity for personal hearing as a natural justice.
21	5	(5) The cancellation of registration under this section shall not affect the liability of the taxable person to pay tax and other dues under the Act for any period prior to the date of cancellation whether or not such tax and other dues are determined before or after the date of cancellation.	Similar provisions	CBEC Notification No. 35/2001 CE (NT) dtd. 26.06.2001 as amended		However, such cancellation will not impact any liability during the period
21	6	(6) The cancellation of registration under the CGST Act/SGST Act shall be deemed to be a cancellation of registration under the SGST Act/CGST Act.				Either cancellation by Central / State Authorities will be deemed to be vice versa
21	7	(7) Every registered taxable person whose registration is cancelled shall pay an amount, by way of debit in the electronic credit or cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date of such cancellation or the output tax payable on such goods, whichever is higher, calculated in such manner as may be prescribed: Provided that in case of capital goods, the taxable person shall pay an amount equal to the input tax credit taken on the said capital goods reduced by the percentage points as may be prescribed in this behalf or the tax on the transaction value of such capital goods under sub-section (1) of section 15, whichever is higher.				On cancellation payment can be made of taxability through electronic debit, electronic credit or cash ledger or reversal of input tax credit on input tax credit and input contained in semi-finished or finished goods in stock and proportionate capital goods as may be prescibed.
21	8	(8) The amount payable under sub-section (7) shall be calculated in accordance with generally accepted accounting principles in such manner as may be prescribed.				
22		**Revocation of cancellation of registration**				
22	1	(1) Subject to such conditions and in such circumstances as may be prescribed, any registered taxable person, whose registration is cancelled by the proper officer on hi sown motion, may apply to such officer for revocation of cancellation of the registration in the prescribed manner within thirty days from the date of service of the cancellation order.	No such provision	CBEC Notification No. 35/2001 CE (NT) dtd. 26.06.2001 as amended		Tax payer can apply for revocation of cancellation within 30 days of the service of cancellation order

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
22	2	(2) The proper officer may, in the manner and within such period as may be prescribed in this behalf, by way of an order, either revoke cancellation of the registration or reject the application for revocation for good and sufficient reasons.	No such provision			Granting of revocation or rejection of such application should be for goods and sufficient reason on giving SCN and opportunity of the personal hearing.
22	3	(3) The proper officer shall not reject the application for revocation of cancellation of registration without giving a notice to show cause and without giving the person a reasonable opportunity of being heard.	No such provision			
22	4	(4) Revocation of cancellation of registration under the CGST Act / SGST Act shall be deemed to be a revocation of cancellation of registration under the SGST Act / CGST Act.	No such provision			
23		**Tax Invoice**				
23		A registered taxable person supplying,- (i) taxable goods shall issue, at the time of supply, a tax invoice showing the description, quantity and value of goods, the tax charged thereon and such other particulars as may be prescribed; (ii) taxable services shall issue a tax invoice, within the prescribed time, showing the description, the tax charged thereon and such other particulars as may be prescribed: Provided that a registered taxable person may issue a revised invoice against the invoice already issued during the period starting from the effective date of registration till the date of issuance of certificate of registration to him: Provided further that a registered taxable person supplying non-taxable goods and/or services or paying tax under the provisions of section 8 shall issue, instead of a tax invoice, a bill of supply containing such particulars as may be prescribed. Explanation.- The expression "tax invoice" shall be deemed to include a document issued by an Input Service Distributor under section 17, and shall also include any supplementary or revised invoice issued by the supplier in respect of a supply made	Similar provision	Central Excise Rules, 2002 Service Tax Rules 1994	Rule 11 Rule 4A	1. Provision for issuing revised invoice during the period starting from the effective date of registration till the date of issuance of certificate of registrartion. Also it is clarified that tax invoice includes document issued by ISD supplementary or revised invoice. 2 The concept of debit and credit notes has been part of various VAT legislations. However, in the said legislations, such documents have also been recommended for situations where goods are returned post sale. The model law however does not prescribe issuance of debit/credit notes in such situations.
23A		**Amount of tax to be indicated in tax invoice and other documents**				
23A		Notwithstanding anything contained in this Act or any other law for the time being in force, where any supply is made for a consideration, every person who is liable to pay tax for such supply shall prominently indicate in all documents relating to assessment, tax invoice and other like documents, the amount of tax which will form part of the price at which such supply is made.	Similar provision	Central Excise Rules, 2002 Service Tax Rules 1994	Rule 11 Rule 4A	Existing provision of existing laws continued
24		**Credit and debit notes**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
24	1	(1) Where a tax invoice has been issued for supply of any goods and/or services and the taxable value and/or tax charged in that tax invoice is found to exceed the taxable value and/or tax payable in respect of such supply, the taxable person, who has supplied such goods and/or services, may issue to the recipient a credit note containing such particulars as may be prescribed on or before the thirtieth day of 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: Provided that no credit note shall be issued by the said person if the incidence of tax and interest on such supply has been passed by him to any other person.	NA			Where the tax invoice was found to be less than taxable value than debit note can be issued on or before 30th day of September. The provision is streamlined with the issuance of credit note. In accordance to proviso, no credit note shall be issued by the said person if the incidence of tax and interest on such supply has been passed by him to any other person. This will lead to the confusion. When tax has been paid on higher value still credit note cannot be raised which will create anamoly in the reconciliation of the turnover as per financial accounts and taxable turnover.
24	2	(2) Where a tax invoice has been issued for supply of any goods and/or services and the taxable value and/or tax charged in that tax invoice is found to be less than the taxable value and/or tax payable in respect of such supply, the taxable person, who has supplied such goods and/or services, shall issue to the recipient a debit note containing such particulars as may be prescribed on or before the thirtieth day of 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.				This is very good provision to pay the differential duty on such upward revision of price and raise the debit note alongwith tax on or before 30th Sept of the subsequnt financial year or date of filing of the Annual return. However, the interest will be payable from the date of revision and raising the debit note. It will ease to the existing litigation of paying the duty from the date of removal .
24	3	(3) Any registered taxable person who issues or receives a credit or debit note in relation to a supply of goods and/or services shall declare the details of such credit or debit note, as the case may be, in the return for the month during which such credit or debit note has been issued or received or in the return for any subsequent month but not later than September following the end of financial year in which such supply was made, or the date of filing of the relevant annual return, whichever is earlier, and the tax liability shall be adjusted in the manner specified in this Act.				Similarly, debit note and credit note in case of return of to a supply of goods and/or services during the month when goods are returned or on or before 30th Sept of the subsequent year or date of filing of the return whichever is earlier.
25		**Furnishing details of outward supplies**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
25	**1**	(1) 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 tenth day of the month succeeding the said tax period and such details shall be communicated to the recipient of the said supplies within the time and in the manner as may be prescribed: Provided that the Board / Commissioner may, for valid and sufficient reasons, by notification, extend the time limit for furnishing such details: Provided further that any extension of time limit by the Board/Commissioner of State Goods and Services Tax shall be deemed to be approved by the Commissioner of State Goods and Services Tax/Board: Explanation.- For the purposes of this section, the expression "details of outward supplies" shall include details relating to zero-rated supplies, inter-state supplies, return of goods received in relation to/ in pursuance of an inward supply, exports, debit	Currently in VAT forms J1 and J2 are there wherein purchase and sales details for the returns period are required to be furnised.	MVAT Act 2002	Rule 17 (4)(d)	1) Electronically return for all outward supply of goods in the prescribed manner during the tax period should be furnished on or before 10th of subsequent month and such details shall be communicated to the receipient of the said supplies in the manner and time as prescribed. 2)Details of outward supplies will include 0 rates supplies, inter state supplies, Goods / Services return, Exports, supplementary invoices, debit notes and credit notes 3)Specific mechanism is being proposed for matching of input tax credit claimed by the recipient and tax paid by the supplier. The said requirement was never prevalent under Central tax laws, though certain State VAT legislations (including Maharashtra and West Bengal) incorporated such requirements. Even in such States, practically, such requirement has resulted in denial of huge eligible input tax credits for want of documentary requirements (pertaining to payment of tax at supplier's end) not within the control of the assessee or owing to errors in the Departmental database. Such conditions for availment of credit, not within the control of the credit claiming dealer, would be detrimental to the vision of seamless GST. 4) Provisions pertaining to the filing of various returns are tabulated and annexed and marked as annexure B
25	**2**	(2) Any registered taxable person, who has furnished the details under sub-section (1) for any tax period and which have remained unmatched under section 29, shall, upon discovery of any error or omission therein, rectify such error or omission in the tax period during which such error or omission is noticed in such manner as may be prescribed, and shall pay the tax and interest, if any, in case there is a short payment of tax on account of such error or omission, in the return to be furnished for such tax period: Provided that no rectification of error or omission in respect of the details furnished under sub-section (1) 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.	-	-	-	Once return is filed / uploaded, it cannot be revised. However, rectification is allowed through correction only or debit notes, credit notes, as the case may be. But such rectifications needs to be done prior to 30th Septmember of subsequent financial year or filing of Annual return whichever is earlier through debit note or credit note
26		**Furnishing details of inward supplies - GSTR-2 and Reverse Charge**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
26	**1**	(1) 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 verify, validate, modify or, if required, delete the details relating to outward supplies and credit or debit notes communicated under sub-section (1) of section 25 to prepare the details of his inward supplies and credit or debit notes and may include therein, the details of inward supplies and credit or debit notes received by him in respect of such supplies that have not been declared by the supplier under sub-section (1) of section 25.	Currently in VAT forms J1 and J2 are there wherein purchase and sales details for the returns period are required to be furnised.	-	-	1) In current scenario output liability and input credit / set off details are required to be furnised in a single return. In GST separate returns is prescribed for input credit and outward liability, meaning more checks, control and corrections required before filing of respective returns. 2) Further as per the business process report inward supples details would get auto populated in GSTR-2 at respective buyers end which would bring in a kind of auto check w.r.t input tax credit. 3) Provisions pertaining to the filing of various returns are tabulated and annexed and marked as annexure B
26	**2**	(2) 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 fifteenth day of the month succeeding the tax period in such form and manner as may be prescribed: Provided that the Board/Commissioner may, for valid and sufficient reasons, by notification, extend the time limit for furnishing such details: Provided further that any extension of time limit by the Board/Commissioner of State Goods and Services Tax shall be deemed to be approved by the Commissioner of State Goods and Services Tax/Board.				1) Every taxable person will furnish the details of taxable goods and services including the tax payable on reverse charge basis 2) The credit note and debit note to be raised w.r.t supplies of tax period on or before 15th of such subsequent month and to be submitted electronically in the precribed time and manner.
26	**3**	(3) Any registered taxable person, who has furnished the details under sub-section (2) for any tax period and which have remained unmatched under section 29, shall, upon discovery of any error or omission therein, rectify such error or omission in the tax period during which such error or omission is noticed in such manner as may be prescribed, and shall pay the tax and interest, if any, in case there is a short payment of tax on account of such error or omission, in the return to be furnished for such tax period: Provided that no rectification of error or omission in respect of the details furnished under sub-section (2) 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.				1) In case of mismatch or upon dicovery of error or ommission to rectify such errors as may be prescribed and pay the tax and interest if any and furnish in electronic return for the tax period or furnish the same on or before 30th Septemebr of subsequent year or filling of annual return whichever is earlier.
27		**Returns**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
27	**1 to 6 (GSTR-3, GSTR-4, GSTR - 7)**	(1) 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 twenty days after the end of such month: Provided that a registered taxable person paying tax under the provisions of section 8 of this Act shall furnish a return for each quarter or part thereof, electronically, in such form and in such manner as may be prescribed, within eighteen days after the end of such quarter: Provided further that a registered taxable person shall not be allowed to furnish return for a tax period if valid return for any previous tax period has not been furnished by him.	Excise = Every assessee shall submit to the Superintendent of Central Excise a monthly return in the form specified by notification by the Board, of production and removal of goods and other relevant particulars, within ten days after the close of the month to which the return relates Service Tax = Every assessee shall submit a half yearly return in Form 'ST-3' or 'ST-3A & ST-3B', as the case may be, alongwith a copy of the Form TR-6, in triplicate for the months covered in the half-yearly return. Every assessee shall submit the half-yearly return by the 25th of the month following the particular half-year VAT & CST = Monthly/ Quarterly/Half Yearly Return on the basis of turnover of the assessee	Central Excise Rule 2002 Service Tax Act 1944 MVAT 2002 CST Act 1956	Rule 12 Rule 7 Rule 17 Rule 5 of CST Rule 1957	1) Monthly return will reflect inward and outward supplies, input tax credit availed, tax paid and other particulars and it needs to be furnished electronically on or before 20th of subsequent month. 2) Where quarterly return is being precribed it should be furnished within 18 days from the end of the said quarter 3) If tax payer has not furnished return for earlier period such tax payer will not be allowed to file the return till earlier returns are filed.
27	**2**	(2) Every registered taxable person, who is required to furnish a return under subsection (1), 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.				1) Due date of payment will be the same as mentioned above at par with period prescribed for filing the returns
27	**3**	(3) A return furnished under sub-section (1) by a registered taxable person without payment of full tax due as per such return shall not be treated as a valid return for allowing input tax credit in respect of supplies made by such person.				If tax due is fully not paid it will be considered as invalid return and **no input tax credit will be allowed to recipient of such goods or services.** **The provision is deterimental to the implementation of GST**
27	**4**	(4) Every registered taxable person shall furnish a return for every tax period under sub-section (1), whether or not any supplies of goods and/or services have been effected during such tax period.				Even though there is no supply of goods and services or receipts of goods still NIL return is required to be filed within due date
27	**5**	(5) 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 Page 48 of 190 month in which such deductions have been made along with the payment of tax so deducted, within ten days after the end of such month.				The taxable person who is required to deduct the tax will also deposit the tax and file the return within 10 days after the end of such month
27	**6**	(6) Every Input Service Distributor shall, for every calendar month or part thereof, furnish a return, electronically, in such form and in such manner as may be prescribed, within thirteen days after the end of such month.				Due date has been specified for submission of ISD return i.e 13th day after the end of the month.

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
27	7	(7) Subject to the provisions of sections 25 and 26, if any taxable person after furnishing a return under sub-section (1) discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, he shall rectify such omission or incorrect particulars in the return to be filed for the month or quarter, as the case may be, during which such omission or incorrect particulars are noticed, subject to payment of interest, where applicable and as specified in the Act: 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.				1) The differential tax along with interest is payable on account of discovery of any ommission or incorrect particulars as a resul of scrutiny, audit, inspection or enforcement activities by the Tax Authorities (Not Auditors). Such rectification also to be reported through filing the return through debite notes and credit notes on or before due date of filing return for the month of September or 2nd Quarter or following the end of financial year or actual date of filing Annual Return, whcihever is earlier.
27A		**First Return**				
27A	1	(1) Every registered taxable person paying tax under the provisions of section 7 shall furnish the first return containing the details of: (a) outward supplies under section 25 from the date on which he became liable to registration till the end of the month in which the registration has been granted; (b) inward supplies under section 26 from the effective date of registration till the end of the month in which the registration has been granted: Provided that a registered taxable person paying tax under the provisions of section 8 shall furnish the first return for the period starting from the date on which he becomes a registered taxable person till the end of the quarter in which the registration has been granted.				Provision for filling of first return from the date on which taxable person becomes liable for registration till the end of month in which registration has been granted and inward supplies from the date of effective registration till the end of the month in which the registration has been granted. First Tax Return to be filed covering all the transactions for the period from the date when person becomes taxable till the end of the quarter in which period registration is granted.
27A	2	(2) Provisions of section 25, 26 and 27, other than the provision pertaining to tax period, shall apply mutatis mutandis to the said person furnishing return under subsection (1).				
28		**Claim of input tax credit and provisional acceptance thereof**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
28		Every taxable person shall, subject to such conditions and restrictions as may be prescribed in this behalf, be entitled to take credit of input tax, as self-assessed, in his return and such amount shall be credited, on a provisional basis, to his electronic credit ledger to be maintained in the manner as may be prescribed: Provided that a taxable person who has not furnished a valid return under section 27 of the Act shall not be allowed to utilize such credit till he discharges his self-assessed tax liability	Cenvat credit on inouts and Capital goods and input services is allowed as per the relevant provision of Cenvat Credit Rules 2004. Set off of input VAT is allowed in VAT as per the provision of section 48 of MVAT Act 2002	Cenvat Credit Rules 2004 MVAT Act 2002	Rule 1 to Rule 16 Section 48	Input tax credit on provisional basis has been allowed. However if valid return is not furnished by a taxable person then such input tax credit shall not be allowed to be utilized till self assesed tax liability has been discharged.
29		**Matching, reversal and reclaim of input tax credit**				
29	1	(1) The details of every inward supply furnished by a taxable person (hereinafter referred to in this section as the 'recipient') for a tax period shall, in the manner and within the time prescribed, be matched: (a) with the corresponding details of outward supply furnished by the corresponding taxable person (hereinafter referred to in this section as the 'supplier') in his valid return for the same tax period or any preceding tax period, (b) with the additional duty of customs paid under section 3 of the Customs Tariff Act, 1975 (51 of 1975) in respect of goods imported by him, and (c) for duplication of claims of input tax credit.	Newly introduced	-	-	Inward Supplies furnished by the taxable person to be matched wit corresponding details of the outward supplies furnished by the supplier in his valid return and duty paid in accordance with Section 3 of the Customs Tariff Act, 1975 in respect of goods impoted by him and for duplication of claims of Input Tax Credit.
29	2	(2) The claim of input tax credit in respect of invoices and/or debit notes relating to inward supply that match with the details of corresponding outward supply or with the additional duty of customs paid shall, subject to the provisions of section 16, be finally accepted and such acceptance shall be communicated, in the manner as may be prescribed, to the recipient.				Such matching of invoices and debit notes relating to inward supplies and outward supplies of the supplier and import of goods will be finally accepted by the Department and such acceptance will be communicated to the recipient.
29	3	(3) Where the input tax credit claimed by a recipient in respect of an inward supply is in excess of the tax declared by the supplier for the same supply or the outward supply is not declared by the supplier in his valid returns, the discrepancy shall be communicated to both such persons in the manner as may be prescribed.				When there is a mismatch of inward supplies and outward supplies of the supplier, such discrepancies will be communicated to the recipient and the supplier by the Department supposed to be by email, sms, through Common Portal as mentioned in the Business Process Reports.
29	4	(4) The duplication of claims of input tax credit shall be communicated to the recipient in the manner as may be prescribed.				Similarly duplication of Input Tax Credit also be communicated to the recipient by the Department through the Common Portal.

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
29	**5**	(5) The amount in respect of which any discrepancy is communicated under sub-section (3) and which is not rectified by the supplier in his valid return for the month in which discrepancy is communicated shall be added to the output tax liability of the recipient, in the manner as may be prescribed, in his return for the month succeeding the month in which the discrepancy is communicated.				If such discrepancy so reported should be rectified within one month by the supplier, otherwise such liability will be added into Output Tax Liability of the Recipient. Though this is in line of existing VAT returns at the time of assessment at the end of the year, the same provision is made applicable on the monthly basis, which will be detrimental for the implementation of GST.
29	**6**	(6) The amount claimed as input tax credit that is found to be in excess on account of duplication of claims shall be added to the output tax liability of the recipient in his return for the month in which the duplication is communicated.				Duplication of Input Credit will be added to the Tax Liability of the recipient for the month where discrepancy is communicated.
29	**7**	(7) The recipient shall be eligible to reduce, from his output tax liability, the amount added under sub-section (5) if the supplier declares the details of the invoice and/or debit note in his valid return within the time specified in sub-section (7) of section 27.				On declaring the details of invoice or debit notes by the suppliers in the valid return, recipient will be eligible to reducce outout tax liability equivalent to the amount so declared.
29	**8**	(8) A recipient in whose output tax liability any amount has been added under subsection (5) or, as the case may be, under sub-section (6), shall be liable to pay interest at the rate specified under sub-section (1) of section 36 on the amount so added from the date of availing of credit till the corresponding additions are made under the said sub-sections.				When input tax credit is denied and output tax liability has been addded to that extent, interest at the prescribed rate will be applicable from the date of avialing the credit till the corresponding additions are made in accordance with above sub-section 5.
29	**9**	(9) Where any reduction in output tax liability is accepted under sub-section (7), the interest paid under sub-section (8) shall be refunded to the recipient by crediting the Page 50 of 190 amount in the corresponding head of his electronic cash ledger in the manner as may be prescribed: Provided that the amount of interest to be credited in any case shall not exceed the amount of interest paid by the supplier.				Similarly, credit of interest will be eligible when suppliers do the correction in the valid return, input tax credit will be addeded along with interest so paid. Such interest will be reflected in the electronic cash ledger.
29	**10**	(10) The amount reduced from the output tax liability in contravention of the provisions of sub-section (7) shall be added to the output tax liability of the recipient in his return for the month in which such contravention takes place and such recipient shall be liable to pay interest on the amount so added at the rate specified in sub-section (3) of section 36.				Input Tax Credit wrongly claimed which has been reduced from the output tax liability of the recipient will be further added in the output tax liability of the recepient along with interest and will be reported in the returns of the supplier.
29A		**Matching, reversal and reclaim of reduction in output tax liability**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
29A	1	(1) The details of every credit note relating to outward supply furnished by a taxable person (hereinafter referred to in this section as the 'supplier') for a tax period shall, in the manner and within the time prescribed, be matched - (a) with the corresponding reduction in the claim for input tax credit by the corresponding taxable person (hereinafter referred to in this section as the 'recipient') in his valid return for the same tax period or any subsequent tax period, and (b) for duplication of claims for reduction in output tax liability.	-	-	-	Matching of credit notes relating to Outward Supplies with corresponding invoice number for the tax period will be matched and correspondingly reduction in the claim of Input Tax Credit of the recipient for the same tax period and duplication of claims, output tax liability will be reduced.
29A	2	(2) The claim for reduction in output tax liability by the supplier that matches with the corresponding reduction in the claim for input tax credit by the recipient shall be finally accepted and communicated, in the manner as may be prescribed, to the supplier.g				Such matching of output tax liability with corresponding reduction of the input tax credit by the recepient to be accepted and communicated to the supplier by the common portal as may be prescribed.
29A	3	(3) Where the reduction of output tax liability in respect of outward supplies exceeds the corresponding reduction in the claim for input tax credit or the corresponding credit note is not declared by the recipient in his valid returns, the discrepancy shall be communicated to both such persons in the manner as may be prescribed.				Any such mistmach will be communicated to both the persons through Common Portal.
29A	4	(4) The duplication of claims for reduction in output tax liability shall be communicated to the supplier in the manner as may be prescribed.				Duplication of claim in reduction of Output Tax liability will also be communicated to the supplier through the Common Portal.
29A	5	(5) The amount in respect of which any discrepancy is communicated under sub-section (3) and which is not rectified by the recipient in his valid return for the month in which discrepancy is communicated shall be added to the output tax liability of the supplier, in the manner as may be prescribed, in his return for the month succeeding the month in which the discrepancy is communicated.				If such mismatch or duplciation of claim is not rectified by the recipient in the valid return for the month when such discrepancy is reported, output tax liability of the supplier will be added in his return for the succeeding month in which the discrepancy is communicated.
29A	6	(6) The amount in respect of any reduction in output tax liability that is found to be on account of duplication of claims shall be added to the output tax liability of the supplier in his return for the month in which such duplication is communicated.				If such mismatch or duplciation of claim is not rectified by the recipient in the valid return for the month when such discrepancy is reported, output tax liability of the supplier will be added in his return for the succeeding month in which the discrepancy is communicated.
29A	7	(7) The supplier shall be eligible to reduce, from his output tax liability, the amount added under sub-section (5) if the recipient declares the details of the credit note in his valid return within the time specified in sub-section (7) of section 27.				Outpur Tax liability of the supplier will be reduced when such Credit Notes are declared in the Valid Tax Returns of the recipient.

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
29A	8	(8) A supplier in whose output tax liability any amount has been added under subsection (5) or, as the case may be, under sub-section (6), shall be liable to pay interest at the rate specified under sub-section (1) of section 36 in respect of the amount so added from the date of such claim for reduction in the output tax liability till the corresponding additions are made under the said sub-sections.				Where output tax liability has been added of the supplier, supplier will be liable to pay interest in respect of amounts so added till the time corresponding additions are made by the recipient and input tax liability is reduced.
29A	9	(9) Where any reduction in output tax liability is accepted under sub-section (7), the interest paid under sub-section (8) shall be refunded to the supplier by crediting the amount in the corresponding head of his electronic cash ledger in the manner as may be prescribed: Provided that the amount of interest to be credited in any case shall not exceed the amount of interest paid by the recipient.				When such Output Tax liability is accepted by the Department, amount shall be refunded to the supplier by crediting in his Electronic Cash Ledger.
29A	10	(10) The amount reduced from output tax liability in contravention of the provision of sub-section (7) shall be added to the output tax liability of the supplier in his return for the month in which such contravention takes place and such supplier shall be liable to pay interest on the amount so added at the rate specified in sub-section (3) of section 36.				Such reduced Output Tax liability will be added to the Output Tax liability of the supplier in his return and will be liable to pay interest.
30		**Annual Return**				
30	1	(1) 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 in such form and in such manner as may be prescribed on or before the thirty first day of December following the end of such financial year.	ER-4 VAT Audit	Central Excise Rule 2002 MVAT Act 2002	Rule 12 Section 61	Annual Return to be filed on or before 31st December of the subsequent Financial Year.
30	2	(2) Every taxable person who is required to get his accounts audited under subsection (4) of section 42 shall furnish, electronically, the annual return along with the audited copy of the annual accounts and a reconciliation statement, reconciling the value of supplies declared in the return furnished for the year with the audited annual financial statement, and such other particulars as may be prescribed.				Those persons who is reuqired to get their accounts audited having the turnover as perscribed by Cost Accountant or Chartered Accountant and such Annual Return should be reconciled with the Audited Financial Statements and such other particulars (e.g. cost audit report) as may be prescribed.
31		**Final return**				
31		Every registered taxable person who applies for cancellation of registration shall furnish a final return within three months of the date of cancellation or date of cancellation order, whichever is later, in such form and in such manner as may be prescribed.	No such provision	-	-	Final Return to be filed within three month's from the date of cancellation or date of cancellation order.

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
32		**Notice to return defaulters**				
32		Where a registered taxable person fails to furnish a return under section 27 or section 31, a notice shall be issued requiring him to furnish such return within such time and in such form and manner as may be prescribed				If the returns are not filed within the prescribed period, then Notice will be issued.
33		**Levy of late fee**				
33		(1) Any registered taxable person who fails to furnish the details of outward or inward supplies required under section 25 or section 26, as the case may be, or returns required under section 27 or section 31 by the due date shall be liable to a late fee of rupees one hundred for every day during which such failure continues subject to a maximum of rupees five thousand. (2) Any registered taxable person who fails to furnish the return required under section 30 by the due date shall be liable to a late fee of rupees one hundred for every day during which such failure continues subject to a maximum of an amount calculated at a quarter percent of his aggregate turnover.	Late fees amount has been presribed in Excise, VAT and Service Tax for any delay in filing of respective returns	Central Excise Rules 2002 MVAT Act 2002 Service Tax Rules 1994	Rule 12 and 27 Section 20 Rule 7C	If the returns are filed late for outward supplies (on 10th of the subsequent month) or inward sppliers (on 15th of the subsequent month) and monthly return on 20th of the subsequent month, and Final Return within three months from the date of cancellation, late fees of Rs. 100/- per day or maximum upto Rs. 5,000/-. If Annual Return is not filed before 31st December of the subsequent financial year, then late fee will be Rs. 100/- per day subject to maximum 0.25% of the aggregate turnover. Each State where the Business is carried out will have to obtain separate registration and separate annual return to be filed, but delay will cause huge latte fees to be extend of 0.5% of aggregate turnover of irrespective of turnover in a particular state.
34		**Tax Return Preparers**				
34	**1**	(1) The appropriate Government may, by rules, prescribe the manner of approval of Tax Return Preparers, their eligibility conditions, duties and obligations, manner of removal and such other conditions as may be relevant for their functioning as a Tax Return Preparer.		Finance Act 1994	Sec 71(3(a)	The provision of Tax Return Prepaperers for assisting small tax payers and such tax return preparers will be approved in the manner prescribed by the Government including their eligibility, duties and obligation and manner of removal.
34	**2**	(2) A registered taxable person may, in the manner prescribed, authorise an approved Tax Return Preparer to furnish the details of outward supplies under section 25, the details of inward supplies under section 26 and the return under section 27, 30 or section 31, as the case may be, and such other tasks as may be prescribed.				Such Tax Return Prepaperers should be authorised by the Taxable Person to furnish the details of outward & inward supplies and file the return and do tax as may be prescribed.
34	**3**	(3) Notwithstanding anything contained in sub-section (2), the responsibility for correctness of any particulars furnished in the return and/or other details filed by the Tax Return Preparer shall continue to rest with the registered taxable person on whose behalf such return and details are filed.				However, the responsibility of the correctness of the details so furnished will be on the tax payer only.
35		**Payment of tax, penalty, interest and other amounts**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
35	1	(1) 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. Explanation.- The date of credit to the account of the appropriate Government in the authorized bank shall be deemed to be the date of deposit.	Excise and Service Tax payments are prescribed as per the provision of Rule 8 of Central Excise Rule 2002 and Rule 6 of Service Tax Rule 1994 respectively	Central Excie Rules 2002 Service Tax Rule 1944 MVAT Act 2002	Rule 8 Rule 6 Rule 45	Tax, interest, penalties, late fees can be made through internet banking, debit cards, credit cards, NEFT, RTGS or any other mode as prescribed and such amount will be credited to electronic cash ledger to be maintained by the Common Portal. Date of deposit will be the date of credit to the Government Account.
35	2	(2) The input tax credit as self-assessed in the return of a taxable person shall be credited to his electronic credit ledger to be maintained in the manner as may be prescribed.				Input Tax Credit on self-assessment will be credited to the Electronic Cash Ledger.
35	3	(3) The amount available in the electronic cash ledger may be used for making any payment towards tax, interest, penalty, fees or any other amount payable under the provisions of the Act or the rules made thereunder in such manner and subject to such conditions and within such time as may be prescribed.				Balance in Electronic Cash Ledger may be utilised towards making payment of tax, interest, penalties, fees or any other amount payable.
35	4	(4) The amount available in the electronic credit ledger may be used for making any payment towards tax payable under the provisions of the Act or the rules made thereunder in such manner and subject to such conditions and within such time as may be prescribed.				Balance in Electronic Credit Ledger may be utilised towards making payment of tax.

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
35	5	(5)(a) The amount of input tax credit on account of IGST available in the electronic credit ledger 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. (b) The amount of input tax credit on account of CGST available in the electronic credit ledger shall first be utilized towards payment of CGST and the amount remaining, if any, may be utilized towards the payment of IGST. (c) The input tax credit on account of CGST shall not be utilized towards payment of SGST. Note: This provision is to be incorporated in CGST Act. (b) The amount of input tax credit on account of SGST available in the electronic credit ledger shall first be utilized towards payment of SGST and the amount remaining, if any, may be utilized towards the payment of IGST. (c) The input tax credit on account of SGST shall not be utilized towards payment of CGST. Note: This provision is to be incorporated in SGST Act.				IGST to be utilised for the payment of IGST, CGST & SGST in the sequential manner. CGST to be utilized for payment of CGST & IGST in the sequently manner. SGST to be utilised for payment of SGST and IGST in the sequently manner. CGST / SGST cannot be utilised for payment of SGST / CGST respectively.
35	6	(6) The balance in the cash or credit ledger after payment of tax, interest, penalty, fee or any other amount payable under the Act or the rules made thereunder may be refunded in accordance with the provisions of section 38 and the amount collected as CGST/SGST shall stand reduced to that extent.				The refund of the balance in cash / credit register can be granted subject to the provisions applicable relating to refund specified in section 38 and on such refund amount of balance of respective tax i.e CGST/ IGST / SGST will be reduced as the case may be.
35	7	(7) All liabilities of a taxable person under this Act shall be recorded and maintained in an electronic register as may be prescribed.				Liability will be accounted and recorded by Common Portal in Electronic Register.
35	8	(8) Every taxable person shall discharge his tax and other dues under this Act or the rules made thereunder in the following order: (a) self-assessed tax, and other dues related to returns of previous tax periods; (b) self-assessed tax, and other dues related to return of current tax period; (c) any other amount payable under the Act or the rules made thereunder including the demand determined under section 51.				Such liability will be discharged in sequential manner as under: a) self-assessed tax & other dues of previous tax period, b) self-assessed tax & other dues for current tax period, c) any amount payable as determined as short paid, erroneously refunded or not paid.
35	9	(9) Every person who has paid the tax on goods and/or services under this Act shall, unless the contrary is proved by him, be deemed to have passed on the full incidence of such tax to the recipient of such goods and/or services. Explanation.— For the purposes of this section, the expression “tax dues” means the tax payable under this Act and does not include interest, fee and penalty.				Until it is specifically mentioned, tax is not passed on to the recipient, it will be deemed to be passed on to the recipient.
36		**Interest on delayed payment of tax**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
36	**1**	(1) Every person liable to pay tax in accordance with the provisions of the Act or rules made thereunder, who fails to pay the tax or any part thereof to the account of the Central or a State Government within the period prescribed, shall, on his own, for the period for which the tax or any part thereof remains unpaid, pay interest at such rate as may be notified, on the recommendation of the Council, by the Central or a State Government.	Similar Provision with specifing range between which the interest can be charged. The Range of interest mentioned in the section is 10% to 36%	Central Excise Act, 1944	Explanation to Section 11AA	Interest on own to be paid on amount not paid, short paid, erroneously refunded and such interest to be calculated from the first day of tax due to be paid.
36	**2**	(2) The interest under sub-section (1) shall be calculated from the first day such tax was due to be paid.				
36	**3**	(3) In case a taxable person makes an undue or excess claim of input tax credit under sub-section (10) of section 29, he shall be liable to pay interest on such undue or excess claim at the prescribed rate for the period computed in the manner prescribed.				Interest on own to be paid on excess input tax credit taken. At present interest is payable on wrong utilisation of credit, but interest is now payable wrong input tax credit.
37		**Tax deduction at source**				
37	**1**	Notwithstanding anything contained to the contrary in this Act, the Central or a State Government may mandate, - (a) a department or establishment of the Central or State Government, or (b) Local authority, or (c) Governmental agencies, or (d) such persons or category of persons as may be notified, by the Central or a State Government on the recommendations of the Council, [hereinafter referred to in this section as "the deductor"], to deduct tax at the rate of one percent from the payment made or credited to the supplier [hereinafter referred to in this section as "the deductee"] 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 ten lakh. Explanation. – For the purpose of deduction of tax specified above, the value of supply shall be taken as the amount excluding the tax indicated in the invoice. (2) The amount deducted as tax under this section shall be paid to the credit of the appropriate Government by the deductor within ten days	Currently TDS is dedcuted under MVAT Act 2002 on Works Contract as per the provision of section 31	MVAT Act 2002	Section 31	1. TDS is deducted by the Department or Establishment of Central or State Government or local authority, or Government Agencies or such persons or categories of person as notified by the Government on supplies made to above authorities. Rate of TDS will be @ 1%. Such tax to be deducted from the payment of the supplier and to be deposited within 10 days when such contract exceeds Rs. 10.00 Lacs. 2. TDS Certificate to be funished giving the details of contract value, rate of deduction, amount deducted and amount paid and date of deposit to the Government. 3. If deductor fails to issue TDS certificate within 5 days of crediting such amount to Government, he will be liable to pay late fees of Rs. 100/- per day maximum upto Rs. 5,000/-. 4. Such deductee will furnish in the return and such amount will be credit in the electronic cash ledger. 5. If deductor fails to pay the TDS to the credit of the Government, interest will be leviable. 6. Refund of wrong deduction will be made in accordance with provisions applicable to refund specified in Section 38. 3.
37A		**Transfer of input tax credit**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
37A		On utilization of input tax credit availed under the CGST Act for payment of tax dues under the IGST Act as per sub-section (5) of section 35, the amount collected as CGST shall stand reduced by an amount equal to the credit so utilized and the Central Government shall transfer an amount equal to the amount so reduced from the CGST account to the IGST account in the manner and time as may be prescribed. Note: This provision is to be incorporated in the CGST Act. On utilization of input tax credit availed under the SGST Act for payment of tax dues under the IGST Act as per sub-section (5) of section 35, the amount collected as SGST shall stand reduced by an amount equal to the credit so utilized and the State Government shall transfer an amount equal to the amount so reduced from the SGST account to the IGST account in the manner and time as may be prescribed. Note. This provision is to be incorporated in SGST Act.				When CGST is utilised for the payment of IGST, Central Government will transfer such amount to IGST account as an internal adjustment. Same provisoin will be applicable for State Government.
CHAPTER-X : REFUNDS						
38		**Refund**				
38	**1**	1) 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 two years from the relevant date in such form and in such manner as may be prescribed: Provided that the limitation of two years shall not apply where such tax or interest or the amount referred to above has been paid under protest.	Similar Provision except for period of claiming refund is one year	Central Excise Act, 1944	Secction 11B (1)	1) Refund application to be filed with appropriate authority i.e CGST / IGCST offices for claiming refund of CGST and IGST and with Commissioner of SGST for refund of SGST. However such limitation period of 2 year will not be applicable when tax or interest is paid under protest.
38	**2**	(2) Subject to the provisions of sub-section (8), 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.				Refund will be applicable in case of exports or goods or services having inverted duty structure.

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
38	3	(3) The application shall be accompanied by— (a) such documentary evidence as may be prescribed to establish that a refund is due to the applicant, and (b) such documentary or other evidence (including the documents referred to in section 23A) as the applicant may furnish to establish that the amount of tax and interest, if any, paid on such tax or any other amount paid in relation to which such refund is claimed was collected from, or paid by, him and the incidence of such tax and interest had not been passed on by him to any other person: Provided that where the amount claimed as refund is less than five lac rupees, it shall not be necessary for the applicant to furnish any documentary and other evidences and instead, he may file a declaration, based on the documentary or other evidences with him, certifying that the incidence of such tax and interest had not been passed on by him to any other person.	Similar Provisions	Central Excise Act, 1944	Secction 11B (1)	Refund application should accompany with prescribed documents - evidence of tax and interest paid, evidence of tax / interest not collected from recipient or any other person, however if such refund is less than 5 lacs rupees than self decleration is required for unjust enreichment will be sufficient. In other words certification of unjust enrichment is requirement from Cost Accountant or Chartered Accountant as mentioned in the Business Process Report
38	4	(4) If, on receipt of any such application, the proper officer is satisfied that the whole or part of the amount claimed as refund is refundable, he may make an order accordingly and the amount so determined shall be credited to the Fund.	Similar Provisions	Central Excise Act, 1944	Secction 11B (1)	Refund order will be passed by proper officer, but if there is unjust enrichment such amount will be credited to the consumer welfare fund.
38	4A	(4A) Notwithstanding anything contained in sub-section (4), the proper officer may, in the case of any claim for refund on account of export of goods and/or services made by such category of registered taxable persons as may be notified in this behalf, refund eighty percent of the total amount so claimed, excluding the amount of input tax credit provisionally accepted, on a provisional basis, in the manner and subject to such conditions, limitations and safeguards as may be prescribed and the remaining twenty percent may be refunded after due verification of documents furnished by the applicant				In case of refund application arrising out of exports 80% of the refund claim excluding the amount of input tax credit so accepted, to be made on provisional basis subject to the condition and limitations as may be prescribed and remaining 20% to be paid after due verification of the documents within 90 days from the date of receipt of the application
38	5	(5) The proper officer shall issue the order under sub-section (4) within ninety days from the date of receipt of application. Explanation.- The “application” for the purpose of this sub-section shall mean complete application containing all information as may be prescribed.	No specific provision			In case of refund application arrising out of exports 80% of the refund claim excluding the amount of input tax credit so accepted, to be made on provisional basis subject to the condition and limitations as may be prescribed and remaining 20% to be paid after due verification of the documents within 90 days from the date of receipt of the application

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
38	6	(6) Notwithstanding anything contained in sub-section (4) or sub-section (4A), the refundable amount shall, instead of being credited to the Fund, be paid to the applicant, if such amount is relatable to – (a) refund of tax on goods and/or services exported out of India or on inputs used in the goods and/or services which are exported out of India; (b) refund of unutilized input tax credit under sub-section (2); (c) the tax and interest, if any, or any other amount paid by the applicant, if he had not passed on the incidence of such tax and interest to any other person; or (d) the tax or interest borne by such other class of applicants as the Central or a State Government may, on the recommendation of the Council, by notification, specify.	Similar Provision	Central Excise Act, 1944	Secction 11B (2)	If ther is no unjust enrichment and refund will be granted in case of exports or inverted duty structure along with the interest if any.
38	7	(7) Notwithstanding anything to the contrary contained in any judgment, decree, order or direction of the Appellate Tribunal or any Court or in any other provision of this Act or the rules made thereunder or in any other law for the time being in force, no refund shall be made except as provided in sub-section (6).	Similar Provision	Central Excise Act, 1944	Secction 11B (3)	No refund will be granted in any other cases as mentioned above except arrising from any judgement, decree or order of Appellate tribunal or any court.
38	8	(8) Notwithstanding anything contained in sub-section (2), where any refund is due under the said sub-section to a registered taxable person who has defaulted in furnishing any return or who is required to pay any tax, interest or penalty, which has not been stayed by any Court, Tribunal or Appellate Authority by the specified date, the proper officer may— (a) withhold payment of refund due until the said person has submitted the return or paid the tax, interest or penalty, as the case may be; (b) deduct from the refund due, any tax, interest or penalty which the taxable person is liable to pay but which remains unpaid. Explanation.- For the purposes of this sub-section the expression “specified date” shall mean— (a) the last date for filing an appeal under this Act, in a case where no appeal has been filed (b) thirty days after the last date for filing an appeal under this Act, in a case where an appeal has been filed.				Newly inserted. Now refund amount can be withheld or reduced if person have defaulted in compling with the provisions of the act, including non filing of the return, default in payment of tax and penalty which is not stayement by the Appellate tribunal or order of court or reduced refund will be granted to the extent of such dues. Specifed date for the said section is last date of filing an appeal as stipulated when no appeal is filed or 30 days after the last date of filing the appeal when appeal is filed.

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
38	**9**	(9) Notwithstanding anything contained in sub-section (4) or sub-section (4A), where an order giving rise to a refund is the subject matter of an appeal or further proceeding or where any other proceeding under this Act is pending and the Commissioner / Board is of the opinion that grant of such refund is likely to adversely affect the revenue, he may, after giving the taxpayer an opportunity of being heard, withhold the refund till such time as he may determine.				Commissioner / Board is authorised to withhold the refund after granting the opportunity of heard if it is adversly affecting the revenue. This provision is required to be deleted since it is deterimental to the rights of the tax payer.
38	**10**	(10) Where a refund is withheld under sub-section (9), the taxable person shall be entitled to interest as provided under section 39, if as a result of the appeal or further proceeding he becomes entitled to refund.				However interest will be entitled after the order holding entitlement of the refund
38	**11**	(11) Notwithstanding anything contained in this section, no refund under sub-section (4) or sub-section (4A) shall be paid to an applicant if the amount is less than rupees one thousand. Explanation. — For the purposes of this section - (A) "refund" includes refund of tax on goods and/or services exported out of India or on inputs or input services used in the goods and/or services which are exported out of India, or refund of tax on the supply of goods regarded as deemed exports, or refund of unutilized input tax credit as provided under sub-section (2). (B) "relevant date" means – (a) in the case of goods exported out of India where a refund of tax paid is available in respect of the goods themselves or, as the case may be, the inputs or input services used in such goods, - (i)if the goods are exported by sea or air, the date on which the ship or the aircraft in which such goods are loaded, leaves India, or (ii) if the goods are exported by land, the date on which such goods pass the frontier, or (iii) if the goods are exported by post, the date of despatch of goods by Post Office	Similar Provision except for changes in wording to match GST Law	Central Excise Act, 1944	Explantion to Section 11B	No refund will be granted if the refund is less than Rupees 100. For this purpose of this section refund will be entitled for goods / services exported or supplied under deemed export or unutilsed credit from inverted duty structure and rebate on export and deemed export of goods on which duty is paid and rebate on input and input services. Relevat date for the purpose of limitation will be counted as: 1) Output Tax / Input or Input Service Rebate for exports by Air / Sea - Relevant date will be date when goods are loaded on the vessel and vessel leaves India (Bill of Lading) 2) Output Tax / Input or Input Service Rebate for exports by Road - Relevant date will be the date on which the goods leaves frontier (border of India) 3) Output Tax / Input or Input Service Rebate for exports by Post - Relevant date will be date on which post office has despatched the goods 4) Output Tax Rebate for deemed exports - Relevant date will be date on which return relating to deemed export is filed for output supplies 5) In case of export of service input or input services used in which are exported out of India receipt of payment in convertible foreign exchange when supply is completed before such receipts or date of invoice when such advance is received. 6) Refund arrising from Order - the date of communication of judgement 7) Reund arising out of Inverted Duty Structure or accumuated credit on account of exports - relevant date will be end of financial year in which refund arises. 8) Where tax is paid on provisinoal assessment - relevant date will be date of final assessment. Refund arrising for output tax/input and input services on export of goods by courier
39		**Interest on delayed refund**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
39		If any tax refundable under section 38 to any applicant is not refunded within three months from the date of receipt of application under sub-section (1) of that section, interest at such rate as may be specified in the notification issued by the Central or a State Government 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. Explanation.- Where any order of refund is made by an Appellate Authority, Tribunal or any Court against an order of the proper officer under sub-section (4) or sub-section (4A) of section 38, the order passed by the Appellate Authority, Tribunal or, as the case may be, by the Court shall be deemed to be an order passed under the said sub-section (4) or sub-section (4A) for the purposes of this section.	Similar Provision	Central Excise Act, 1944	Secction 11BB	If refund is not made within 3 months from the date of aplicable interest will be payable at the prescribed rate from the date of the expiriy of the due date till the refund is made.
40		**Consumer Welfare Fund**				
40		(1) There shall be established by the Central or a State Government a fund, to be called the Consumer Welfare Fund. (2) There shall be credited to the Fund, in such manner as may be prescribed, - (a) the amount of tax referred to in sub-section (4) or sub-section (4A) of section 38; and (b) any income from investment of the amount credited to the Fund and any other monies received by the Central or a State Government for the purposes of this Fund.	Fund means the Consumer Welfare Fund established under section 12C	Central Excise Act, 1944	2(ee)	The amount will be credited to consumer welfare fund when refund is eligible but hit by doctrine of unjust enrichment
41		**Utilization of the Fund**				
41		(1) Any money credited to the Fund shall be utilised by the Central/State Government for the welfare of the consumers in accordance with such rules as that Government may make in this behalf. (2) The Central/State Government shall maintain or, if it thinks fit, specify the authority which shall maintain, proper and separate account and other relevant records in relation to the Fund in such form as may be prescribed in consultation with the Comptroller and Auditor-General of India.				Such amount so credited will be utilised in the manner prescribed by Central / State Government
42		**Accounts and Records**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
42	**1**	(1) Every registered person shall keep and maintain, at his principal place of business, as mentioned in the certificate of registration, a true and correct account of production or manufacture of goods, of inward or outward supply of goods and/or services, of stock of goods, of input tax credit availed, of output tax payable and paid, and such other particulars as may be prescribed in this behalf: Provided that where more than one place of business is specified in the certificate of registration, the accounts relating to each place of business shall be kept at such places of business concerned: Provided further that the registered person may keep and maintain such accounts and other particulars in the electronic form in the manner as may be prescribed.	Similar provisions	MVAT Act 2005 Service Tax Rules 1994	Sec 63 Rule 5	Accounts and records relating to production or manufacture of goods, inwards or outward supply of goods / services, stock of goods, availment of input tax credit, output tax paid / payable etc as specified will be kept at principal place of business as specified in the certificate of registration or at each place business as specified in the registration. Such accounts and records may be kept in electronic form also.
42	**2 & 3**	(2) The [Commissioner/Chief Commissioner] may notify a class of taxable persons to maintain additional accounts or documents for such purpose as may be specified. (3) Where the [Commissioner/ Chief Commissioner] considers that any class of taxable persons is not in a position to keep and maintain accounts in accordance with the provisions of this section, he may, for reasons to be recorded in writing, permit such class of taxable persons to maintain accounts in such manner as may be prescribed.				If any additional records or documents are required to be maintained it can be notified by Commissioner / Chief Commissioner. However if certain class of taxable person is not in positino to keep and maintian accounts, Chief Commissioner / Commissioner will grant permissino to maintina the records as specified by them on reasons to be recorded in writing.
42	**4**	(4) 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 and shall submit to the proper officer a copy of the audited statement of accounts, the reconciliation statement under sub-section (2) of section 30 and such other documents in the form and manner as may be prescribed in this behalf.	Similar provisions			Audit of accounts and such records is mandatory to be carried by Cost Accountant or Chartered Accountant when aggregate turnover will cross the prescibed limit of such taxbale person
43		**Period of retention of accounts**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
43		(1) 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 sixty months from the last date of filing of Annual Return for the year pertaining to such accounts and records: Provided that a taxable person, who is a party to an appeal or revision or any other proceeding before any Appellate Authority or Tribunal or Court, whether filed by him or by the department, shall retain the books of account and other records pertaining to the subject matter of such appeal or revision or proceeding for a period of one year after final disposal of such appeal or revision or proceeding, or for the period specified under sub-section (1), whichever is later.	Similar provision	Service tax Rules 1994	Rule 5	Such accounts and records to be maintained till the expiry of 60 months from the last date of filing annual return for the year. However if any appeal for revision is pending before adjudicating authority such records to be kept for the period of 1 year after the final disposal of such appeal, whichever is later.
CHAPTER - XIA : J		**Special procedure for removal of goods for certain purposes**				
43A		(1) The Commissioner may, by special order and subject to conditions as may be specified by him, permit a registered taxable person (hereinafter referred to in this section as the "principal") to send taxable goods, without payment of tax, to a job worker for job-work and from there subsequently send to another job worker and likewise, and may, after completion of job-work, allow to- (a) bring back such goods to any of his place of business, without payment of tax, for supply therefrom on payment of tax within India, or with or without payment of tax for export, as the case may be, or (b) supply such goods from the place of business of a job-worker on payment of tax within India, or with or without payment of tax for export, as the case may be: Provided that the goods shall not be permitted to be supplied from the place of business of a job worker in terms of clause (b) unless the "principal" declares the place of business of the job-worker as his additional place of business except in a case- (i) where the job worker is registered under section 19; or (ii) where the "principal" is engaged in the supply of such goods as may be notified in	Simillar provisions	Central Excise Act, 1944	Notification No.214/86 CE	Job work permission needs to be obtained from Commissioner by special order and such goods can be removed without payment of tax for outward supplies to job worker or by job worker to another job worker further. **Such job worker is allowed to return such goods after completion of work without payment of tax or direclty supply the goods on payment of tax within India or supply with or without payment of tax for export.** However in such case place of job worker should be declared as additional place of business indicated on registration certificate of principal. This will not necessiate if the job worker is already registered under section 19. Responsibilty for the accountability of the goods and payment of tax will be on principal Definition of job work has been enhanced which includes any treatement or process which will also cover repairs, caliberation, testing etc. etc.
CHAPTER - XIB : E		**Definition**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
43B	**(a)**	In this Chapter, unless the context otherwise requires, - (a) 'aggregator' means a person, who owns and manages an electronic platform, and by means of the application and a communication device, enables a potential customer to connect with the persons providing service of a particular kind under the brand name or trade name of the said aggregator;	"(aa) 'aggregator' means a person, who owns and manages a web based software application, and by means of the application and a communication device, enables a potential customer to connect with persons providing service of a particular kind under the brand name or trade name of the aggregator"	Finance Act 1994	Section 2(aa)	No change in the line with definition of aggregator specified in Finance Act 1944, as amended
43B	**(b)**	(b) 'brand name or trade name' means, a brand name or a trade name, whether registered or not, that is to say, a name or a mark, such as an invented word or writing, or a symbol, monogram, logo, label, signature, which is used for the purpose of indicating, or so as to indicate a connection, in the course of trade, between a service and some other person using the name or mark with or without any indication of the identity of that person;				No change similar as is defined in Central Excise Law
43B	**(c)**	(c) 'branded Services' means services which are supplied by an electronic commerce operator under its own brand name or trade name, whether registered or not;				Newly inserted and self explanatory
43B	**(d)**	(d) 'electronic commerce' shall mean the supply or receipt of goods and / or services, or transmitting of funds or data, over an electronic network, primarily the internet, by using any of the applications that rely on the internet, like but not limited to e-mail, instant messaging, shopping carts, Web services, Universal Description, Discovery and Integration (UDDI), File Transfer Protocol (FTP), and Electronic Data Interchange (EDI), whether or not the payment is conducted online and whether or not the ultimate delivery of the goods and/or services is done by the operator;				Newly inserted and self explanatory
43B	**(e)**	(e) 'electronic commerce operator' shall include every person who, directly or indirectly, owns, operates or manages an electronic platform that is engaged in facilitating the supply of any goods and/or services or in providing any information or any other services incidental to or in connection there with but shall not include persons engaged in supply of such goods and/or services on their own behalf.				Newly inserted and self explanatory. The fact that separate provisions are introduced in respect of e-commerce transactions indicates that this sector has received special attention in drafting of the model law; • The requirement to collect tax at source on all transactions of supply of goods and services by suppliers will significantly increase the onus and compliance burden on electronic commerce operators. It is noteworthy that hitherto, electronic commerce operators only act as service providers to the suppliers / sellers.
43C		**Collection of tax at source**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
43C	1	(1) Notwithstanding anything to the contrary contained in the Act or in any contract, arrangement or memorandum of understanding, every electronic commerce operator (hereinafter referred to in this section as the "operator") shall, 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 in this behalf by the Central/State overnment on the recommendation of the Council.		MVAT Act, 2005 MVAT Rules,2006	Rule .40 Section 31	• Given that the suppliers will be required to pay tax on supply to the destination State, it remains to be seen whether an appropriate mechanism is devised to ensure a seamless and un-hindered flow of the credit of the tax collected at source to the supplier; • Furthermore, the rate at which tax is required to be collected at source should be benign to ensure that there is no pile-up of unutilized credit in the hands of the suppliers. • As regards aggregators, it is noteworthy that in terms of Section 3(4), the supply of service under a brand name or trade name owned by an aggregator is deemed to be a supply of the said service by the said aggregator and the aggregator is the person liable to pay tax on such supplies. This is in line with the existing provisions under the Service tax law.
43C	2	(2) The power to collect the amount specified in sub-section (1) shall be without prejudice to any other mode of recovery from the operator.				
43C	3	(3) The amount collected under sub-section (1) 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.				
43C	4	(4)(a) 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 ten days after the end of such calendar month. (b) The statement under clause (a) shall contain, inter alia, the details of the amount collected on behalf of each supplier in respect of all supplies of goods and/or services effected through the operator and the details of such supplies during the said calendar month.				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
43C	5	(5) Any amount collected in accordance with the provisions of this section and paid to the credit of the appropriate Government shall be deemed to be a payment of tax on behalf of the concerned supplier and the supplier shall claim credit, in his electronic cash ledger, of the tax collected and reflected in the statement of the operator filed under sub-section (4), in the manner prescribed.				
43C	6	(6) The details of supplies and the amount collected under sub-section (1) during a calendar month, and furnished by every operator under sub-section (4), shall, in the manner and within the period prescribed, be matched with the corresponding details of outward supplies furnished by the concerned supplier in his valid return for the same calendar month or any preceding calendar month.				
43C	7	(7) Where the details of outward supply, on which the tax has been collected, as declared by the operator under sub-section (4) do not match with the corresponding details declared by the supplier under section 25, the discrepancy shall be communicated to both persons in the manner and within the time as may be prescribed.				
43C	8	(8) The value of a supply relating to any payment in respect of which any discrepancy is communicated under sub-section (7) and which is not rectified by the supplier in his valid return for the month in which discrepancy is communicated shall be added to the output liability of the said supplier, in the manner as may be prescribed, for the calendar month succeeding the calendar month in which the discrepancy is communicated.				
43C	9	(9) The concerned supplier shall, in whose output tax liability any amount has been added under sub-section (8), be liable to pay the tax payable in respect of such supply along with interest, at the rate specified under sub-section (1) of section 36 on the amount so added from the date such tax was due till the date of its payment.				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
43C	10	(10) Any authority not below the rank of Joint Commissioner may, by notice, either before or during the course of any proceeding under this Act, require the operator to furnish such details relating to— (a) supplies of goods and/or services effected through such operator during any period, or (b) stock of goods held by the suppliers making supplies through such operator in the godowns or warehouses, by whatever name called, managed by such operators and declared as additional places of business by such suppliers - as may be specified in the notice.				
43C	11	(11) Every operator on whom a notice has been served under sub-section (10) shall furnish the required information within five working days of the date of service of such notice.				
43C	12	(12) Any person who fails to furnish the information required by the notice served under sub-section (10) shall, without prejudice to any action that is or may be taken under section 66, be liable to a penalty which may extend to rupees twenty-five thousand. Explanation— For the purposes of this section, the expression 'concerned supplier' shall mean the supplier of goods and/or services making supplies through the operator."				
CHAPTER– XII : AS		**Self-Assessment**				
44		Every registered taxable person shall himself assess the taxes payable under this Act and furnish a return for each tax period as specified under section 27. Explanation.— For the purposes of this section, where goods received in pursuance of an inward supply are returned by the recipient to the supplier within a period of six months from the date of the relevant invoice, the tax payable on such return supply shall be equal to the input tax credit availed of earlier in respect of such inward supply.	Currently under Excise, Service Tax and MVAT assessee himself is required to assess the taxes payable and furnish a return.	Central Excise Rule 2002 Finance Act 1994 MVAT Act 2002	Rule 6 Section 70 Section 20	Same provision in line with existing Central Excise, Service Tax and VAT Law. However in case of rejection of inward supplies and return thereof, output tax will be equivelant to input tax availed, in line with existing Cenvat Credit provision, but such goods to be returned within 6 months.
44A		**Provisional Assessment**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
44A		(1) Where the taxable person is unable to determine the value of goods and/or services or determine the rate of tax applicable thereto, he may request the proper officer in writing giving reasons for payment of tax on a provisional basis and the proper officer may pass an order allowing payment of tax on provisional basis at such rate or on such value as may be specified by him. (2) The payment of tax on provisional basis may be allowed, if the taxable person executes a bond in such form as may be prescribed in this behalf, and with such surety or security as the proper officer may deem fit, binding the taxable person for payment of the difference between the amount of tax as may be finally assessed and the amount of tax provisionally assessed. (3) The proper officer shall, within a period not exceeding six months from the date of the communication of the order issued under sub-section (1), pass the final assessment order after taking into account such information as may be required for finalizing the assessment: Provided that the period specified in this sub-section may, on sufficient cause being		Central Excise Rules, 2002	Ruke 7	1)Provisional assessment is extended to determination of rate of tax and over and above valuation and such permission to be granted for reason to be recorded in writing by proper officer and he is also authorised determine rate of tax and value on provisional basis. 2) Tax payer has to furnish the bond and security or seurity as determined by proper officer and bond should have deleration to pay the differential tax. 3) The final assessment to be made within period of 6 months and may be further extended by 6 months by Joint / Additional Commissioner and further extended by Commissioner without time limit for the reasons to be recorded in writing. 4) Interest will be payable on differential tax from the first day after the due date of payment of tax. Similarly interest will be payable in case of refund subject to doctrine of unjust enrichment and in accordance of section 38 specified an
45		**Scrutiny of returns**				
45		(1) The proper officer may scrutinize the return and related particulars furnished by the taxable person to verify the correctness of the return in such manner as may be prescribed. (2) The proper officer shall inform the taxable person of the discrepancies noticed, if any, after such scrutiny in such manner as may be prescribed and seek his explanation thereto. (3) In case the explanation is found acceptable, the taxable person shall be informed accordingly and no further action shall be taken in this regard. (4) In case no satisfactory explanation is furnished within a period of thirty days of being informed by the proper officer or such further period as may be permitted by him or where the taxable person, after accepting the discrepancies, fails to take the corrective measure within a reasonable period, the proper officer may initiate appropriate action including those under section 49, 50 or section 60, or proceed to determine the tax and other dues under sub-section (6) of section 51 A or under subsection (6) of section 51 B.	-	-	-	1) Proper officer shall scrcrutinze the returns and related particulars and should inform tax payer in case of descripency and seek the explanation needs to be furnished within 30 days or as permitted by the proper officer 2) If such explnation is accepted, it should be informed to taxpayer 3) If such descripency is accepted by taxpayer but fails to take corrective measures within a reasonable period recovery proceeding needs to be done in accordance with the provision of section 51 A and 51 B
46		**Assessment of non-filers of returns**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
46		(1) Where a registered taxable person fails to furnish the return required under section 27 or section 31, even after the service of a notice under section 32, the proper officer may, after allowing a period of fifteen days from the date of service of the notice, proceed to assess the tax liability of the said person to the best of his judgement taking into account all the relevant material which is available or which he has gathered and issue an assessment order within the time limit specified in sub-section (7) of section 51A or sub-section (7) of section 51B, as the case may be. (2) Where the taxable person furnishes a valid return within thirty days of the service of the assessment order under sub-section (1), the said assessment order shall be deemed to have been withdrawn. Explanation.— For removal of doubts it is clarified that nothing in this section shall preclude the payment of interest under section 36 or payment of late fee under section 33.	Under MVAT Where a registered dealer fails to file a return in respect of any period by the prescribed date, the Commissioner may assess the dealer in respect of the said period to the best of his judgment without serving a notice for assessment and without affording an opportunity of being heard.	MVAT Act 2002 Finance Act 1994	Section 23 (3) Section 72 (a)	1) Proper notice has to be served to provide the accounts and relevant records and allow 15 days to furnish the same. ON failure to submitt the same best judgement assessment to be made based on the information available. 2) If return is filed within 30 days from the receipt of such order than best judgement assessment is deemned to be withdrawn. However proceedings for taxes, interest, late filing fees will continue.
47		**Assessment of unregistered persons**				
47		Where a taxable person fails to obtain registration even though liable to do so, the proper officer may proceed to assess the tax liability of such taxable person to the best of his judgement for the relevant tax periods and issue an assessment order within a period of five years from the due date for filing of the annual return for the year to which the tax not paid relates: Provided that no such assessment order shall be passed without giving a notice to show cause and without giving the person a reasonable opportunity of being heard.	Under MVAT Where the Commissioner has reason to believe that a dealer is liable to pay tax in respect of any period, but has failed to apply for registration or has failed to apply for registration within the time as required by or under this Act, the Commissioner may , after giving the dealer a reasonable opportunity of being heard, proceed to assess, to the best of his judgement, where necessary, the amount of tax, if any, due from the dealer in respect of that period, and any period or periods subsequent thereto	MVAT Act 2002	Section 23 (4)	The assessment of unrigistered person where tax is payable to be determined by best judgement assessment and issue the assessment order within 5 years from due date of filing the annual return. Assessment order to be finalised only after issuing proper Show Cause Notice and after granting personal hearing as nature of justice.
48		**Summary assessment in certain special cases**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
48		(1) The proper officer may, on any evidence showing a tax liability of a person coming to his notice, with the previous permission of [Additional/Joint Commissioner], proceed to assess the tax liability of such person to protect the interest of revenue and issue an assessment order, if he has sufficient grounds to believe that any delay in doing so will adversely affect the interest of revenue: Provided that where the taxable person to whom the liability pertains is not ascertainable and such liability pertains to supply of goods, the person in charge of such goods shall be deemed to be the taxable person liable to be assessed and pay tax and amount due under this section. (2) On any application made within thirty days from the date of receipt of order passed under sub-section (1) by the taxable person or on his own motion, if the Additional/Joint Commissioner considers that such order is erroneous, he may withdraw such order and follow the procedure laid down in section 51.	Under MVAT If the Commissioner is of the opinion that, in respect of any period covered by a return, any turnover of sales or of purchases has not been disclosed, or that tax has been paid at a lesser rate, set-off has been wrongly claimed, or deduction has been wrongly claimed, then, notwithstanding anything contained in the other provisions of this section, the Commissioner may serve a notice in the prescribed form on the dealer and proceed to asseess him in respect of the said period after giving him a reasonable opportunity of being heard Under Service Tax If any person, liable to pay service tax - (a) fails to furnish the return under section 70; (b) having made a return, fails to assess the tax in accordance with the provisions of this Chapter or rules made there under, the Central Excise Officer, may require the person to produce such accounts, ocuments or other evidence as he may deem necessary and after taking into account all the relevant material which is available or which he has gathered, shall	MVAT Act 2002 Finance Act 1994	Section 23 Section 72(b)	In case of having any evidence showing tax liability of any person proper officer may with the prior permission of Additional / Joint Commissioner will access the tax liabililty for protecting the interest of revenue and issue the assessment order. Where taxable person cannot be acertained tax liability will be on the person who is in possession of goods and tax will be collected from such person. This provision will be used for such goods where duty paying documents could not be corelated, in line with smuggled goods or in case of goods removed clandenstinley. Such order can be suo-moto withdrawn within 30 days of issue of order if it has been issued erreousnly
CHAPTER-XIII : AU		**Audit**				
49		(1) The [Commissioner of CGST/Commissioner of SGST] or any officer authorised by him, by way of a general or a specific order, may undertake audit of the business transactions of any taxable person for such period, at such frequency and in such manner as may be prescribed. (2) The tax authorities referred to in sub-section (1) may conduct audit at the place of business of the taxable person and/or in their office. (3) The taxable person shall be informed, by way of a notice, sufficiently in advance, not less than fifteen working days, prior to the conduct of audit in the manner prescribed. (4) The audit under sub-section (1) shall be carried out in a transparent manner and completed within a period of three months from the date of commencement of audit: Provided that where the [Commissioner] is satisfied that audit in respect of such taxable person cannot be completed within three months from the date of commencement of audit, he may, for the reasons to be recorded in writing, extend the period by a further period not exceeding six months. Explanation.- For the purposes of this sub-section,	(1) With a view to promoting compliance with the provisions of this Act, the Commissioner may arrange for audit of the business of any registered dealer. For the purpose of this section, the selection of dealers for audit shall be made from amongst the dealers,- (a) who have not filed returns by the prescribed dates; or (b) who have claimed refund of tax; or (c) where the Commissioner is not, prima facie, satisfied with the correctness of any return filed by a dealer or is not satisfied with any claim made, deduction claimed or turnover disclosed in any return filed by the dealer; or (d) who are selected by the Commissioner on the basis of the application of any criteria or on a random selection basis; or (e) where the Commissioner has reason to believe that detailed scrutiny of the case is necessary.	MVAT Act 2002	22	The Commissioner of CGST/ SGST or any officer authorized by him, at the place of business of the taxable person, may undertake audit of the business transactions after giving proper advance intimation of 15 days • The audit shall be completed within a period of 3 months or under certain conditions, extend the period. • On conclusion of audit, the proper officer shall notify its findings to the taxable person. • Where the audit results in detection of tax not paid or tax short paid or tax erroneously refunded or input tax credit erroneously availed, the proper officer may initiate suitable action for recovery.
50		**Special Audit**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
50		(1) If at any stage of scrutiny, enquiry, investigation or any other proceedings before him, any officer not below the rank of [Deputy/Assistant Commissioner] having regard to the nature and complexity of the case and the interest of revenue, is of the opinion that the value has not been correctly declared or the credit availed is not within the normal limits, he may, with the prior approval of the [Commissioner], direct such taxable person by notice in writing to get his records including books of account examined and audited by a chartered accountant or a cost accountant as may be nominated by the [Commissioner] in this behalf. (2) The chartered accountant or cost accountant so nominated shall, within the period of ninety days, submit a report of such audit duly signed and certified by him to the said [Deputy/Assistant Commissioner] mentioning therein such other particulars as may be specified: Provided that the proper officer may, on an application made to him in this behalf by the taxable person or the chartered accountant or cost accountant or for any material and sufficient reason, extend the said period by another ninety days. (3) The provision of sub-section (1) shall have effect notwithstanding that the	If at any stage of enquiry, investigation or any other proceedings before him, any Central Excise Officer not below the rank of an Assistant Commissioner of Central Excise, having regard to the nature and complexity of the case and the interest of revenue, is of the opinion that the value has not been correctly declared or determined by a manufacturer or any person, he may, with the previous approval of the Chief Commissioner of Central Excise, direct such manufacture or such person to get the accounts of his factory, office, depots, distributors or any other place, as may be specified by the said Central Excise Officer, audited by a cost accountant or chartered accountant nominated by the Chief Commissioner of Central Excise in this behalf	Central Excise Act 1944 Finance Act 1994	Section 14A and 14AA Section 72A	1)Considering the nature of transaction and nature of complexities and to protect the interest of revenue Dy. / Asst. Commissioner opiones w.r.t wrong decleration of value or credit exceeding normal limits, special audits can be ordered with prior approval of Commissinoer to be carried out by Cost Accountant or Chartered Accountant as nominated by Commissiner. 2) Such Auditors have to furnish report within 90 days or extended period of further 90 days duly certified and signed by him. 3) Such audit can be recommended if the audit of the same period is carried out by the department 4) Taxable person to be heared before recomending special audit and the situations for whcih special audit is recommended 5) The remuneration including incidental expenses payable to the auditor shall be determined by the Commissioner and will be final 6) Based on the findings of the auditor recovery proceeding to be inciated (if any) under section 51. Who will pay the audit fess has not been mentioned anywhere
CHAPTER – XIV : D		**Determination of tax not paid or short paid or erroneously refunded**				
51	A	A. Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized for any reason other than fraud or any willfulmisstatement or suppression of facts				1) Section 51 A deals with determination of tax not paid, tax short paid or errousnly refunded other than fraud or any wilfull misstatement or supression of fact 2) Show Cause Notice needs to be served quantifying the demand, penalty and interest payable 3) Even the statement showing the details of tax not paid, tax short paid or errousnly refunded or wrong availment of input tax credit can be served to the tax payer which will be deemed to be serving of Show Cause Notice 4) When such tax not paid, tax short paid or errousnly refunded or wrong availment of input tax credit has been acertained by the taxpayer himself and accepted by him as per the statement given by proper officer and paid the tax and penalty and interest no such Show Cause Notice needs to be served 5) If such payment is made within 30 days from the date of serving the statement / show cause notice no penaly is payable and tax shall be deemed to be concluded 6) Penalty will be levied not exceeding 10% of the tax or 10,000 whichever is higher, when tax is determined and order so issued 7) Such order has to be issued within 3 years from the due date or the actual date for filing of annual return, whichever is earlier. This is in line with exisiting Income Tax Act provisions
51	1	(1) Where any tax has not been paid or short paid or erroneously refunded, or where input tax credit has been wrongly availed or utilized for any reason, other than the reason of fraud or any willful-misstatement or suppression of facts to evade tax, the proper officer shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilized input tax credit, requiring him to show cause why he should not pay the amount specified in the notice along with interest payable thereon under section 36 and penalty leviable under the provisions of this Act or the rules made thereunder.	(1) Where any duty of excise has not been levied or paid or has been short-levied or short-paid or erroneously refunded, for any reason, other than the reason of fraud or collusion or any wilful misstatement or suppression of facts or contravention of any of the provisions of this Act or of the rules made thereunder with intent to evade payment of duty,- (a) the Central Excise Officer shall, within one year from the relevant date, serve notice on the person chargeable with the duty which has not been so levied or paid or which has been so short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice;	Central Excise Act, 1944	Section 11A Central Excise Act	

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
51	2	(2) Where a notice has been issued for any period under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized for such periods other than those covered under subsection(1), on the person chargeable with tax. The service of such statement shall be deemed to be service of notice on such person under the aforesaid sub-section (1), subject to the condition that the grounds relied upon for such tax periods other than those covered under sub-section (1) are the same as are mentioned in the earlier notice.	(7A) Notwithstanding anything contained in sub-section (1) or sub-section (3) or sub-section (4) or sub-section (5), the Central Excise Officer may, serve, subsequent to any notice or notices served under any of those sub-sections, as the case may be, a statement, containing the details of duty of central excise not levied or paid or short-levied or short-paid or erroneously refunded for the subsequent period, on the person chargeable to duty of central excise, then, service of such statement shall be deemed to be service of notice on such person under the aforesaid sub-section (1) or subsection(3) or sub-section (4) or sub-section (5), subject to the condition that the grounds relied uponfor the subsequent period are the same as are mentioned in the earlier notice or notices.	Central Excise Act, 1944	Section 11A (7A)	
51	3	(3) The person chargeable with tax may, before service of notice under sub-section (1) or, as the case may be, the statement under sub-section (2), pay the amount of tax along with interest payable thereon under section 36 on the basis of his own ascertainment of such tax or the tax as ascertained by the proper officer and inform the proper officer in writing of such payment. The proper officer, on receipt of such information, shall not serve any notice under sub-section (1) or, as the case may be, the statement under sub-section (2), in respect of the tax so paid or any penalty leviable under the provisions of this Act or the rules made there under.	(b) the person chargeable with duty may, before service of notice under clause (a), pay on the basis of,- (i) his own ascertainment of such duty; or(ii) duty ascertained by the Central Excise Officer, the amount of duty along with interest payable thereon under section 11AA. (2) The person who has paid the duty under clause (b) of sub-section (1), shall inform the Central Excise Officer of such payment in writing, who, on receipt of such information, shall not serve any notice under clause (a) of that sub-section in respect of the duty so paid or any penalty leviable under the provisions of this Act or the rules made thereunder.	Central Excise Act, 1944	Section 11A (1)	

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
51	4	(4) Where the proper officer is of the opinion that the amount paid under sub-section (3) falls short of the amount actually payable, he shall proceed to issue the notice as provided for in sub-section (1) in respect of such amount which falls short of the amount actually payable.	(3) Where the Central Excise Officer is of the opinion that the amount paid under clause (b) of sub-section (1) falls short of the amount actually payable, then, he shall proceed to issue the notice as provided for in clause (a) of that sub-section in respect of such amount which falls short of the amount actually payable in the manner specified under that sub-section and the period of one year shall be computed from the date of receipt of information under sub-section (2).	Central Excise Act, 1944	Section 11A (3) Central Excise Act	
51	5	(5) Where any person chargeable with tax under sub-section (1) or under sub-section (2) pays the said tax along with interest payable under section 36 within thirty days of issue of show cause notice, no penalty shall be payable and all proceedings in respect of the said tax shall be deemed to be concluded.	11AC. (1) The amount of penalty for non-levy or short-levy or nonpayment or shortpayment or erroneous refund shall be as follows:– (a) where any duty of excise has not been levied or paid or has been short-levied or shortpaid or erroneously refunded, for any reason other than the reason of fraud or collusion or any wilful mis-statement or suppression of facts orcontravention of any of the provisions of this Act or of the rules made hereunder with intent to evade payment of duty, the person who is liable to pay duty as determined under subsection (10) of section 11A shall also be liable to pay a penalty not exceeding ten per cent of the duty so determined or rupees five thousand, whichever is higher: Provided that where such duty and interest payable under section 11AA is paid either before the issue of show cause notice or within thirty days of issue of show cause notice, no penalty shall be payable by the person liable to pay duty or the person who has	Central Excise Act, 1944	Section 11AC (1) Central Excise Act	
51	6	(6) The proper officer shall, after considering the representation, if any, made by person chargeable with tax, determine the amount of tax, interest and a penalty not exceeding ten percent of tax or ten thousand rupees, whichever is higher, due from such person and issue an order.	(10) The Central Excise Officer shall, after allowing the concerned person an opportunity of being heard, and after considering the representation, if any, made by such person, determine the amount of duty of excise due from such person not being in excess of the amount specified in the notice.	Central Excise Act, 1944	Section 11A (10) Central Excise Act	

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
51	7	(7) The proper officer shall issue the order under sub-section (6) within three years from the due date or the actual date, whichever is earlier, for filing of annual return for the year to which the tax not paid or short paid or input tax credit wrongly availed or utilized relates or, as the case may be, within three years from the date of erroneous refund.	(11) The Central Excise Officer shall determine the amount of duty of excise under sub-section (10)- (a) within six months from the date of notice in respect of cases falling under subsection (1); (b) within one year from the date of notice in respect of cases falling under subsection (4) or sub-section (5)	Central Excise Act, 1944	Section 11A (11) Central Excise Act	
51	B	Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized by reason of fraud or any willful-misstatement or suppression of facts				1) Section 51 B deals with determination of tax not paid, tax short paid or errousnly refunded when fraud or any wilfull misstatement or supression of fact is noticed 2) Show Cause Notice needs to be served quantifying the demand, penalty and interest payable along with the grounds 3) Even the statement showing the details of tax not paid, tax short paid or errousnly refunded or wrong availment of input tax credit can be served to the tax payer along with the grounds which will be deemed to be serving of Show Cause Notice 4) When such tax not paid, tax short paid or errousnly refunded or wrong availment of input tax credit has been acertained by the taxpayer himself and accepted by him as per the statement given by proper officer and paid the tax and penalty and interest no such Show Cause Notice needs to be served 5) If such payment along with interest and penalty to the extent of 15% of tax amount is paid within ----- days from the date of serving the statement no penaly is payable and tax shall be deemed to be concluded 6) If such payment along with interest and penalty to the extent of 25% of tax amount is paid within 30 days from the date of serving show cause notice then proceeding will be deemed to be concluded. 7) Such order has to be issued within 5 years from the due date or the actual date for filing of annual return, whichever is earlier. This is in line with exisiting Income Tax Act provisions 8) If tax determined in the order is paid along with interest and 50% of the penalty so levied within 30 days within communication of the said order all proceedings shall be deemed to be concluded. 9)Time limit for issue of show cause has not been specified 10) Maximum or minimum amount penalty to be levied is not specified.
51	1	(1) Where any tax has not been paid or short paid or erroneously refunded or where input tax credit has been wrongly availed or utilized by reason of fraud, or any willfulmisstatement or suppression of facts to evade tax, the proper officer shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilized input tax credit requiring him to show cause why he should not pay the amount specified in the notice along with interest payable thereon under section 36 and a penalty equivalent to the tax specified in the notice.	Similar Provision	Central Excise Act, 1944	Section 11A (4)	
51	2	(2) Where a notice has been issued for any period under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized for such periods other than those covered under sub-section (1), on the person chargeable with tax. The service of such statement shall be deemed to be service of notice on such person under the aforesaid sub-section (1), subject to the condition that the grounds relied upon for such periods other than those covered under sub-section(1) are the same as are mentioned in the earlier notice.	Similar Provision	Central Excise Act, 1944	Section 11A (7A)	

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
51	3	(3) The person chargeable with tax may, before service of notice under sub-section (1) or, as the case may be, the statement under sub-section (2), pay the amount of tax along with interest payable under section 36 and a penalty equivalent to fifteen per cent of such tax on the basis of his own ascertainment of such tax or the tax as ascertained by the proper officer and inform the proper officer in writing of such payment. The proper officer, on receipt of such information, shall not serve any notice under subsection (1) or, as the case may be, the statement under sub-section (2), in respect of the tax so paid or any penalty leviable under the provisions of this Act or the rules made there under.	1% per month maximum upto 25%	Central Excise Act, 1944	Section 11AC (c)	
51	4	(4) Where the proper officer is of the opinion that the amount paid under sub-section (3) falls short of the amount actually payable, he shall proceed to issue the notice as provided for in sub-section (1) in respect of such amount which falls short of the amount actually payable.	Similar Provision	Central Excise Act, 1944	Section 11A (3) Central Excise Act	
51	5	(5) Where any person chargeable with tax under sub-section (1) or under sub-section (2) pays the said tax along with interest payable under section 36 and a penalty equivalent to twenty five per cent of such tax within thirty days of communication of the notice, all proceedings in respect of the said tax shall be deemed to be concluded.	Penalty upto 25%	Central Excise Act, 1944	Section 11AC (d)	
51	6	(6) The proper officer shall, after considering the representation, if any, made by the person chargeable with tax, determine the amount of tax, interest and penalty due from such person and issue an order.		Central Excise Act, 1944	Section 11A (10) Central Excise Act	
51	7	(7) The proper officer shall issue the order under sub-section (6) within a period of five years from the due date or the actual date, whichever is earlier, for filing of annual return for the year to which the tax not paid or short paid or input tax credit wrongly availed or utilized relates or, as the case may be, within five years from the date of erroneous refund.	(11) The Central Excise Officer shall determine the amount of duty of excise under sub-section (10)- (b) within one year from the date of notice in respect of cases falling under subsection (4) or sub-section (5)	Central Excise Act, 1944	Section 11A (11) Central Excise Act	
51	8	(8) Where any person served with an order issued under sub-section (6) pays the tax along with interest payable thereon under section 36 and a penalty equivalent to fifty percent of such tax within thirty days of the communication of order, all proceedings in respect of the said tax shall be deemed to be concluded.	Penalty upto 50% if paid within specified period	Central Excise Act, 1944	Section 11AC (b)	

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
51	**C**	**General provisions relating to demand of tax**				
51	**1**	(1) Where the service of notice or issuance of order is stayed by an order of a Court or Tribunal, the period of such stay shall be excluded in computing the period of three years or five years, as the case may be.	Similar Provisions	Central Excise Act, 1944	Section 11A (8) Central Excise Act	1) The period of issuance of order within the period of 3 years or 5 years will be excluding for which period of stay is granted 2) When charges of fraud, willful misstatement and supression of fact is not withheld by the appealt tribunal then order needs to be issued within the period of 3 years. In other words if such charges are aliged in the show cause notice then such show casue notice can be challenged to the extent of such allegation before adjudicating authority 3) Opportunity of personal hearing to be granted and maximum 3 adjournment can be given for the reason to be recorded in writing. 4) Speaking order to be issued 5) No demand of tax , interest and penalty to be confirmed not exceeding the amount stated in the show casue notice or not to be on the grounds which is not mentioned in the show casue notice 6) In case tax liability is modified by the order of the adjudicating authority / Appealt authority the amount of penalty and interest will stans modified accordingly 7)Interest will be payable irrespective of same is mentioned in the order or otherwise 8) If the order is not issued within the specified time proceedings shall be deemed to be concluded. 9) When any issue is pending with any adjudicating authority including Supreme Court such period will be excluded for the period of limitation. In other words call book cases will not have such limitation period.
51	**2**	(2) Where any Appellate Authority or Tribunal or Court concludes that the notice issued under sub-section B (1) or B (2) is not sustainable for the reason that the charges of fraud or any wilful mis-statement or suppression of facts to evade tax has not been established against the person to whom the notice was issued, the proper officer shall determine the tax payable by such person for the period of three years, deeming as if the notice were issued under sub-section A (1) or A (2).	Similar Provisions	Central Excise Act, 1944	Section 11A (9) Central Excise Act	
51	**3**	(3) An opportunity of personal hearing shall be granted where a request is received in writing from the person chargeable with tax or penalty, or where any adverse decision is contemplated against such person.	Similar Provisions	Central Excise Act, 1944	Section 11A (10) Central Excise Act	
51	**4**	(4) The adjudicating authority shall, if sufficient cause is shown by the person chargeable with tax, grant time, from time to time, to the said person and adjourn the hearing for reasons to be recorded in writing: Provided that no such adjournment shall be granted more than three times to a person during the proceeding.		Central Excise Act, 1944	Sec 35(1A) & Sec 33(A)(2)	

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
51	5	(5) The proper officer, in his order, shall set out the relevant facts and the basis of his decision.				
51	6	(6) The amount of tax, interest and penalty demanded in the order shall not be in excess of the amount specified in the notice and no demand shall be confirmed on grounds other than the grounds specified in the notice.				
51	7	(7) Where the Appellate Authority or Tribunal or Court modifies the amount of tax determined by the proper officer, the amount of interest and penalty shall stand modified accordingly, taking into account the amount of tax so modified.	Similar Provisions	Central Excise Act, 1944	Section 11A (12) Central Excise Act	
51	8	(8) Interest on the tax short paid or not paid shall be payable whether or not specified in the order determining the tax liability.	Similar Provisions	Central Excise Act, 1944	Section 11A (14) Central Excise Act	
51	9	(9) The adjudication proceedings shall be deemed to be concluded if the order is not issued within three years as provided for in sub-section A (7) or within five years as provided for in sub-section B (7).				
51	10	(10) An issue on which the First Appellate Authority or the Appellate Tribunal or the High Court has given its decision which is prejudicial to the interest of revenue in some other proceedings and an appeal to the Appellate Tribunal or the High Court or the Supreme Court against such decision of the First Appellate Authority or the Appellate Tribunal or as the case may be, the High Court is pending, the period spent between the date of the decision of the First Appellate Authority and the date of decision of the Appellate Tribunal or the date of decision of the Appellate Tribunal and the date of the decision of the High Court or as the case may be, the date of the decision of the High Court and the date of the decision of the Supreme Court shall be excluded in computing the period referred to in sub-section A (7) or sub-section B (7), as the case may be, where proceedings are initiated by way of issue of a show cause notice under this section.				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
51	D	(1) The provisions of sub-section A, B, C above shall apply, mutatis mutandis, to the recovery of interest where interest payable has not been paid or part paid or erroneously refunded.	Similar Provisions	Central Excise Act, 1944	Section 11AA	All the provisions ragarding the tax recovery will be applicable for interest also
52		**Tax collected but not deposited with the Central or a State Government**				
52	1	(1) Notwithstanding anything to the contrary contained in any order or direction of any Appellate Authority or Tribunal or Court or in any other provision of this Act or the rules made thereunder or any other law, every person who has collected from any other person any amount as representing the tax under this Act, and has not paid the said amount to the Central or a State Government, shall forthwith deposit the said amount to the credit of the Central or a State Government, regardless of whether the supplies in respect of which such amount was collected are taxable or not.	Similar Provision	Central Excise Act, 1944	Section 11D	1)Similar provision of Section 11 D of Central Excise Act, when tax is collected it has to be paid to the Government otherwise notice to be served and necessay order will be passed after providing opportunity for personal hearing 2) Interest will also be payable on tax colletced but not paid 3) Speaking Order should be issued within the period of 1 year from the date issuing of show casue notice 4) Period for which stay is granted will not be considered for such limitations 5) Such amount of tax collected but not paid can be adjusted from the amount of refund due and balance if any after such adjusted refund can be granted
52	2	(2) Where any amount is required to be paid to the credit of the Central or a State Government under sub-section (1), and which has not been so paid, the proper officer may serve on the person liable to pay such amount a notice requiring him to show cause why the said amount as specified in the notice, should not be paid by him to the credit of the Central or a State Government and why a penalty equivalent to the amount specified in the notice should not be imposed on him under the provisions of this Act.				
52	3	(3) The proper officer shall, after considering the representation, if any, made by the person on whom the notice is served under sub-section (2), determine the amount due from such person and thereupon such person shall pay the amount so determined.				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
52	4	(4) The person referred to in sub-section (1) shall in addition to paying the amount referred to in sub-section (1) or (3), as the case may be, also be liable to pay interest thereon at the rate specified under section 36 from the date such amount was collected by him to the date such amount is paid by him to the credit of the Central or a State Government.				
52	5	(5) An opportunity for personal hearing shall be granted where a request is received in writing from the person to whom the notice was issued to show cause.				
52	6	(6) The proper officer shall issue an order within one year from the date of issue of the notice.				
52	7	(7) Where the issuance of order is stayed by an order of the Court or Tribunal, the period of such stay shall be excluded in computing the period of one year.				
52	8	(8) The proper officer, in his order, shall set out the relevant facts and the basis of his decision.				
52	9	(9) The amount paid to the credit of the Central Government or a State Government under sub-section (1) or sub-section (3) shall be adjusted against the tax payable, if any by the person in relation to the supplies referred to in sub-section (1).				
52	10	(10) Where any surplus is left after the adjustment under sub-section (9), the amount of such surplus shall either be credited to the Fund or, as the case may be, refunded to the person who has borne the incidence of such amount.				
52	11	(11) The person who has borne the incidence of the amount referred to in sub-section (10), may apply for the refund of the same and for such refund, the provisions of section 38 shall apply mutatis mutandis.				
53		**Tax wrongfully collected and deposited with the Central or a State Government**				
53	1	(1) A taxable person who has paid CGST/SGST (in SGST Act) on a transaction considered by him to be an intra-state supply, but which is subsequently held to be an inter-state supply, shall, upon payment of IGST, be allowed to take the amount of CGST /SGST (in SGST Act) so paid as refund subject to the provisions of section 38 and subject to such other conditions as may be prescribed. (CGST Act)				1) If CGST / SGCT is wrongly paid in different accounting head refund application to be made for such errousn payment to the appropriate authority and such refund will be subject the provision of section 38 which is applicable for refund 2) No internal adjustment is allowed, this will undue haressment to the tax payer for small error

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
54		**Recovery of tax**				
54	1	(1) Where any amount payable by a person to the credit of the Central or a State Government under any of the provisions of this Act or of the rules made thereunder is not paid, the proper officer shall proceed to recover the amount by one or more of the modes mentioned below: - (a) the proper officer may deduct or may require any other specified officer to deduct the amount so payable from any money owing to such person which may be under the control of the proper officer or such other specified officer. (b) the proper officer may recover or may require any other specified officer to recover the amount so payable by detaining and selling any goods belonging to such person which are under the control of the proper officer or such other specified officer. (c) (i) the proper officer may, by a notice in writing, require any other person from whom money is due or may become due to such person or who holds or may subsequently hold money for or on account of such person, to pay to the credit of the Central or a State Government either forthwith upon the money becoming due or being	Similar Provision	Central Excise Act, 1944	Section 11 DD	1) Recovery of tax can be made through following measures- a) adjustment from refund b) detaining and selling of goods which are under the control of proper officer or specified officer c) recovery from the person including bank, post office, insurer from whom amount is receivable to the tax payer incl d) tax payer have to submitt passbook, deposit receipt, policy for endorsement of such amount due as mentioned in the notice e) failure to pay tax by such person or banker or insurer or post office on such endorsement or notice will be considered as defaulter and will be personally liable for consequences in accordance with law f) such notice can be amended, revoked or extended from time to time by proper officer g) any person making payment in compliance to notice will be considered as discharge of liability g) however if such amount is not due to such specified person to whom notice is issued from the authority for recovery of tax is proven to the satisfaction of the said officer but when if amount is due subsequently then such notice is valid and such person is liable for payment of tax h) the goods in movable or immovable property belonging to such person may be detained untill the amount is paid within 30 days then such property may be sold and amount payable including cost of sale will be adjusted with such sale proceeds and remaining amount if any to be refunded i) such recovery to be made to be informed by prepairing certificate containing amount payable and details of immovable property to be informed to the Collector for recovery in line with arrears of land revenue j) over and above proper officer may file application with the appropriate megistrate for such recovery under Code of Criminal Procedure 2) Even recovery on the voilation of bond provision also can be made under the said provisions 3) Where the amount of tax, interest and penalty is paid to the credit of Central Government even SGST officer during the recovery of SGST can recover CGST and credit to the Government 4) Where the amount of tax, interest and penalty is paid to the credit of State Government even CGST officer during the recovery of CGST can recover SGST and credit to the respective State Government
54	1	(iv) the officer issuing a notice under sub-clause (i) may, at any time or from time to time, amend or revoke such notice or extend the time for making any payment in pursuance of the notice; (v) any person making any payment in compliance with a notice issued under sub-clause (i) shall be deemed to have made the payment under the authority of the person in default and such payment being credited to the appropriate Government shall be deemed to constitute a good and sufficient discharge of the liability of such person to the person in default to the extent of the amount specified in the receipt; (vi) any person discharging any liability to the person in default after service on him of the notice issued under sub-clause (i) shall be personally liable to the Central or a State Government to the extent of the liability discharged or to the extent of the liability of the person in default for tax, interest and penalty, whichever is less.				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
54	1	(vii) where a person on whom a notice is served under sub-clause (i) proves to the satisfaction of the officer issuing the notice that the money demanded or any part thereof was not due to the person in default or that he did not hold any money for or on account of the person in default, at the time the notice was served on him, nor is the money demanded or any part thereof, likely to become due to the said person or be held for or on account of such person, nothing contained in this section shall be deemed to require the person on whom the notice has been served to pay to the credit of the appropriate Government any such money or part thereof, as the case may be. (d) the proper officer may, on an authorisation by the competent authority and in accordance with the rules made in this behalf, distrain any movable or immovable property belonging to or under the control of such person, and detain the same until the amount payable is paid; and in case, any part of the said amount payable or of the cost of the distress or keeping of the property, remains unpaid for a period of thirty days next after any such distress, may cause the said property to be				
54	1	(e) the proper officer may prepare a certificate signed by him specifying the amount due from such person and send it to the Collector of the district in which such person owns any property or resides or carries on his business and the said Collector, on receipt of such certificate, shall proceed to recover from such person the amount specified there under as if it were an arrear of land revenue;				
54		(f) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Act 2 of 1974), the proper officer may file an application to the appropriate Magistrate and such Magistrate shall proceed to recover from such person the amount specified thereunder as if it were a fine imposed by him.				
54	2	(2) Where the terms of any bond or other instrument executed under this Act or any rules or regulations made thereunder provide that any amount due under such instrument may be recovered in the manner laid down in sub-section (1), the amount Page 77 of 190 may, without prejudice to any other mode of recovery, be recovered in accordance with the provisions of that sub-section.				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
54	3	(3) Where any amount of tax, interest or penalty is payable by a person to the credit of the Central Government under any of the provisions of this Act or the rules made thereunder and which remains unpaid, the proper officer of SGST, during the course of recovery of SGST arrears, may recover the amount from the said person as if it were an arrear of SGST and credit the amount so recovered to the account of the Central Government.				
55		**Payment of tax and other amount in installments.**				
55		On an application filed by a taxable person, the [Commissioner/Chief Commissioner] may, for reasons to be recorded in writing, extend the time for payment or allow payment of any amount due under the Act, other than the amount due as per the liability self-assessed in any return, by such person in monthly installments not exceeding twenty four, subject to payment of interest under section 36 with such restrictions and conditions as may be prescribed: Provided that where there is default in payment of any one installment on its due date, the whole outstanding balance payable on such date shall become due and payable forthwith and shall, without any further notice being served on the person, be liable for recovery.	New provision			Commissioner / Chief Commissioner can grant the monthly installment not exceeding 24 and any default on any such installment whole of the amount balance along with interest will be recovered in one strock.
56		**Transfer of property to be void in certain cases**				
56		Where a person, after any tax has become due from him, creates a charge on or parts with the property belonging to him or in his possession by way of sale, mortgage, exchange, or any other mode of transfer whatsoever of any of his properties in favour of any other person with the intention of defrauding the Government revenue, such charge or transfer shall be void as against any claim in respect of any tax or any other sum payable by the said person: Provided that, such charge or transfer shall not be void if it is made for adequate consideration and without notice of the pendency of such proceeding under this Act or, as the case may be, without notice of such tax or other sum payable by the said person, or with the previous permission of the proper officer				Where such charge or endorsement is made on the property any property by way of sale, mortgage or exchange will be void
57		**Tax to be first charge on property**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
57		Notwithstanding anything to the contrary contained in any law for the time being in force, any amount payable by a taxable person or any other person on account of tax, interest or penalty which he is liable to pay to the Central or a State Government shall be a first charge on the property of such taxable person, or as the case may be, such person.				Outstanding tax liability will first have charge on the property
58		**Provisional attachment to protect revenue in certain cases**				
58		(1) Where during the pendency of any proceedings under section 46, section 47, section 48 or section 51, the Commissioner is of the opinion that for the purpose of protecting the interest of the Government revenue, it is necessary so to do, he may by order in writing attach provisionally any property belonging to the taxable person in such a manner as may be prescribed. (2) Every such provisional attachment shall cease to have effect after the expiry of a period of one year from the date of the order made under sub-section (1).				While pendency of the proceedings including show casue notice, property can be provisionally attached and will be valid for 1 year from the issue of such issue of provisional attached order
59		**Continuation of certain recovery proceedings**				
59		(1) Where any notice of demand in respect of any tax, penalty, interest or any other amount payable under this Act, (hereinafter in this section referred to as "Government dues"), is served upon any taxable person and any appeal, revision application is filed or other proceedings is initiated in respect of such Government dues, then - (a) Where such Government dues are enhanced in such appeal, revision or other proceeding, the Commissioner shall serve upon the taxable person another notice of demand only in respect of the amount by which such Government dues are enhanced and any recovery proceeding in relation to such Government dues as are covered by the notice of demand served upon him before the disposal of such appeal, revision application or proceeding may, without the service of any fresh notice of demand, be continued from the stage at which such proceedings stood immediately before such disposal. (b) Where such Government dues are reduced in such appeal, revision or in other proceeding – (i) It shall not be necessary for the Commissioner to serve				1) Pending adjudications or revision application government dues can be enhanced by giving proper show cause notice and such recovery proceedings and such another show casue notice will be deemed to be continued from the stage of which proceeding stood before such disposal 2) Pending adjudications or revision application government dues can be reduced without giving proper show cause notice and but intimatino needs to be given and such intimation will be deemed to be continued from the stage of which proceeding stood before such disposal
60		**Power of inspection, search and seizure**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
60		(1) Where the CGST/SGST officer, not below the rank of Joint Commissioner, has reasons to believe that - (a) a taxable person has suppressed any transaction relating to supply of goods and/or services or the stock of goods in hand, or has claimed input tax credit in excess of his entitlement under the Act or has indulged in contravention of any of the provisions of this Act or rules made thereunder to evade tax under this Act; or (b) any person engaged in the business of transporting goods or an owner or operator of a warehouse or a godown or any other place is keeping goods which have escaped payment of tax or has kept his accounts or goods in such a manner as is likely to cause evasion of tax payable under this Act, he may authorize in writing any other officer of CGST/SGST to inspect any places of business of the taxable person or the persons engaged in the business of transporting goods or the owner or the operator of warehouse or godown or any other place. (2) Where the CGST/SGST officer, not below the rank of Joint Commissioner, either pursuant to an inspection carried out under sub-section (1) or otherwise, has reasons to		Central Excise Act, 1944	Section 22	Additional Commissioner / Joint Commissioner of CGST / SGST are authorized to allow (on reason to be leave) inspection, search & Seizure in case of 1) Suppress any transcation or incorrect invoice or wrong declaration of stock or excess credit 2) Transportation or warehousing of non-tax paid goods. In such circumstances inspection & search of business premises and opening of the lockers etc. and seizure of the documents including books of accounts have been authorized. This provision will create fear in the minds of small dealers and such authorities are given to both CGST & SGST officers and hence more visits are invisaged.
61		**Inspection of goods in movement**				
61		(1) The Central or a State Government may require the person in charge of a conveyance carrying any consignment of goods of value exceeding fifty thousand rupees to carry with him such documents as may be prescribed in this behalf. (2) Where any vehicle referred to in sub-section (1) is intercepted by the proper officer at any place, he may require the person in charge of the said vehicle to produce such documents for verification and the said person shall be liable to produce the documents.				CGST & SGST officers are authorized to intercept any vehicle / conveyance which is carried the non-tax paid goods **exceeding Rs. 50,000/-** and such vehicle can be detained and seizure can be made on non tax paid goods. Further, each vehicle should carry tax paying documents to avoid unnecessarily harrasement.
62		**Power to Arrest**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
62		(1) If the [Commissioner of CGST or the Commissioner of SGST] has reason to believe that any person has committed an offence punishable under clause (i) or (ii) of sub-section (1) or under sub-section (2) of section 73, he may, by order, authorise any CGST/SGST officer to arrest such person. (2) Where a person is arrested for any cognizable offence, every officer authorised to arrest a person shall inform such person of the grounds of arrest and produce him before a magistrate within twenty four hours. (3) In the case of a non-cognizable and bailable offence, the Deputy Commissioner or the Assistant Commissioner of CGST/SGST, as the case may be, shall, for the purpose of releasing an arrested person on bail or otherwise, have the same powers and be subject to the same provisions as an officer-in-charge of a police station has, and is subject to, under section 436 of the Code of Criminal Procedure, 1973 (2 of 1974). (4) All arrests made under this section shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1973 (2 of 1974) relating to arrest.		Central Excise Act, 1944	Section 13	CGST and SGST officers have been empowered to arrest any person where evasion of tax is noticed, if there is a cognizible offence then such person is required to be produced before magistrate within 24 hours, but if non-cognizible offence then bail can be granted. However, before making such arrest, commissioner CGST / SGST needs to authorise the proper officer
63		**Power to summon persons to give evidence and produce documents**				
63		(1) Any [CGST/SGST officer], duly authorised by the competent authority in this behalf, shall have power to summon any person whose attendance he considers necessary either to give evidence or to produce a document or any other thing in any inquiry which such officer is making for any of the purposes of this Act. (2) A summons to produce documents or other things may be for the production of certain specified documents or things or for the production of all documents or things of a certain description in the possession or under the control of the person summoned. (3) All persons so summoned shall be bound to attend, either in person or by an authorised representative, as such officer may direct; and all persons so summoned shall be bound to state the truth upon any subject respecting which they are examined or make statements and produce such documents and other things as may be required: Provided that the exemptions under sections 132 and 133 of the Code of Civil Procedure, 1908 (5 of 1908) shall be applicable to requisitions for attendance under this section. (4) Every such inquiry as aforesaid shall be deemed to be		Central Excise Act, 1944	Section 14	Powers have been granted to CGST / SGST officers to issue the summons and produce any evidences in case of any investigation and such summons issued and investigations thereafter will be construed as Judicial proceedings under Indian penal code and statement also can be recorded on appeances against summons.
64		**Access to business premises**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
64		(1) Any CGST/SGST officer authorized by the [Additional/Joint Commissioner of CGST or SGST] shall have access to any business premises to inspect books of account, documents, computers, computer programs, computer software (whether installed in a computer or otherwise) and such other things as he may require and which may be available at such premises, for the purposes of carrying out any audit, scrutiny, verification and checks as may be necessary to safeguard the interest of revenue. (2) Every person in charge of premises referred to in sub-section (1) shall, on demand, make available to the officer authorized under sub-section (1) or the audit party deputed by the Additional/Joint Commissioner of CGST or SGST or the Comptroller and Auditor General of India or a cost accountant or chartered accountant nominated under section 50, as the case may be,- (i) the records as prepared or maintained by the registered taxable person and declared to the CGST/SGST officer as may be prescribed; (ii) trial balance or its equivalent; (iii) Statements of annual financial accounts, duly audited, wherever required; (iv) cost audit report, if any, under section 148 of the				Additional Commissioner / Joint Commissioner is authorised CGST / SGST officers who inspect books of account / documents, Computers, computer program, computer software or any other things for carrying out audit, scrutiny verification and checks for safeguarding the revenue. On visit of such officers / Officers of SAG or Cost Accountant or Chartered Acocuntant nominated to conduct special audit following documents needs to be given on demand. Records prepared or maintainedm Trial Balance, Statement of annual financial accounts duly attested , cost audit report, tax audit report o rany other records.
65		**Officers required to assist CGST/SGST officers**				
65	1 2	(1) All officers of Police, Customs and those of State/Central Government engaged in collection of goods and services tax and all officers of State/Central Government engaged in the collection of land revenue, and all village officers are hereby empowered and required to assist the CGST/SGST officers in the execution of this Act. (2) The Central/State Government may, by notification, empower and require any other class of officers to assist the CGST/SGST officers in the execution of this Act when called upon to do so by the Commissioner of CGST/SGST.				CGST and SGST Officers may be assisted on demand by any officers of Police, Customs, Central & State Govt Officers dealing in GST / colletcion of land revenue or Panchayat / village and such officers will be empowered to carry the work assigned.
CHAPTER – XVI : OFFENCES & PENALTIES						
66		**Offences and Penalties :**	CER - 26 (2) (i) Penalty for certain Offences	Central Excise Rules, 2002 and MVAT Act, 2005 Central Excise Act, 1944	26 (2) (i)	

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
		(1) Where a taxable person who - (i) supplies any goods and/or services without issue of any invoice or issues an incorrect or false invoice with regard to any such supply; (ii) issues any invoice or bill without supply of goods and/or services in violation of the provisions of this Act, or the rules made thereunder; (iii) collects any amount as tax but fails to pay the same to the credit of the appropriate Government beyond a period of three months from the date on which such payment becomes due; (iv) collects any tax in contravention of the provisions of this Act but fails to pay the same to the credit of the appropriate Government beyond a period of three months from the date on which such payment becomes due;	(2) Any person, who issues - (i) an excise duty invoice without delivery of the goods specified therein or abets in making such invoice; shall be liable to a penalty not exceeding the amount of such benefit or five thousand rupees, whichever is greater. MVAT – 74 (3) (s) whoever- fails, without sufficient cause, to issue a tax invoice, a bill or cash memorandum as required under section 86, shall be shall, on conviction, be punished with simple imprisonment for a term which may extend to six months and with fine		74 (3) (s)	1. Action as stipulated in 66(i) are very elaborative which includes abstructs and prevents any officers in discharge of duty etc. will be liable to pay penalty of Rs. 10,000/- or 100% of tax evided or 100% of tax deducted but not paid or 100% excess ITC taken whichever is higher.
		(v) fails to deduct the tax in terms of sub-section (1) of section 37, or deducts an amount which is less than the amount required to be deducted under the said subsection, or where he fails to pay to the credit of the appropriate Government under subsection (2) thereof, the amount deducted as tax; (va) fails to collect tax in terms of sub-section (1) of section 43C, or collects an amount which is less than the amount required to be collected under the said sub-section, or where he fails to pay to the credit of the appropriate Government under sub-section (4) thereof, the amount collected as tax; (vi) takes and/or utilizes input tax credit without actual receipt of goods and/or services either fully or partially, in violation of the provisions of this Act, or the rules made thereunder; (vii) fraudulently obtains refund of any CGST/SGST under this Act;	Section 11D (1) Notwithstanding anything to the contrary contained in any order or direction of the Appellate Tribunal or any Court or in any other provision of this Act or the rules made thereunder, every person who is liable to pay duty under this Act or the rules made thereunder, and has collected any amount in excess of the duty assessed or determined and paid on any excisable goods under this Act or the rules made thereunder from the buyer of such goods in any manner as representing duty of excise, shall forthwith pay the amount so collected to the credit of the Central Government.			2. Similarly any taxable person repeatedly make such short payment duty will be liable for penalty of Rs. 10,000/- or 10% of Tax short paid whichever is higher.

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
		(viii) takes or distributes input tax credit in violation of section 17, or the rules made thereunder; (ix) falsifies or substitutes financial records or produces fake accounts and/or documents or furnishes any false information or return with an intention to evade payment of tax due under this Act; (x) is liable to be registered under this Act but fails to obtain registration; (xi) furnishes any false information with regard to particulars specified as mandatory, either at the time of applying for registration, or subsequently; (xii) obstructs or prevents any officer in discharge of his duties under the Act; (xiii) transports any taxable goods without the cover of documents as may be specified in this behalf; (xiv) suppresses his turnover leading to evasion of tax under this Act;	(1A) Every person, who has collected any amount in excess of duty assessed or determined and paid on any excisable goods or has collected any amount as representing duty of excise on any excisable goods which are wholly exempt or chargeable to nil rate of duty from any person in any manner, shall forthwith pay the amount so collected to the credit of the Central Government. Rule 15 (1) If any person, takes or utilises CENVAT credit in respect of input or capital goods or input services, wrongly or in contravention of any of the provisions of these rules, then, all such goods shall be liable to confiscation and such person, shall be liable to a penalty in terms of clause (a) or clause (b) of sub-section (1) of section 11AC of the Excise Act or sub-section (1) of section 76 of the Finance Act (32 of 1994), as the case may be.		11D (1) & (1A) read with Rule 27. 11AC (1) (a)	3. Any person who abates for the offences mentioned in 66(1), keeps deposit carry, remove supply or purchase or deals with non-tax paid goods or services or any person not attending the summons or fails to issue the invoice will liable for penalty mas upto Rs. 25,000
		(xv) fails to keep, maintain or retain books of account and other documents in accordance with the provisions of this Act or the rules made thereunder; (xvi) fails to furnish information and/or documents called for by a CGST/SGST officer in accordance with the provisions of this Act or rules made thereunder or furnishes false information and/or documents during any proceedings under this Act; (xvii) supplies, transports or stores any goods which he has reason to believe are liable to confiscation under this Act; (xviii) issues any invoice or document by using the identification number of another taxable person; (xix) tampers with, or destroys any material evidence; (xx) disposes off or tampers with any goods that have been detained, seized, or attached under this Act;	11AC (1) The amount of penalty for non-levy or short-levy or non-payment or short payment or erroneous refund shall be as follows :- (a) where any duty of excise has not been levied or paid or short-levied or short paid or erroneously refunded, by reason of fraud or collusion or any wilful mis-statement or suppression of facts, or contravention of any of the provisions of this Act or of the rules made there under with intent to evade payment of duty, the person who is liable to pay duty as determined under sub-section (10) of section 11A shall also be liable to pay a penalty equal to the duty so determined;			

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
		shall be liable to a penalty of rupees ten thousand or an amount equivalent to the tax evaded or the tax not deducted or short deducted or deducted but not paid to the Government or input tax credit availed of or passed on or distributed irregularly, or the refund claimed fraudulently, as the case may be, whichever is higher. (2) Any registered taxable person who repeatedly makes short payment of tax shall be liable to a penalty of rupees ten thousand or ten percent of the tax short paid, whichever is higher. Explanation.- For the purposes of this sub-section, a taxable person shall be deemed to have made short payments 'repeatedly', if there were short payments in three returns during any six consecutive tax periods.	CEA – Section 9 (1) Whoever commits any of the following offences, namely (c) fails to supply any information which he is required by rules made under this Act to supply, or (unless with a reasonable belief, the burden of proving which shall be upon him, that the information supplied by him is true) supplies false information;			
		(3) Any person who (a) aids or abets any of the offences specified in clauses (i) to (xx) of sub-section (1) above; (b) acquires possession of, or in any way concerns himself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner deals with any goods which he knows or has reason to believe are liable to confiscation under this Act or the rules made thereunder; (c) receives or is in any way concerned with the supply of, or in any other manner deals with any supply of services which he knows or has reason to believe are in contravention of any provisions of this Act or the rules made thereunder; (d) fails to appear before the CGST/SGST officer, when issued with a summon for appearance to give evidence or produce a document in an enquiry; (e) fails to issue invoice in accordance with the provisions of this Act or rules made thereunder, or fails to account for an invoice in his books of account; shall be liable to a penalty which may extend to rupees twenty five thousand.	Shall be punishable with imprisonment for a term which may extend to three years or with fine or with both if the amount of duty involves is less than Rs. 50.00 Lacs and if it is more than Rs. 50.00 Lacs, 7 years and with fine. MVAT – 74 (1) (e) - (e) produces false accounts, registers or documents or knowingly furnishes false information,shall on conviction be punished with rigorous imprisonment for a term which shall not be less than one month but which may extend to one year and with fine. CER – 25 (1) (c) engages in the manufacture, production or storage of any excisable goods without having applied for the registration certificate required under section 6 of the Act;			
			then, all such goods shall be liable to			
			shall be shall, on conviction, be punished with simple imprisonment for a term which may extend to six months and with fine			
			MVAT – 74 (3) (b) - is engaged in business as a dealer without being registered under section 16,			
			No parallel provision except provision for amendment allowed in the Registration Certificate without penalty.			

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
			25 (1) (a) removes any excisable goods in contravention of any of the provisions of these rules or the notification issued under these rules;			
67		**General Penalty**				
		Any person, who contravenes any of the provisions of this Act or any rules made thereunder for which no penalty is separately provided for in this Act, shall be liable to a penalty which may extend to rupees twenty five thousand.	A breach of these rules shall, where no other penalty is provided herein or in the Act, be punishable with a penalty which may extend to five thousand rupees and with confiscation of the goods in respect of which the offence is committed.	Central Excise Rules, 2002	Rule 27	4. Any of the provisions of the Act will be liable for penalty max upto Rs. 25000/-
68		**General disciplines related to penalty**				
68		(1) No tax authority shall impose substantial penalties for minor breaches of tax regulations or procedural requirements. In particular, no penalty in respect of any omission or mistake in documentation which is easily rectifiable and obviously made without fraudulent intent or gross negligence shall be greater than necessary to serve merely as a warning.	No parallel provisions except the judgement made laws waiving the penalty with respect to procedural lapses without intention to evade the duty or commit fraud.	-	-	General discipline is expected while imposing the penalty . NO penalty can be impsed without issuance of SCN and opportunity of personal hearing as a natural justice, if evasion of tax is less than Rs. 5000 or mistakes can be rectified and when voluntarily disclosures are made. These provisions will not be applicable where penalty has been prescribed as fix sum or fix percentage
		Explanation. For the purpose of this sub-section –				
		(a) a breach shall be considered a 'minor breach' if the amount of tax involved is less than rupees five thousand.				
		(b) an omission or mistake in documentation shall be considered to be easily rectifiable if the same is an error apparent on record.				
		(2) The penalty imposed shall depend on the facts and circumstances of the case and shall be commensurate with the degree and severity of the breach.				
		(3) No penalty shall be imposed on any taxable person without giving a notice to show cause and without giving the person a reasonable opportunity of being heard.				
		(4) The tax authority shall ensure that when a penalty is imposed in an order for a breach of the laws, regulations or procedural requirements, an explanation is provided therein to the persons upon whom the penalty is imposed, specifying the nature of the breach and the applicable law, regulation or procedure under which the amount or range of penalty for the breach has been prescribed.				
		(5) When a person voluntarily discloses to a tax authority the circumstances of a breach of the tax law, regulation or procedural requirement prior to the discovery of the breach by the tax authority, the tax authority may consider this fact as a potential mitigating factor when establishing a penalty for that person.				
		(6) The provisions of this section will not apply in such cases where the penalty prescribed under the Act is either a fixed sum or expressed as a fixed percentage.				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
69	(1) & (2)	**Detention of goods and levy of penalty**				Goods, records & conveyances can be detailed and to be released only after payment of applicable tax, interest and penalty or upon furnishing security equivalent to such tax interest & penalty
		(1) Where any person –	If a Central Excise Officer, has reason to believe that any goods, which are liable to excise duty but no duty has been paid thereon or the said goods were removed with the intention of evading the duty payable thereon, the Central Excise Officer may detain or seize such goods.			
		(i) transports any goods or stores such goods while they are in transit in violation of the provisions of this Act; or	Rule 25. Confiscation and penalty. -			
		(ii) stores or keeps in stock goods or supplies goods which have not been accounted for in the books or records maintained by him in the manner required by this Act;	(1) Subject to the provisions of section 11AC of the Act, if any producer, manufacturer, registered person of a warehouse or a registered dealer, -			
		all such goods shall be liable to detention, in the manner prescribed, by the proper officer and shall be released only after payment of applicable tax, interest and penalty leviable thereon or upon furnishing a security, in such form as may be prescribed, equivalent to the amount of the applicable tax, interest and penalty.	(a) removes any excisable goods in contravention of any of the provisions of these rules or the notification issued under these rules; or			
		(2) No tax, interest or penalty shall be determined under sub-section (1) without giving a notice to show cause and without giving the person a reasonable opportunity of being heard.	(b) does not account for any excisable goods produced or manufactured or stored by him;			
			Then, all such goods shall be liable to confiscation and the producer or manufacturer or registered person of the warehouse or a registered dealer, as the case may be, shall be liable to a penalty not exceeding the duty on the excisable goods in respect of which any contravention of the nature referred to in clause (a) or clause (b) or clause (c) or clause (d) has been committed, or [rupees two thousand], whichever is greater.			
			(2) An order under sub-rule (1) shall be issued by the Central Excise Officer, following the principles of natural justice.			
70	(1) to (6)	**Confiscation of goods and levy of penalty**	Rule 25. Confiscation and penalty. -			1. Confiscation of goods can be made when it leads to evasion of duty or nonaccountal of goods / supplies 2. If owner of such goods is not identified, the person on whose possession goods are available which needs to be confiscated and find to be imposed on such person not exceeding to market value of goods. However, such confiscation or imposing the fine can be against issuance of SCN and opportunity of personal hearing and issue of speaking order

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
		(1) If any person –	(1) Subject to the provisions of section 11AC of the Act, if any producer, manufacturer, registered person of a warehouse or a registered dealer, -			
		(i) supplies any goods in contravention of any of the provisions of this Act or rules made thereunder leading to evasion of tax; or	(a) removes any excisable goods in contravention of any of the provisions of these rules or the notification issued under these rules; or			
		(ii) does not account for any goods on which he is liable to pay tax under this Act; or	(b) does not account for any excisable goods produced or manufactured or stored by him; or			
		(iii) supplies any goods liable to tax under this Act without having applied for the registration; or	(c) engages in the manufacture, production or storage of any excisable goods without having applied for the registration certificate required under section 6 of the Act; or			
		(iv) contravenes any of the provisions of this Act or rules made thereunder with intent to evade payment of tax, then, all such goods shall be liable to confiscation and the person shall be liable to penalty under section 56 of the Act.	(d) contravenes any of the provisions of these rules or the notifications issued under these rules with intent to evade payment of duty,			
		(2) Whenever confiscation of any goods is authorized by this Act, the CGST/SGST officer adjudging it shall give to the owner of the goods or, where such owner is not known, the person from whose possession or custody such goods have been seized, an option to pay in lieu of confiscation such fine as the said officer thinks fit:	then, all such goods shall be liable to confiscation and the producer or manufacturer or registered person of the warehouse or a registered dealer, as the case may be, shall be liable to a penalty not exceeding the duty on the excisable goods in respect of which any contravention of the nature referred to in clause (a) or clause (b) or clause (c) or clause (d) has been committed, or [rupees two thousand], whichever is greater.			
		Provided that such fine shall not exceed the market price of the goods confiscated, less the tax chargeable thereon.	(2) An order under sub-rule (1) shall be issued by the Central Excise Officer, following the principles of natural justice.			
		(3) Where any fine in lieu of confiscation of goods is imposed under sub-section (2), the owner of such goods or the person referred to in sub-section (1), shall, in addition, be liable to any tax and charges payable in respect of such goods.	Rule 28. Confiscated property to vest in Central Government. -			
		(4) No order of confiscation of goods and/or imposition of penalty shall be issued without giving a notice to show cause and without giving the person a reasonable opportunity of being heard.	(1) When any goods are confiscated under these rules, such thing shall thereupon vest in the Central Government.			

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
		(5) Where any goods are confiscated under this Act, the title of such goods shall thereupon vest in the appropriate Government.	(2) The Central Excise Officer adjudging confiscation shall take and hold possession of the things confiscated, and every Officer of Police, on the requisition of such Central Excise Officer, shall assist him in taking and holding such possession.			
		(6) The proper officer adjudging confiscation shall take and hold possession of the things confiscated and every Officer of Police, on the requisition of such proper officer, shall assist him in taking and holding such possession.	Rule 29. Disposal of confiscated goods.-			
			Confiscated goods in respect of which the option of paying a fine in lieu of confiscation has not been exercised, shall be sold, destroyed or otherwise disposed of in such manner as the Commissioner may direct.			
			Rule 30. Storage charges in respect of goods confiscated and redeemed. -			
			If the owner of the goods, the confiscation of which has been adjudged, exercises his option to pay fine in lieu of confiscation, he may be required to pay such storage charges as may be determined by the adjudicating officer.			
			Section 34. Option to pay fine in lieu of confiscation. -			
			Whenever confiscation is adjudged under this Act or the rules made thereunder, the officer adjudging it, shall give the owner of the goods an option to pay in lieu of confiscation such fine as the officer thinks fit.			
71		**Confiscation of conveyances**	No parallel provision in existing Act & Rules.			
		Any conveyance used as a means of transport for carriage of taxable goods without the cover of documents as may be prescribed in this behalf shall be liable to confiscation, unless the owner of the conveyance proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the conveyance:				Any vehicle transporting, carrying non tax paid goods can be confiscated and such vehicle can be released only after paying a fine equal to the tax payable.
		Provided that where any such conveyance is used for the carriage of the goods or passengers for hire, the owner of the conveyance shall be given an option to pay in lieu of the confiscation of the conveyance a fine equal to the tax payable on the goods being transported thereon.				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
72		**Confiscation or penalty not to interfere with other punishments**	Section 34A. Confiscation or penalty not to interfere with other punishments. -			The confiscation and penalty will be inedpendent than that of any punishment under any law.
		No confiscation made or penalty imposed under the provisions of this Act or of any rule made thereunder shall prevent the infliction of any other punishment to which the person affected thereby is liable under the provisions of this Act or under any other law.	No confiscation made or penalty imposed under the provisions of the Act or of any rule made thereunder shall prevent the infliction of any other punishment to which the person affected thereby is liable under the provisions of this Act or under any other law.			
73		**CHAPTER – XVII : PROSECUTION AND COMPOUNDING OF OFFENCES**				
73		**Prosecution**	No parallel provisions in Existing Act & Rules.			
	1	(1) Whoever commits any of the following offences, namely—				There is a provision of Prosection for various offences committed as mentioned in 73(1) which is self explanatory and imprisonment will be as follows :
		(a) supplies any goods and/or services without issue of any invoice or issues an incorrect or false invoice with regard to any such supply;				**Evasion** **Imprisonment & Fine** More than Rs. 250 lacs - Max 5 years Rs. 50 lacs to Rs. 250 lacs - Max 3 years with fine Rs. 25 Lacs to rs. 250 lacs - Max 1 Year with fine Repeated offence - Max 5 Years with fine
		(b) issues any invoice or bill without supply of goods and/or services in violation of the provisions of this Act, or the rules made thereunder;				
		(c) collects any amount as tax but fails to pay the same to the credit of the appropriate Government beyond a period of three months from the date on which such payment becomes due;				
		(d) collects any tax in contravention of the provisions of this Act but fails to pay the same to the credit of the appropriate Government beyond a period of three months from the date on which such payment becomes due;				
		(e) takes and/or utilizes input tax credit without actual receipt of goods and/or services either fully or partially, in violation of the provisions of this Act, or the rules made thereunder;				
		(f) fraudulently obtains refund of any CGST/SGST;				
		(g) falsifies or substitutes financial records or produces fake accounts and/or documents or furnishes any false information with an intention to evade payment of tax due under this Act;				
		(h) who obstructs or prevents any officer in the discharge of his duties under this Act;				
		(i) acquires possession of, or in any way concerns himself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner deals with, any goods which he knows or has reason to believe are liable to confiscation under this Act or the rules made thereunder;				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
		(j) receives or is in any way concerned with the supply of, or in any other manner deals with any supply of services which he knows or has reason to believe are in contravention of any provisions of this Act or the rules made thereunder;				
		(k) fails to supply any information which he is required to supply under this Act or the rules made thereunder or (unless with a reasonable belief, the burden of proving which shall be upon him, that the information supplied by him is true) supplies false information; or				
		(l) attempts to commit, or abets the commission of, any of the offences mentioned in clauses (a) to (k) of this section; shall be punishable –				
		(i) in cases where the amount of tax evaded exceeds two hundred and fifty lakh rupees, with imprisonment for a term which may extend to five years and with fine;				
		(ii) in cases where the amount of tax evaded exceeds fifty lakh rupees but does not exceed two hundred and fifty lakh rupees, with imprisonment for a term which may extend to three years and with fine;				
		(iii) in the case of any other offence where the amount of tax evaded exceeds twenty five lakh rupees but does not exceed fifty lakh rupees, with imprisonment for a term which may extend to one year and with fine.				
	2	(2) If any person convicted of an offence under this section is again convicted of an offence under this section, then, he shall be punishable for the second and for every subsequent offence with imprisonment for a term which may extend to five years and with fine:				
		Provided that in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the Court, the imprisonment referred to in sub-sections (1) and (2) shall not be for a term of less than six months.				
	3	(3) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), all offences under this Act, except the offences referred to in sub-section (4) shall be non-cognizable and bailable.				
	4	(4) The offences relating to taxable goods and/or services where the amount of tax evaded exceeds two hundred and fifty lakh rupees shall be cognizable and non-bailable.				
	5	(5) A person shall not be prosecuted for any offence under this section except with the previous sanction of the designated authority.				
74		**Cognizance of offences**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
		No Court shall take cognizance of any offence punishable except with the previous sanction of the [competent authority], and no Court inferior to that of a Magistrate of the First Class, shall try any such offence.	(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences punishable under this Act or rules made thereunder shall be cognizable and bailable.			Only Magistrate Courts should conduct such proceedings and no court inferior to that is allowed to conduct the proceedings.
			(2) Notwithstanding anything contained in the Code of Criminal Procedure. 1973, a Metropolitan Magistrate or Judicial Magistrate, First Class may, impose on any person found guilty of an offence under section 71, 72 or 74, a punishment as provided in relevant sections in excess of his powers under section 29 of the said Code.			
			(3) If any prosecution for an offence under this Act has been instituted in respect of the same facts on which a penalty has been imposed by the Commissioner under section 29 or 61, then if the offence is compounded under section 78 or, in any other case, on conviction as a result of the final proceedings, the Commissioner shall refund to the dealer the amount of penalty paid by him.			
75		**Presumption of culpable mental state**				
75	**1**	(1) In any prosecution for an offence under this Act which requires a culpable mental state on the part of the accused, the Court shall presume the existence of such mental state but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution.	MVAT 74 (7) In any prosecution for an offence under this section, which requires a culpable mental state on the part of the accused, the court shall presume the existence of such mental state, but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution.			Culpable mental state includes intention, motive, knowledge of a fact, and belief in, or reason to believe, a fact is assumed to be in existence of the accused and such person has to prove the bonafide of himself w.r.t. defending own case. In other words, onus of evidence will lie on the occused. Such provision was not in existence in any of the earlier laws which are subsumed in GST. This needs to be withdrawn.
		Explanation. — In this section, "culpable mental state" includes intention, motive, knowledge of a fact, and belief in, or reason to believe, a fact.	Explanation— Culpable mental State includes intention, motive or knowledge of a fact or belief in or reason to believe, a fact and a fact is said to be proved only when the court believes it to exist beyond reasonable doubt and not merely when its existence is established by a preponderance of probability			
	2	(2) For the purposes of this section, a fact is said to be proved only when the Court believes it to exist beyond reasonable doubt and not merely when its existence is established by a preponderance of probability	CEA 9C. Presumption of culpable mental state -			

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
			(1) In any prosecution for an offence under this Act which requires a culpable mental state on the part of the accused, the Court shall presume the existence of such mental state but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution.			
			Explanation. - In this section, "culpable mental state" includes intention, motive, knowledge of a fact, and belief in, or reason to believe, a fact.			
			(2) For the purposes of this section, a fact is said to be proved only when the Court believes it to exist beyond reasonable doubt and not merely when its existence is established by a preponderance of probability.			
76		**Relevancy of statements under certain circumstances**				
76	**1**	(1) A statement made and signed by a person before any gazetted officer of CGST/IGST/SGST during the course of any inquiry or proceeding under this Act shall be relevant, for the purpose of proving, in any prosecution for an offence under this Act, the truth of the facts which it contains,-	Section 9D. Relevancy of statements under certain circumstances. -			
		(a) when the person who made the statement is dead or cannot be found, or is incapable of giving evidence, or is kept out of the way by the adverse party, or whose presence cannot be obtained without an amount of delay or expense which, under the circumstances of the case, the Court considers unreasonable; or	(1) A statement made and signed by a person before any Central Excise Officer of a Gazette rank during the course of any inquiry or proceeding under this Act shall be relevant, for the purpose of proving, in any prosecution for an offence under this Act, the truth of the facts which it contains, -			Statement made and signed by the person before gazatted officer of CGST / SGST / IGST shall be relevant for the purpose of proving. Most of the statements are recorded in coercion and court has held without collaborative evidences such cannot be relied, but such provision, there will be not only the Inspector Raj but Police Raj
		(b) when the person who made the statement is examined as a witness in the case before the Court and the Court is of the opinion that, having regard to the circumstances of the case, the statement should be admitted in evidence in the interests of justice.	(a) when the person who made the statement is dead or cannot be found, or is incapable of giving evidence, or is kept out of the way by the adverse party, or whose presence cannot be obtained without an amount of delay or expense which, under the circumstances of the case, the Court considers unreasonable; or			

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
	2	(2) The provisions of sub-section (1) shall, so far as may be, apply in relation to any proceeding under this Act, other than a proceeding before a Court, as they apply in relation to a proceeding before a Court.	(b) when the person who made the statement is examined as a witness in the case before the Court and the Court is of opinion that, having regard to the circumstances of the case, the statement should be admitted in evidence in the interests of justice. (2) The provisions of sub-section (1) shall, so far as may be, apply in relation to any proceeding under this Act, other than a proceeding before a Court, as they apply in relation to a proceeding before a Court.			
77		**Offences by Companies and certain other persons**				
	1	(1) Where an offence committed by a person under this Act is a company, every person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:	(1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:	CEA - Section 9AA. Offences by companies. -		When offences are made by the companies, officers responsible to the same, whether in service or otherwise subsequently will be held personally liable and guilty of the offences and will be punished accordingly. Officers includes directors, managers, secretaries or any other officers
	2	(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any negligence on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Explanation. - For the purposes of this section, -	Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.			
		(a) "company" means a body corporate and includes a firm or other association of individuals; and	(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.			
		(b) "director", in relation to a firm, means a partner in the firm.	Explanation. - For the purposes of this section, -			

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
	3	(3) Where an offence under this Act has been committed by a taxable person being a partnership firm or a Limited Liability Partnership or a Hindu Undivided Family or a trust, the partner or karta or managing trustee, as the case may be, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly and the provisions of sub-section (2) shall apply mutatis mutandis to such persons.	(a) "company" means anybody corporate and includes a firm or other association of individuals; and			
		Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.	(b) "director" in relation to a firm means a partner in the firm.			
			MVAT - 75. Offences by business entity –	MVAT - 75. Offences by business entity –		
			(1) Where an offence under this Act or the rules made thereunder has been committed by a business entity. every person who at the time the offence was committed, was in charge of, and was responsible to, the business entity for the conduct of the business of the business entity as well as the business entity shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:			
			Provided that, nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.			
			(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act or rules made thereunder has been committed by a business entity and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the business entity, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.			

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
			Explanation. For the purpose of this section,—			
			(a) "business entity" means a body corporate, and includes a firm a firm, a Hindu Undivided Family or other association of individuals; and			
			(b) "director", in relation to a firm, means a partner in the firm and in relation to a Hindu Undivided Family , means a Karta.			
78		**Compounding of offences**				
		MVAT - 75. Offences by business entity –				Compunding can be done, if value of the supplies do not exceed Rs. 1 Cr. Compounding shall be allowed after making payment of tax, interest and penalty involving such offences and minimum penalty will be Rs. 10,000/- or 50% of tax involved or maximum Rs. 30,000/- or 150% of the tax whichvere is greater. On compunding no action will be initiated
CHAPTER–XVIII : A		**Appeals to First Appellate Authority**				
79		(1) Any person aggrieved by any decision or order passed against him under this Act by an adjudicating authority, may appeal to the prescribed First Appellate Authority. (2) The Commissioner of GST may, of his own motion, call for and examine the record of any proceeding in which an adjudicating authority has passed any decision or order under this Act, for the purpose of satisfying himself as to the legality or propriety of the said decision or order and may, by order, direct any GST Officer subordinate to him to apply to the First Appellate Authority for the determination of such points arising out of the said decision or order as may be specified by the Commissioner of GST in his order. (3) Where, in pursuance of an order under sub-section (2), the authorized officer makes an application to the First Appellate Authority, such application shall be dealt with by the First Appellate Authority as if it were an appeal made against the decision or order of the adjudicating authority and the provisions of this Act relating to appeals shall, so far as may be, apply to such application.		Central Excise Act, 1944	Section 35 & 35A	First Appeal to be filed within 3 months from the date of receipt of OIO against the deposit of 10% of the amount in dispute and amount includes amount determined u/2 46,47, 48 & 51, amount payable under GST Credit Rule and penalty or fine. At present first appeal deposit is made equivalent to 7.5% of duty or penalty as the case may be.
80		**Left Blank**				
81		**Constitution of the National Appellate Tribunal**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
81		(1) The Central Government shall on the recommendation of the GST Council constitute a National Goods and Services Tax Appellate Tribunal (hereinafter referred to as the Appellate Tribunal). (2) The Appellate Tribunal shall be headed by a National President. (3) The Appellate Tribunal shall have one branch for each state, which shall be called as the State GST Tribunal. (4) Every State GST Tribunal will be headed by a State President. (5) Every State GST Tribunal shall consist of as many Members (Judicial), Members (Technical - CGST) and Members (Technical - SGST) as may be prescribed, to exercise the powers and discharge the functions conferred on the Appellate Tribunal by this Act. (6) The qualifications, eligibility conditions and the manner of selection and appointment of the National President, the State Presidents, and the Members shall be such as may be prescribed on the recommendations of the Council. (7) The National President and the State Presidents shall exercise such powers and discharge such functions as may be prescribed on the				National Appellate Tribunal will be formed on the recommendation of GST Council. National Appellate Tribunal will be operating from eash state which will be called as State GST Tribunal and State GST Tribunal will be headed by State President and such State GST will considered of 2 Technical Memebrs of each from CGST & SGST Member Judicial.
82		**Appeals to the Appellate Tribunal**				
82		(1) Any person aggrieved by an order passed against him under section 79 may appeal to the Appellate Tribunal against such order. (2) The Appellate Tribunal may, in its discretion, refuse to admit any such appeal where the tax or input tax credit involved or the difference in tax or input tax credit involved or the amount of fine, fee or penalty determined by such order, does not exceed one lakh rupees. (3) The Board may by order constitute such Committees as may be necessary for the purposes of filing appeals against the orders of the First Appellate Authority. Every such Committee shall consist of two designated officers of GST. (4) The Committee of designated officers of GST may, if it is of the opinion that an order passed by the First Appellate Authority under sub-section (10) of section 79, is not legal or proper, direct any GST Officer authorized by it in this behalf to apply to the Appellate Tribunal for the determination of such points arising out of the order passed by the First Appellate Authority as may be specified by the Committee in its order: Provided that where the Committee of designated		Central Excise Act, 1944	Section 35B	Appeal can be filed within 3 months from the date of receipt of OIO against the deposit of 10% of the amount in dispute and amount includes amount determined u/2 46,47, 48 & 51, amount payable under GST Credit Rule and penalty or fine. At present first appeal deposit is made equivalent to 7.5% of duty or penalty as the case may be.

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
		not have appealed against such order or any part thereof, file, within forty-five days of the receipt of the notice, a memorandum of cross-objections, verified in the prescribed manner, against any part of the order appealed against and such memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time specified in sub-section (6). (8) The Appellate Tribunal may admit an appeal or permit the filing of a memorandum of cross-objections after the expiry of the period referred to in sub-section (6) or sub-section (7) respectively, if it is satisfied that there was sufficient cause for not presenting it within that period. (9) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner and shall be accompanied by a prescribed fee: Provided that no such fee shall be payable in the case of an appeal filed by the Commissioner referred to in sub-section (5) or a memorandum of cross-objections referred to in sub-section (7). (10) No appeal shall be filed under sub-section (1) unless the appellant has deposited				
83		**Orders of Appellate Tribunal**				
83	**1**	(1) The Appellate Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or annulling the decision or order appealed against or may refer the case back to the First Appellate Authority or to the original adjudicating authority, with such directions as it may think fit, for a fresh adjudication or decision, as the case may be, after taking additional evidence, if necessary.		Central Excise Act, 1944	Section 35C	Appellate Tribunal can issue the order, recall the order, correct the mistakes if any.
	2	(2) The Appellate Tribunal may, if sufficient cause is shown, at any stage of hearing of an appeal, grant time, from time to time, to the parties or any of them and adjourn the hearing of the appeal for reasons to be recorded in writing: Provided that no such adjournment shall be granted more than three times to a party during hearing of the appeal.				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
	3	(3) The Appellate Tribunal may amend any order passed by it under sub-section (1) so as to rectify any mistake apparent from the record, if such mistake is noticed by it on its own accord, or is brought to its notice by the Commissioner of GST or the other party to the appeal within a period of three months from the date of the order: Provided that no amendment which has the effect of enhancing an assessment or reducing a refund or input tax credit or otherwise increasing the liability of the other party, shall be made under this sub-section, unless the Appellate Tribunal has given				
	4	notice to him of its intention to do so and has allowed him a reasonable opportunity of being heard. (4) The Appellate Tribunal shall, where it is possible to do so, hear and decide every appeal within a period of one year from the date on				
	5	which it is filed. (5) The Appellate Tribunal shall send a copy of every order passed under this section to the First Appellate Authority, or to the original adjudicating authority, as the case may be, the appellant, the jurisdictional Commissioner of CGST and the jurisdictional				
84		**Procedure of Appellate Tribunal**				
84		(1) The powers and functions of the Appellate Tribunal may be exercised and discharged by Benches constituted by the National President or the State Presidents from amongst the members thereof. (2) Subject to the provisions contained in sub-section (3), a Bench shall consist of one Member (Judicial), one Member (Technical - CGST) and one Member (Technical - SGST). (3) The National President or a State President, or any other member of the Appellate Tribunal authorized in this behalf by the National President or a State President, may, sitting singly, dispose of any case which has been allotted to the Bench of which he is a member, where in any disputed case, the tax or input tax credit involved or the difference in tax or input tax credit involved or the amount of fine, fee or penalty involved, does not exceed ten lakh rupees. (4) If the members of a Bench differ in opinion on any point, the point shall be decided according to the opinion of the majority, if there is a majority; but if the members are equally divided, they shall state the point or points on which they differ				
85		**Interest on delayed refund of pre-deposit**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
85		Where an amount deposited by the appellant under sub-section (6)/(4) of section 79 or under sub-section (10)/(7) of section 82 is required to be refunded consequent to any order of the First Appellate Authority or of the Appellate Tribunal, as the case may be, interest at the rate specified under section 39 shall be payable in respect of such refund from the date of payment of the amount till the date of refund of such amount.				Interest on pre-deposit will be payable from the date of payment till th edate of refund of such amount, when First Appellate Authority or Appellate Tribunal gives the order quashing / reducing the demand
86		**Appearance by authorised representative**				
86		(1) Any person who is entitled or required to appear before a GST Officer appointed under this Act, or the First Appellate Authority or the Appellate Tribunal in connection with any proceedings under the Act, may, otherwise than when required under this Act to appear personally for examination on oath or affirmation, subject to the other provisions of this section, appear by an authorized representative. (2) For the purposes of this section, "authorised representative" means a person authorised by the person referred to in sub-section (1) to appear on his behalf, being — (a) his relative or regular employee; or (b) an advocate who is entitled to practice in any court in India, and who has not been debarred from practicing before any court in India; or (c) any chartered accountant, a cost accountant or a company secretary, who holds a valid certificate of practice and who has not been debarred from practice; or (d) any person who has acquired such qualifications as the Central Government (or the State Government) may, on the recommendation of the Council, prescribe for this purpose.		Central Excise Act, 1944	Section 35Q	Chartered Accountants, Cost Accountants & Company Sceretaries who hold the COP, employee of the company, relative of the person , Advocate or any person acquiring such qualificatin and experience will be allowed to be represent before First Appellate Authority or Appellate Tribunal
87		**Appeal to the High Court**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
87		(1) The Commissioner of GST or the other party aggrieved by any order passed by the Appellate Tribunal under section 83 may file an appeal to the High Court and the High Court may admit such appeal if it is satisfied that the case involves a substantial question of law. (2) Notwithstanding the provisions of sub section (1), no appeal shall lie to High Court against an order passed by the Appellate Tribunal under section 83 if such order relates, among other things, to:- i) a matter where two or more States, or a State and Center, have a difference of views regarding the treatment of a transaction(s) being intra-State or inter-State; or ii) a matter where two or more States, or a State and Center, have a difference of views regarding place of supply. (3) An appeal under sub-section (1) shall be - a) filed within one hundred and eighty days from the date on which the order appealed against is received by the Commissioner of GST or the other party; b) accompanied by a prescribed fee ; c) in the form of a memorandum of appeal precisely stating therein the substantial		Central Excise Act, 1944	Section 35H	Any order of Appellate Tribunal can be challenged in the High Court and appeal to the high court to be filed within 180 days of the receipt of such order.
88		**Appeal to the Supreme Court**				
88		(1) An appeal shall lie to the Supreme Court from any judgment or order passed by the High Court in an appeal made under section 87, in any case which, on its own motion or on an oral application made by or on behalf of the party aggrieved, immediately after passing of the judgment or order, the High Court certifies to be a fit one for appeal to the Supreme Court. (2) An appeal shall lie to the Supreme Court from any order passed by the Appellate Tribunal under section 83 where such order is of the nature referred to in sub section (2) of section 87.		Central Excise Act, 1944	Section 35L	Any order of High Court can be appealed before Supreme Court
89		**Hearing before Supreme Court**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
89		(1) The provisions of the Code of Civil Procedure, 1908 (5 of 1908), relating to appeals to the Supreme Court shall, so far as may be, apply in the case of appeals under section 88 as they apply in the case of appeals from decrees of a High Court : Provided that nothing in this sub-section shall be deemed to affect the provisions of section 90. (2) The costs of the appeal shall be at the discretion of the Supreme Court. (3) Where the judgment of the High Court is varied or reversed in the appeal, effect shall be given to the order of the Supreme Court in the manner provided in section 87 in the case of a judgment of the High Court.		Central Excise Act, 1944	Section 35M	
90		**Sums due to be paid notwithstanding appeal etc**				
90		Notwithstanding that an appeal has been preferred to the High Court or the Supreme Court, sums due to the Government as a result of an order passed by the Appellate Tribunal under sub-section (1) of section 83 or an order passed by the High Court under section 87, as the case may be, shall be payable in accordance with the order so passed		Central Excise Act, 1944	Section 35N	
91		**Exclusion of time taken for copy**				
91		In computing the period of limitation prescribed for an appeal or application under this Chapter, the day on which the order complained of was served, and if the party preferring the appeal or making the application was not furnished with a copy of the order when the notice of the order was served upon him, the time required for obtaining a copy of such order, shall be excluded.		Central Excise Act, 1944	Section 35O	
92		**Appeal not to be filed in certain cases**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
92		(1) The Board or the State Government may, on the recommendation of the Council, from time to time, issue orders or instructions or directions fixing such monetary limits, as it may deem fit, for the purposes of regulating the filing of appeal or application by the GST officer under the provisions of this Chapter. (2) Where, in pursuance of the orders or instructions or directions, issued under subsection (1), the GST officer has not filed an appeal or application against any decision or order passed under the provisions of this Act, it shall not preclude such GST officer from filing appeal or application in any other case involving the same or similar issues or questions of law. (3) Notwithstanding the fact that no appeal or application has been filed by the GST Officer pursuant to the orders or instructions or directions issued under sub-section (1), no person, being a party in appeal or application shall contend that the GST officer has acquiesced in the decision on the disputed issue by not filing an appeal or application. (4) The Appellate Tribunal or court hearing such appeal or application shall have regard to the circumstances under which appeal or				
93		**Non Appealable decisions and orders**				
93		Notwithstanding anything to the contrary in any provisions of this Act, no appeal shall lie against any decision taken or order passed by a GST officer if such decision taken or order passed relates to any one or more of the following matters:- (a) An order of the Commissioner or other competent authority for transfer of proceeding from one officer to another officer; (b) An order pertaining to the seizure or retention of books of account, register and other documents; or (c) An order sanctioning prosecution under the Act; or (d) An order passed under section 55.				
94		**Advance Ruling**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
94		In this Chapter, unless the context otherwise requires, - (a) “advance ruling” means a written decision provided by the Authority or, as the case may be, the Appellate Authority to an applicant on matters or on questions specified in sub-section (2) of section 97 or sub-section (1) of section 99, as the case may be, in relation to the supply of goods and/or services proposed to be undertaken or being undertaken by the applicant; (b) “applicant” means any person registered or desirous of obtaining registration under the Act. (c) “application” means an application made to the Authority under sub-section (1) of section 97; (d) “Authority” means the Authority for Advance Ruling, constituted under section 95; (e) "Appellate Authority" means the Appellate Authority for Advance Ruling constituted under section 96.		Central Excise Act, 1944	Section 23C	• Advance Ruling may be sought in respect of the following matters: o Classification of goods and/or services; o Applicability of a notification having a bearing on the rate of tax; o Principles to be adopted for determination of value of the goods and/or services; o Admissibility of input tax credit of tax paid or deemed to have been paid; o Determination of the liability to pay tax on any goods and/or services; o Whether applicant is required to be registered under the Act; o Whether any particular thing done with respect to any goods and/or services would amount to ‘supply’. • Application for Advance Ruling not to be admitted if the question raised in the application is: o Pending in the applicant’s case before any First Appellate Authority, Appellate Tribunal or Court; o The same as in a matter already decided by any First Appellate Authority, Appellate Tribunal or Court; o The same as in a matter already pending in any proceedings in the applicant’s case under any of the provisions of the Act; o The same as in a matter in the applicant’s case already decided by the adjudicating authority or assessing authority, whichever is applicable. • The applicant or the jurisdictional CGST/SGST officer may, if aggrieved by the advance ruling, appeal before the Appellate Authority for Advance Ruling within a period of 30 days. o Where the members of the Appellate Authority of Advance Ruling differ on any point referred to in the appeal, it shall be deemed that no advance ruling can be issued in respect of the question covered under the appeal. Provisions for appeal against an advance ruling have been introduced for the first
95		**Authority for Advance Ruling**				
95		(1) The Authority shall be located in each State. (2) The Authority shall comprise one member CGST and one member SGST to be appointed respectively by the Central Government and the State Government. (3) The qualifications, eligibility conditions, method and the process of appointment of the members shall be as may be prescribed.		Central Excise Act, 1944	Section 23C	
96		**Appellate Authority for Advance Ruling**				
96		(1) The Appellate Authority shall be located in each State. (2) The Appellate Authority shall comprise the Chief Commissioner of CGST as designated by the Board and the Commissioner of SGST having jurisdiction over the applicant.				
97		**Application for advance ruling**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
97		(1) An applicant desirous of obtaining an advance ruling under this Chapter may make an application in such form and in such manner as may be prescribed, stating the question on which the advance ruling is sought. (2) The question on which the advance ruling is sought shall be in respect of, (a) classification of any goods and/or services under the Act; (b) applicability of a notification issued under provisions of the Act having a bearing on the rate of tax; (c) the principles to be adopted for the purposes of determination of value of the goods and/or services under the provisions of the Act; (d) admissibility of input tax credit of tax paid or deemed to have been paid; (e) determination of the liability to pay tax on any goods and/or services under the Act; (f) whether applicant is required to be registered under the Act; (g) whether any particular thing done by the applicant with respect to any goods and/or services amounts to or results in a supply of goods and/or services, within the meaning of that term.		Central Excise Act, 1944	Section 23C	
98		**Procedure on receipt of application**				
98		(1) On receipt of an application, the Authority shall cause a copy thereof to be forwarded to the officers as may be prescribed and, if necessary, call upon him to furnish the relevant records: Provided that where any records have been called for by the Authority in any case, such records shall, as soon as possible, be returned to the said prescribed officers. (2) The Authority may, after examining the application and the records called for and after hearing the applicant or authorized representative of the applicant as well as the authorized representative of the prescribed officers, by order, either admit or reject the application: Provided that the Authority shall not admit the application where the question raised in the application is, - (a) already pending in the applicant's case before any First Appellate Authority, the Appellate Tribunal or any Court; (b) the same as in a matter already decided by the First Appellate Authority, the Appellate Tribunal or any Court; (c) the same as in a matter already pending in any proceedings in the applicant's case		Central Excise Act, 1944	Section 23D	

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
		(5) Where the members of the Authority differ on any question on which the advance ruling is sought, they shall state the point or points on which they differ and make a reference to the Appellate Authority for hearing and decision on such question. (6) The Authority or, as the case may be, the Appellate Authority shall pronounce its advance ruling in writing within ninety days of the receipt of application or, as the case may be, reference made under sub-section (5). (7) Where the members of the Appellate Authority differ on any point or points referred to it under sub-section (5), it shall be deemed that no advance ruling can be issued in respect of the question covered by the reference application. (8) A copy of the advance ruling pronounced by the Authority or, as the case may be, the Appellate Authority duly signed by the Members and certified in the prescribed manner shall be sent to the applicant and the jurisdictional CGST / SGST officer and, as the case may be, to the Authority, as soon as may be, after such pronouncement.				
99		**Appeal to the Appellate Authority**				
99		(1) The prescribed or jurisdictional CGST/SGST officer or, as the case may be, an applicant aggrieved by any advance ruling pronounced under sub-section (4) of section 98, may appeal to the Appellate Authority. (2) Every appeal under this section shall be filed within a period of thirty days from the date on which the ruling sought to be appealed against is communicated to the prescribed or the jurisdictional CGST/SGST officer or, as the case may be, the applicant. (3) Every appeal under this section shall be in the prescribed form and shall be verified in the prescribed manner.				
100		**Orders of the Appellate Authority**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
100		(1) The Appellate Authority may, after giving the parties to the appeal, an opportunity of being heard, pass such order as it thinks fit, confirming or modifying the ruling appealed against. (2) The order referred to in sub-section (1) shall be passed within a period of ninety days from the date of filing appeal under section 99. (3) Where the members of the Appellate Authority differ on any point or points referred to in appeal, it shall be deemed that no advance ruling can be issued in respect of the question covered under the appeal. (4) A copy of the advance ruling pronounced by the Appellate Authority duly signed by the Members and certified in the prescribed manner shall be sent to the applicant, the prescribed or the jurisdictional CGST / SGST officer and to the Authority, as soon as may be, after such pronouncement.				
101		**Rectification of advance ruling**				
101		The Authority or, as the case may be, the Appellate Authority may amend any order passed by it under section 98 or section 100, as the case may be, so as to rectify any mistake apparent from the record, if such mistake is noticed by the Authority or, as the case may be, the Appellate Authority on its own accord, or is brought to its notice by the prescribed or the jurisdictional CGST / SGST officer or the applicant within a period of six months from the date of the order: Provided that no rectification which has the effect of enhancing the tax liability or reducing the amount of admissible input tax credit shall be made unless the Authority or, as the case may be, the Appellate Authority has given notice to the applicant or, as the				
		case may be, the appellant of its intention to do so and has allowed him a reasonable opportunity of being heard. Explanation.— For the removal of doubts, it is hereby clarified that the Authority or, as the case may be, the Appellate Authority shall not, while rectifying any mistake apparent from record, amend substantive part of its order.				
102		**Applicability of advance ruling**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
102		(1) The advance ruling pronounced by the Authority or, as the case may be, the Appellate Authority under this chapter shall be binding only - (a) on the applicant who had sought it in respect of any matter referred to in subsection (2) of section 97 of the application for advance ruling; (b) on the jurisdictional tax authorities in respect of the applicant. (2) The advance ruling referred to in sub-section (1) shall be binding as aforesaid unless the law, facts or circumstances supporting the original advance ruling have changed.				
103		**Advance ruling to be void in certain circumstances**				
103		(1) Where the Authority or, as the case may be, the Appellate Authority finds that advance ruling pronounced by it under sub-section (4) of section 98 or under sub-section (1) of section 100 has been obtained by the applicant or, as the case may be, the appellant by fraud or suppression of material facts or misrepresentation of facts, it may, by order, declare such ruling to be void ab initio and thereupon all the provisions of the Act shall apply (after excluding the period beginning with the date of such advance ruling and ending with the date of order under this sub-section) to the applicant as if such advance ruling had never been made: Provided that no order shall be passed under this sub-section unless an opportunity has been given to the applicant of being heard. (2) A copy of the order made under sub-section (1) shall be sent to the applicant and the prescribed officers.		Central Excise Act, 1944	Section 23F	
104		**Powers of the Authority and Appellate Authority**				
104		(1) The Authority or, as the case may be, the Appellate Authority shall, for the purpose of exercising its powers regarding discovery and inspection, enforcing the attendance of any person and examining him on oath, issuing commissions and compelling production of books of account and other records, have all the powers of a civil court under the Code of Civil Procedure, 1908 (5 of 1908). (2) The Authority or, as the case may be, the Appellate Authority shall be deemed to be a civil court for the purposes of section 195, but not for the purposes of Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974), and every proceeding before the Authority shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196, of the Indian Penal Code (45 of 1860).		Central Excise Act, 1944	Section 23G	

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
105		**Procedure of the Authority and the Appellate Authority**				
105		The Authority or, as the case may be, the Appellate Authority shall, subject to the provisions of this Chapter, have power to regulate its own procedure in all matters arising out of the exercise of its powers under the Act.		Central Excise Act, 1944	Section 23H	
CHAPTER– XXI		**Presumption as to documents in certain cases**				
106		Where any document- (i) is produced by any person under the Act or any other law, or (ii) has been seized from the custody or control of any person under the Act or any other law, or (iii) has been received from any place within or outside India in the course of any proceedings under the Act or any other law and such document is tendered by the prosecution in evidence against him or any other person who is tried jointly with him, the court shall- (a) unless the contrary is proved by such person, presume — (i) the truth of the contents of such document; (ii) that the signature and every other part of such document which purports to be in the handwriting of any particular person or which the Court may reasonably assume to have been signed by, or to be in the handwriting of, any particular person, is in that person's handwriting, and in the case of a document executed or attested, that it was executed or attested by the person by whom it purports to have been so executed or attested; (b) admit the document in evidence notwithstanding that it is not duly stamped, if such document is otherwise admissible in evidence.		Central Excise Act, 1944	Section 36A	Self Explanatory
107		**Admissibility of micro films, facsimile copies of documents and computer printouts as documents and as evidence**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
107		(1) Notwithstanding anything contained in any other law for the time being in force, — a) a micro film of a document or the reproduction of the image or images embodied in such micro film (whether enlarged or not); or b) a facsimile copy of a document; or c) a statement contained in a document and included in a printed material produced by a computer (hereinafter referred to as a "computer printout"), if the conditions mentioned in sub-section (2) and the other provisions contained in this section are satisfied in relation to the statement and the computer in question; or d) any information stored electronically in any device or media, including any hard copies made of such information shall be deemed to be also a document for the purposes of the Act and the rules made thereunder and shall be admissible in any proceedings there under, without further proof or production of the original, as evidence of any contents of the original or of any fact stated therein of which direct evidence would be admissible.				Self Explanatory
		(2) The conditions referred to in sub-section (1) in respect of a computer printout shall be the following, namely:— a) the computer printout containing the statement was produced by the computer during the period over which the computer was used regularly to store or process information for the purposes of any activities regularly carried on over that period by the person having lawful control over the use of the computer; b) during the said period, there was regularly supplied to the computer in the ordinary course of the said activities, information of the kind contained in the statement or of the kind from which the information so contained is derived; c) throughout the material part of the said period, the computer was operating properly or, if not, then any respect in which it was not operating properly or was out of operation during that part of that period was not such as to affect the production of the document or the accuracy of the contents; and d) the information contained in the statement reproduced or is derived from information supplied to the computer in the ordinary course of the said activities.				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
		a) information shall be taken to be supplied to a computer if it is supplied thereto in any appropriate form and whether it is so supplied directly or (with or without human intervention) by means of any appropriate equipment; b) whether in the course of activities carried on by any official, information is supplied with a view to its being stored or processed for the purposes of those activities by a computer operated otherwise than in the course of those activities, that information, if duly supplied to that computer, shall be taken to be supplied to it in the course of those activities; c) a document shall be taken to have been produced by a computer whether it was produced by it directly or (with or without human intervention) by means of any appropriate equipment. Explanation. — For the purposes of this section, — a) "computer" means any device that receives, stores and processes data, applying stipulated processes to the information and supplying results of these processes; and includes the hard disc thereof or a mirror image of hard disc thereof; and b) any reference to information being derived from other				
CHAPTER–XXII						
108		**Liability in case of transfer of business**				
108		(1) Where a taxable person, liable to pay tax under this Act, transfers his business in whole or in part, by sale, gift, lease, leave and license, hire or in any other manner whatsoever, the taxable person and the person to whom the business is so transferred shall jointly and severally be liable wholly or, as the case may be, to the extent of such transfer, to pay the tax, interest or any penalty due from the taxable person up to the time of such transfer, whether such tax, interest or penalty has been determined before such transfer, but has remained unpaid or is determined thereafter. (2) Where the transferee or the lessee of a business referred to in subsection (1) carries on such business either in his own name or in some other name, he shall be liable to pay tax on the supply of goods and/or services effected by him with effect from the date of such transfer and shall, if he is an existing taxable person, apply within the prescribed time for amendment of his certificate of registration.				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
109		**Liability in case of amalgamation /merger of companies**				
109		(1) When two or more companies are amalgamated or merged by the order of court or of Tribunal or of the Central Government and the order is to take effect from a date earlier to the date of the order and any two or more of such companies have supplied or received any goods and/or services to or from each other during the period commencing on the date from which the order takes effect till the date of the order, then such transactions of supply and receipt shall be included in the turnover of supply or receipt of the respective companies and shall be liable to tax accordingly. (2) Notwithstanding anything contained in the said order, for all purposes of this Act, the said two or more companies shall be treated as distinct companies for the period up to the date of the said order and the registration certificates of the said companies shall be cancelled, where necessary, with effect from the date of the said order. Explanation - Words and expressions used in this section but not defined shall have the respective meanings assigned to them in the Companies Act, 2013 (18 of 2013).				
110		**Liability in case of company in liquidation**				
110		(1) When any company is being wound up whether under the orders of a court or Tribunal or otherwise, every person appointed as receiver of any assets of a company (hereinafter referred to as the "liquidator"), shall, within thirty days after his appointment, give intimation of his appointment to the Commissioner (2) The Commissioner shall, after making such inquiry or calling for such information as he may deem fit, notify the liquidator within three months from the date on which he receives intimation of the appointment of the liquidator, the amount which in the opinion of the Commissioner would be sufficient to provide for any tax, interest or penalty which is then, or is likely thereafter to become, payable by the company. (3) When any company is wound up and any tax, interest or penalty determined under this Act on the company for any period, whether before or in the course of or after its liquidation, cannot be recovered, then every person who was a director of such				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
		company at any time during the period for which the tax was due, shall jointly and severally be liable for the payment of such tax, interest or penalty, unless he proves to the satisfaction of the Commissioner that such non-recovery is not attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company. Explanation.- For the purposes of this section, the expressions “company” shall have the meaning respectively assigned to them under clause (20) and clause (68) of section 2 respectively of the Companies Act, 2013 (18 of 2013).				
111		**Liability of partners of firm to pay tax**				
111		Notwithstanding any contract to the contrary, where any firm is liable to pay any tax, interest or penalty under this Act, the firm and each of the partners of the firm shall jointly and severally be liable for such payment: Provided that where any partner retires from the firm, he or the firm, shall intimate the date of retirement of the said partner to the Commissioner by a notice in that behalf in writing and such partner shall be liable to pay tax, interest or penalty due up to the date of his retirement whether determined or not, on that date: Provided further that if no such intimation is given within one month from the date of retirement, the liability of such partner under the first proviso shall continue until the date on which such intimation is received by the Commissioner.				
112		**Liability of guardians, trustees etc.**				
112		Where the business in respect of which any tax, is payable under this Act is carried on by any guardian, trustee or agent of a minor or other incapacitated person on behalf of and for the benefit of such minor or other incapacitated person, the tax, interest or penalty shall be levied upon and recoverable from such guardian, trustee or agent, as the case may be, in like manner and to the same extent as it would be determined and recoverable from any such minor or other incapacitated person, as if he were a major or capacitated person and as if he were conducting the business himself, and all the provisions of this Act shall, so far as may be, apply accordingly.				
113		**Liability of Court of Wards etc**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
113		Where the estate or any portion of the estate of a taxable person owning a business in respect of which any tax, interest or penalty is payable under this Act is under the control of the Court of Wards, the Administrator General, the Official Trustee or any receiver or manager (including any person, whatever be his designation, who in fact manages the business) appointed by or under any order of a court, the tax, interest or penalty shall be levied upon and be recoverable from such Court of Wards, Administrator General, Official Trustee, receiver or manager, as the case may be, in like manner and to the same extent as it would be determined and be recoverable from the taxable person as if he were conducting the business himself, and all the provisions of this Act shall, so far as may be, apply accordingly.				
114		**Special provision regarding liability to pay tax in certain cases**				
114		(1) Where a person, liable to pay tax under this Act, dies, then- (a) if a business carried on by the person is continued after his death by his legal representative or any other person, such legal representative or other person, shall be liable to pay tax, interest or penalty due from such person under this Act, and (b) if the business carried on by the person is discontinued, whether before or after his death, his legal representative shall be liable to pay out of the estate of the deceased, to the extent to which the estate is capable of meeting the charge, the tax, penalty or interest due from such person under this Act,- whether such tax interest or penalty has been determined before his death but has remained unpaid or is determined after his death. (2) Where a taxable person, liable to pay tax under this Act, is a Hindu Undivided Family or an association of persons and the property of the Hindu Undivided Family or the association of persons, as the case may be, is partitioned amongst the various members or groups of members then each member or group of members shall jointly and severally be liable to pay the tax, interest or penalty				
115		**Liability in other cases**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
115		(1) Where a taxable person is a firm or an association of persons or a Hindu Undivided Family and such firm, association or family has discontinued business- (a) the tax payable under this Act by such firm, association or family up to the date of such discontinuance may be determined as if no such discontinuance had taken place; and (b) every person who was at the time of such discontinuance, a partner of such firm, or a member of such association or family, shall, notwithstanding such discontinuance, be liable jointly and severally for the payment of tax and interest determined and penalty imposed and payable by such firm, association or family, whether such tax and interest has been determined or penalty imposed prior to or after such discontinuance and subject as aforesaid, the provisions of this Act shall, so far as may be, apply as if every such person or partner or member were himself a taxable person. (2) Where a change has occurred in the constitution of a firm or an association of persons, the partners of the firm or members of association, as it existed before and as				
		111, jointly and severally be liable to pay tax, interest and penalty due from such firm or association for any period before its reconstitution. (3) The provisions of sub-section (1) shall, so far as may be, apply where the taxable person, being a firm or association of persons is dissolved or where the taxable person, being a Hindu Undivided Family, has effected partition with respect to the business carried on by it and accordingly references in that sub-section to discontinuance shall be construed as reference to dissolution or, as the case may be, to partition. 11. Explanation.- For the purpose of this chapter, a limited liability partnership formed and registered under the provisions of the Limited Liability Partnership Act, 2012 (743 of 2012) shall also be considered as a firm.				
CHAPTER– XXIII :		**GST compliance rating**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
116		(1) Every taxable person shall be assigned a GST compliance rating score based on his record of compliance with the provisions of this Act. (2) The GST compliance rating score shall be determined on the basis of parameters to be prescribed in this behalf. (3) The GST compliance rating score shall be updated at periodic intervals and intimated to the taxable person and also placed in the public domain in the manner prescribed.				Each taxable person will be assigned GST compliance rating score which will be based on certain parameters which will be prescribed and such rating will be calculated at periodical interval and intimated to the taxabl eperson and also will be placed on public domain. In other words, those persons whose score is too low, may be blacklisted for entitlement of ITC credit as well as allowing the receipient of their supplies of ITC credit which will hamper its business.
117		**Obligation to furnish information return**				
117		(1) Any person, being— (a) a taxable person; or (b) a local authority or other public body or association; or (c) any authority of the State Government responsible for the collection of value added tax or sales tax or state excise duty or an authority of the Central Government responsible for the collection of Excise duty or Customs duty; or (d) an income tax authority appointed under the provisions of the Income-tax Act, 1961 (43 of 1961); or (e) a banking company within the meaning of clause (a) of section 45A of the Reserve Bank of India Act, 1934 (2 of 1934); or (f) a State Electricity Board; or an electricity distribution or transmission licensee under the Electricity Act, 2003 (36 of 2003), or any other entity entrusted, as the case may be, with such functions by the Central Government or the State Government; or (g) the Registrar or Sub-Registrar appointed under section 6 of the Registration Act, 1908 (16 of 1908); or (h) a Registrar within the meaning of the Companies Act, 2013 (18 of 2013); or				It is obligatory to all the authorities listed to provide the details of any taxpayer w.r.t. bank, consumption of electribity, transaction of purchase sale, exchange of goods & property or right or interest in property. Further they will be required to be furnished periodical return as may be prescribed by CGST / SGST. If such information is wrongly furnished, such authority is given time to rectify within 30 days and such information needs to be furnished within 90 days of the date of furnish. Failure to furnish, penalty equivalent to Rs. 100 per day till the time the information is furnished. IF such disclosure of information required is not been furnished or wrongly furnished , such authorities will be punished with conviction of improsonment upto 6 months with fine of Rs. 100 per day after the first day till default constinues but max upto Rs. 1000/-

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
		(n) Goods and Service Tax Network who is responsible for maintaining record of registration or statement of accounts or any periodic return or document containing details of payment of tax and other details of transaction of goods or services or transactions related to a bank account or consumption of electricity or transaction of purchase, sale or exchange of goods or property or right or interest in a property, under any law for the time being in force, shall furnish an information return of the same in respect of such periods, within such time, in such form (including electronic form) and manner, to such authority or agency as may be prescribed. (2) Where the prescribed authority considers that the information submitted in the information return is defective, he may intimate the defect to the person who has furnished such information return and give him an opportunity of rectifying the defect within a period of thirty days from the date of such intimation or within such further period which, on an application made in this behalf, the prescribed authority may allow and if the defect is not rectified within the said period of				
118		**Penalty for failure to furnish information return**				
118		If a person who is required to furnish an information return under section 117 fails to do so within the period specified in the notice issued under sub-section (3) thereof, the prescribed authority may direct that such person shall pay, by way of penalty, a sum of one hundred rupees for each day of the period during which the failure to furnish such return continues				
119		**Power to collect statistics**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
119		(1) The Board/Commissioner, if it considers that for the purposes of the better administration of the Act, it is necessary so to do, may by notification, direct that statistics be collected relating to any matter dealt with, by or in connection with the Act. (2) Upon such notification being issued, the Commissioner, or any person authorised by the Commissioner in this behalf may call upon all concerned persons to furnish such information or returns as may be specified therein relating to any matter in respect of which statistics is to be collected. (3) The form in which the persons to whom or, the authorities to which, such information or returns should be furnished, the particulars which they should contain, and the intervals in which such information or returns should be furnished, shall be as may be prescribed.				
120		**Disclosure of information required under section 119**				
120		(1) No information of any individual return or part thereof, with respect to any matter given for the purposes of section 119 shall, without the previous consent in writing of the taxpayer or person or his authorised agent, be published in such manner as to enable any particulars to be identified as referring to a particular taxpayer and no such information shall be used for the purpose of any proceedings under the provisions of the Act. (2) Except for the purposes of prosecution under the Act, or any other Act, no person who is not engaged in the collection of statistics under the Act or of compilation or computerization thereof for the purposes of the Act, shall be permitted to see or have access to any information or any individual return referred to in that section. (3) If any person required to furnish any information or return under section 119,- (a) without reasonable cause fails to furnish such information or return as may by that section be required, or (b) willfully furnishes or causes to furnish any information or return which he knows to be false,				
121		**Test purchase of goods and/or services**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
121		The [Commissioner] of CGST/SGST or an officer authorized by him may cause purchase of any goods and/or services by any person authorized by him from the business premises of any taxable person, to check issue of tax invoices or bills of supply by such taxable person, and on return of goods so purchased by such officer, such taxable person or any person in charge of the business premises shall refund the amount paid towards the goods after cancelling any tax invoice or bill of supply issued.				CGST & SGST officers are authorised to purchase goods or services and if it is purchased against invocie, such amount will be refunded back to such officers by tax payer and cancel the invoice. However, if invoice is not issued it will be punishable offence.
122		**Drawal of samples**				
122		The [Commissioner] of CGST/SGST or an officer authorized by him may take samples of goods from the possession of any taxable persons, where he considers it necessary, and provide a receipt for any samples so taken.				SGST & CGST officers are authorised to draw the samples.
123		**Burden of Proof**				
123		If any person claims that he is not liable to pay tax under the Act in respect of any supply of goods and/or services, or that he is eligible for input tax credit under section 16, the burden of proving such claim or claims shall lie on him.				Onus of proof lies on the tax payer for supply of goods & services or availing input tax credit.
124		**Persons discharging functions under the Act shall be deemed to be public servants**				
124		All persons discharging functions under the Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (45 of 1860).				Any person engaged in the activity of discharging their function will be considered as public servant and their act will be considered to be in the good faith (even though it may be with malafide intention)
125		**Indemnity**				
125		No legal proceedings shall lie against any goods and services tax officer, for anything which is done or intended to be done in good faith under the Act or the rules.				
126		**Disclosure of information by a public servant**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
126		(1) All particulars contained in any statement made, return furnished or accounts or documents produced in accordance with the Act, or in any record of evidence given in the course of any proceedings under the Act (other than proceeding before a Criminal Court), or in any record of any proceedings under the Act shall, save as provided in subsection (4), be treated as confidential; (2) Notwithstanding anything contained in the Indian Evidence Act, 1872 (1 of 1872), no Court shall save as aforesaid, be entitled to require any GST officer to produce before it or to give evidence before it in respect of particulars referred to in sub-section (1). (3) Save as provided in sub-section (4), if any GST officer discloses any of the particulars referred to in sub-section (1), he shall, on conviction, be punished with imprisonment which may extend to six months or with fine or with both: Provided that, no prosecution shall be instituted under this section except with the previous sanction of the Central Government or the State Government, as the case may be. (4) Nothing contained in this section shall apply to the				
		(d) any such particulars to a Civil Court or Tribunal constituted under any Central law in any suit or proceeding, to which the Government or any authority under the Act is a party, which relates to any matter arising out of any proceeding under the Act or under any other law for the time being in force authorising any such authority to exercise any powers thereunder; or (e) any such particulars to any officer appointed for the purpose of audit of tax receipts or refunds of the tax imposed by the Act; or (f) any such particulars where such particulars are relevant the purposes of any inquiry into the conduct of any GST officer, to any person or persons appointed as an inquiry officer under any relevant law; or (g) such facts to an officer of the Central Government or any State Government as may be necessary for the purpose of enabling that Government to levy or realise any tax or duty imposed by it; or (h) any such particulars, when such disclosure is occasioned by the lawful exercise by a public servant or any other statutory authority, of his or its powers under any law for the time being in force; or				
127		**Publication of information respecting persons in certain cases**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
127		(1) If the Competent Authority is of opinion that it is necessary or expedient in the public interest to publish the names of any person and any other particulars relating to any proceedings or prosecutions under the Act in respect of such person, it may cause to be published such names and particulars in such manner as it thinks fit. (2) No publication under this section shall be made in relation to any penalty imposed under the Act until the time for presenting an appeal to the First Appellate Authority under section 79 has expired without an appeal having been presented or the appeal, if presented, has been disposed of. Explanation. – In the case of firm, company or other association of persons, the names of the partners of the firm, directors, managing agents, secretaries and treasures or managers of the company, or the members of the association, as the case may be, may also be published if, in the opinion of the Competent Authority, circumstances of the case justify it.				Name of person who is defaulted or penalty is levied for which appeal is not filed can be published for public information
128		**Assessment proceedings, etc. not to be invalid on certain grounds**				
128		(1) No assessment, re-assessment, adjudication, review, revision, appeal, rectification, notice, summons or other proceedings done, accepted, made, issued, initiated, or purported to have been done, accepted, made, issued, initiated in pursuance of any of the provisions of the Act shall be invalid or deemed to be invalid merely by reason of any mistake, defect or omission therein, if such assessment, re-assessment, adjudication, review, revision, appeal, rectification, notice, summons or other proceedings is/are in substance and effect in conformity with or according to the intents, purposes and requirements of the Act or any earlier law. (2) The service of any notice, order or communication shall not be called in question if the notice, order or communication, as the case may be, has already been acted upon by the person to whom it is issued or where such service has not been called in question at or in the earliest proceedings commenced, continued or finalised pursuant to such notice, order or communication.				
129		**Rectification of mistakes or errors apparent from record**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
129		the period of six months referred to in the first proviso shall not apply in such cases where the rectification is purely in the nature of correction of a clerical or arithmetical error or mistake, arising from any accidental slip or omission: Provided also that the principles of natural justice shall be followed by the authority carrying out such rectification if it adversely affects any person. Explanation.— For the removal of doubts, it is hereby clarified that the authority shall not, while rectifying any mistake apparent from record, amend substantive part of its decision or order or summons or notice or certificate or any other document passed or, as the case may be, issued under the provisions of this Act.				
130		**Bar of jurisdiction of civil courts**				
130		Save as provided by section 87 and 88, no civil court shall have jurisdiction to deal with or decide any question arising from or relating to anything done or purported to be done under the Act;				
131		**Levy of fees**				
131		Wherever a copy of any order or document is to be provided to any person on an application made by him for that purpose, there shall be paid such fee as may be prescribed, which may include a fee for such application also.				
132		**Power of Central (or State) Government to make rules**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
132		(1) The Central Government (or the State Government) may, on the recommendation of the Council, make rules, including rules conferring the power to issue notifications with retrospective effect under those rules, to carry into effect the purposes of this Act. (2) In particular, and without prejudice to the generality of the foregoing power, such rules may — (i) provide for the date for determination of rate of tax and the place of supply of goods or services or both; (ii) having regard to the normal practice in the supply of goods or services, define or specify the kinds of trade discount to be excluded from the value under section 15 including the circumstances in which and the conditions subject to which such discount is to be so excluded; (iii) provide for determining the value of taxable supplies in the situations mentioned under section 15; (iv) provide, subject to such conditions as may be prescribed, for the grant of input tax credit of tax paid on the input supplies of goods or services used				
		incidental thereto; (xxvii) provide for the settlement of cases, in accordance with Chapter ……. of this Act; (xxviii) regulate in such manner as the Central Government / State Government thinks fit, the movement of supplies from any part of India to any other part thereof; (xxix) regulate the removal of taxable supplies of goods from the place where produced, stored or manufactured or subjected to any process of production or manufacture and their transport to or from the premises of a registered person, or a bonded warehouse, or to a market; (xxx) provide for the appointment, licensing, management and supervision of bonded warehouses and the procedure to be followed for entry of goods into such warehouses and clearance of goods therefrom; (xxxi) provide for the distinguishing of supply of goods which have been manufactured after registration, of materials which have been imported, and of supply of goods on which tax has been paid, or				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
		(xliv) provide for the qualifications of tax return preparers, tax practitioners and authorized representatives under various provisions of the Act, the manner of their selection or appointment or nomination, their codes of conduct, and other matters related or incidental thereto; (xlv) provide for matters relating to tax deducted at source; (xlvi) provide for matters covered by Chapter XXV; (xlvii) provide for the suspension of certain facilities admissible under this Act or the rules made thereunder in case of repeat violations of conditions and restrictions as may be prescribed; and (xlviii) any other matter related to administering or enforcing the provisions of the Act. (3) The power to make rules conferred by this section shall on the first occasion of the exercise thereof include the power to give retrospective effect to the rules or any of them from a date not earlier than the date on which the provisions of this Chapter come into force. (4) In making rules under this section, the Central Government (or State Government)				
132A		**General power to make Regulations**				
132A		(1) The Board or the Commissioner SGST may make regulations consistent with this Act and rules, generally to carry out the purposes of this Act. (2) In particular and without prejudice to the generality of the foregoing powers, such regulations may provide for all or any of the following matters namely- (a) ..... (b) ..... (c)				
133		**Delegation of powers**				
133		The Competent Authority may, by notification in the Gazette direct that subject to such conditions, if any, as may be specified in the notification, any power exercisable by any authority or officer under the Act may be exercisable also by another authority or officer as may be specified in such notification.				
134		**Instructions to GST Officers**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
134		The Competent Authority may, if it considers it necessary or expedient so to do for the purpose of uniformity in the implementation of the Act, issue such orders, instructions or directions to the GST Officers as it may deem fit, and thereupon all GST officers and all other persons employed in the execution of the Act shall observe and follow such orders, instructions or directions: Provided that no such orders, instructions or directions shall be issued— a) so as to require any GST Officer to make a particular assessment or to dispose of a particular case in a particular manner; or b) so as to interfere with the discretion of the First Appellate Authority in the exercise of his appellate functions.				
135		**Removal of difficulties**				
135		(1) If any difficulty arises in giving effect to any provision of the Act, the Central Government / State Government may, by general or special order published in the Gazette, do anything not inconsistent with the provisions of the Act which appears to it to be necessary or expedient for the purpose of removing the difficulty: Provided that no such order shall be made after the expiry of a period of two years from the date of effect of the provision giving rise to the difficulty. (2) Every order made under this section shall be laid, as soon as may be, after it is made, before Parliament / State Legislature.				
136		**Service of notice in certain circumstances**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
136		(1) Any decision, order, summons, notice or other communication under the Act or the rules made thereunder shall be served by any one of the following methods, namely: - (a) by giving or tendering it directly or by a messenger including a courier to the addressee or the taxpayer or to his manager or to agent duly authorized or an advocate or a tax practitioner holding authority to appear in the proceeding on behalf of the taxpayer or to a person regularly employed by him in connection with the business, or to any adult member of family residing with the taxpayer, or (b) by post or courier with acknowledgement due, to the person for whom it is intended or his authorised agent, if any at his last known place of business or residence, or (c) by facsimile message, if such address is furnished, or (d) by sending a communication to his e-mail address, or (e) on dashboard of the taxpayer if available on the web-site, or (f) by sending a message on his registered mobile number, or (g) by publication in a newspaper circulating in the locality in which the taxpayer or the person to whom it is issued is last known to have				
137		**Rounding off of tax etc**				
137		The amount of tax, interest, penalty, fine or any other sum payable, and the amount of refund or any other sum due, under the provisions of the Act shall be rounded off to the nearest rupee and, for this purpose, where such amount contains a part of a rupee consisting of paise then, if such part is fifty paise or more, it shall be increased to one rupee and if such part is less than fifty paise it shall be ignored.				
138		**Effect of amendments, etc., of rules, notifications or orders**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
138		Where any rule, notification or order made or issued under the Act or any notification or order issued under such rule, is amended, repealed, superseded or rescinded, then, unless a different intention appears, such amendment, repeal, supersession or rescinding shall not - (a) revive anything not in force or existing at the time at which the amendment, repeal, supersession or rescinding takes effect; or (b) affect the previous operation of any rule, notification or order so amended, repealed, superseded or rescinded or anything duly done or suffered thereunder; or (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any rule, notification or order so amended, repealed, superseded or rescinded; or (d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed under or in violation of any rule, notification or order so amended, repealed, superseded or rescinded; or (e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid, and any such				
139		**Publication of rules and notifications and laying of rules before Parliament / State Legislature**				
139		(1) All rules made and notifications issued under the Act shall be published in the Official Gazette. (2) Every rule made under the Act, every notification issued under section -----, section ----, section ----- and section ----- (depending on the final full draft) and every order made under section -----, section ----, section ----- and section ----- (depending on the final full draft), other than an order relating to goods or services or both of strategic, secret, individual or personal nature, shall be laid, as soon as may be after it is made or issued, before Parliament / State Legislature, while it is in session, for a total period of thirty days which may be comprised in one session, or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, Parliament / State Legislature agree in making any modification in the rule or notification or order, or Parliament / State Legislature agree that the rule should not be made or notification or order should not be issued or made, the rule or notification or order shall thereafter have effect only in such modified form or				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
CHAPTER– XXIV : REPEAL AND SAVING		**Repeal and saving**				
140		(1) From the date of commencement of the Act, the (State) General Sales Tax/Value Added Tax Act, the Central Excise Act 1944, and the Central Excise Tariff Act 1985 shall apply only in respect of goods included in the entry 84 and entry 54 of the Union List and the State List respectively, of the Schedule VII to the Constitution of India. Provided that the aforesaid restriction of the application of the statutes referred above shall not— (a) Revive anything not in force or existing at the time at which the restriction takes effect; or (b) Affect the previous operation of the unrestricted Acts or anything duly done or suffered thereunder; or (c) Affect any right, privilege, obligation, or liability acquired, accrued or incurred under the unrestricted Acts; or (d) Affect any tax, surcharge, penalty, interest as are due or may become due or any forfeiture or punishment incurred or inflicted in respect of any offence or violation committed under the provisions of the unrestricted Acts; or (e) Affect any investigation, enquiry, assessment				
CHAPTER XXV:		**TRANSITIONAL PROVISIONS**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
141		General provisions Notwithstanding anything contained elsewhere in the Act and until specifically so or otherwise prescribed or notified or done in accordance with the provisions of the Act, (a) All persons appointed by the respective Governments for discharging various functions under the Central/State laws relating to taxes on goods or services (which are being subsumed in GST) and continuing in office on the appointed day, shall be deemed to have been appointed as GST officers/Competent Authorities under the respective provisions of the Act. (b) The Central Government (or the State Government) may issue orders or make rules consistent with the need for smooth transition to GST including the need to take care of matters not specifically covered hereinbefore so long as such matters are not in conflict with the purposes of the Act.				All officers appointed under existing Act (Central / State), will continue to be appointed as GST officers/Competent Authorities under the respective provisions of the Act. In other words, officers of excise will continue to be excise officers as well as CGST / IGST officers.
142		**Migration of existing taxpayers to GST**				
142		On the appointed day, every person registered under any of the earlier laws shall be issued a certificate of registration on a provisional basis in such form and manner as may be prescribed.				All existing registranats will be issued provisional registration certificate & same will be valid for initial 6 months. After furnishing required information final registration will be granted, if information not furnished with in prescribed time limit, the registration will be cancelled.
		The certificate of registration issued under sub-section (1) shall be valid for a period of six months from the date of its issue: Provided that the said validity period may be extended for such further period as the Central/State Government may, on the recommendation of the Council, notify.				
		Every person to whom a certificate of registration has been issued under subsection (1) shall, within the period specified under sub-section (2), furnish such information as may be prescribed.				
		On furnishing of such information, the certificate of registration issued under subsection (1) shall, subject to the provisions of section 19, be granted on a final basis by the Central/State Government.				
		The certificate of registration issued to a person under sub-section (1) may be cancelled if such person fails to furnish, within the time specified under sub-section (2), the information prescribed under sub-section (3).				
		The certificate of registration issued to a person under sub-section (1) shall be deemed to have not been issued if the said registration is cancelled in pursuance of an application filed by such person that he was not liable to registration under section 19.				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
143		**Amount of CENVAT credit carried forward in a return to be allowed as input tax credit**				
143		A registered taxable person shall be entitled to take, in his electronic credit ledger, credit of the amount of cenvat credit carried forward in a return, furnished under the earlier law by him, in respect of the period ending with the day immediately preceding the appointed day in such manner as may be prescribed: Provided that the taxable person shall not be allowed to take credit unless the said amount was admissible as cenvat credit under the earlier law and is also admissible as input tax credit under this Act.				1. The closing balance eligible cenvat credit/ VAT seoff as per last return filed under existing tax regime will be allowed to be taken in GST, provided such ITC is also admisible as per CGST & SGST 2. Last return to be filed after considering eligibility of cenvat credit / VAT set off as per existing Law and the eligiblity of ITC as per provisions of GST. 3. It will be difficult to asertain eligible amount if ITC considering the eligibility criteria as per both the Laws. Therefore it is suggested to alow cenvat/ vat set off elibility under existing law without considering eligibility as per GST.
		The amount taken as credit under sub-section (1) shall be recovered as an arrear of tax under this Act from the taxable person if the said amount is found to be recoverable as a result of any proceeding instituted, whether before or after the appointed day, against such person under the earlier law. (CGST Law)				
		(1) A registered taxable person shall be entitled to take, in his electronic credit ledger, credit of the amount of Value Added Tax carried forward in a return, furnished under the earlier law by him, in respect of the period ending with the day immediately preceding the appointed day in such manner as may be prescribed: Provided that the taxable person shall not be allowed to take credit unless the said amount was admissible as credit of input tax under the earlier law and is so admissible under this Act.				
		(2) The amount taken as credit under sub-section (1) shall be recovered as an arrear of tax under this Act from the taxable person if the said amount is found to be recoverable as a result of any proceeding instituted, whether before or after the appointed day, against such person under the earlier law. (SGST Law)				
144		**Unavailed cenvat credit on capital goods, not carried forward in a return, to be allowed in certain situations**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
144		(1) A registered taxable person shall be entitled to take, in his electronic credit ledger, credit of the unavailed cenvat credit in respect of capital goods, not carried forward in a return, furnished under the earlier law by him, for the period ending with the day immediately preceding the appointed day in such manner as may be prescribed: Provided that the taxable person shall not be allowed to take credit unless the said credit was admissible as cenvat credit under the earlier law and is also admissible as input tax credit under this Act: Explanation 1.- For the purposes of this section, the expression "unavailed cenvat credit" means the amount that remains after subtracting the amount of cenvat credit already availed in respect of capital goods by the taxable person under the earlier law from the aggregate amount of cenvat credit to which the said person was entitled in respect of the said capital goods under the earlier law. Explanation 2.- Capital goods means the goods as defined under clause (a) of rule 2 of CENVAT Credit Rules, 2004.				1.Unavailed admissible cenvat credit (admisible as per cenvat credit Rules, 2004 and CGST & SGST Law) pertaining to capital goods to be availed in GST 2. The cenvat /VAT pertaining Goods in transit as on the appointed day may be disallowed, since these are not covered under this provision on non account of availment of partial credit . 3. Service provided before enactment of GST and bills issued after apponted day, then cenvat credit pertaining to such services will be lost until the provisions are amended.
		(2) The amount taken as credit under sub-section (1) shall be recovered as an arrear of tax under this Act from the taxable person if the said amount is found to be recoverable as a result of any proceeding instituted, whether before or after the appointed day, against such person under the earlier law. (CGST Law)				
		(1) A registered taxable person shall be entitled to take, in his electronic credit ledger, credit of the unavailed input tax credit in respect of capital goods, not carried forward in a return, furnished under the earlier law by him, for the period ending with the day immediately preceding the appointed day in such manner as may be prescribed : Provided that the taxable person shall not be allowed to take credit unless the said credit was admissible as input tax credit under the earlier law and is so admissible under this Act: Explanation.- For the purposes of this section, the expression "unavailed input tax credit" means the amount that remains after subtracting the amount of input tax credit already availed in respect of capital goods by the taxable person under the earlier law from the aggregate amount of input tax credit to which the said person was entitled in respect of the said capital goods under the earlier law.				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
		(2) The amount taken as credit under sub-section (1) shall be recovered as an arrear of tax under this Act from the taxable person if the said amount is found to be recoverable as a result of any proceeding instituted, whether before or after the appointed day, against such person under the earlier law. (SGST Law)				
145		**Credit of eligible duties and taxes in respect of inputs held in stock to be allowed in certain situations**				
145		(1) A registered taxable person, who was not liable to be registered under the earlier law or who was engaged in the manufacture of exempted goods under the earlier law but which are liable to tax under this Act, shall be entitled to take, in his electronic credit ledger, credit of eligible duties and taxes in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day subject to the following conditions: (i) such inputs and / or goods are used or intended to be used for making taxable supplies under this Act; (ii) the said taxable person was eligible for cenvat credit on receipt of such inputs and/or goods under the earlier law but for his not being liable for registration or the goods remaining exempt under the said law; (iii) the said taxable person is eligible for input tax credit under this Act; (iv) the said taxable person is in possession of invoice and/or other prescribed documents evidencing payment of duty / tax under the earlier law in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day; and (v) such invoices and /or other prescribed documents were issued not earlier than twelve months immediately preceding the appointed day.				1. Stock of Raw material, consumables, spares , components, input content in WIP and FG taking and lniking of the stock to the purchase document / duty paying documents needs to be done and same preferably to be certitied from Cost Accountants or Chartered Accountants. Duty paying document linked with the stock but issued prior to 12 months will not be eligible for availing credit. 2. Whereever commont inputs are used for dutiable & exempted goods, clarification computation of corresponding cenvat credit & VAT setoff to be issued. 3. Since, input definition in GST is having wider meaning and therefore duty paying document should be traced for those items for which cenvat was not availed earlier and proportionate cenvat credit of such item lying in stock should be availed.
		(2) The amount of credit under sub-section (1) shall be calculated in accordance with generally accepted accounting principles in such manner as may be prescribed.				
		(3) The amount taken as credit under sub-section (1) shall be recovered as an arrear of tax under this Act from the taxable person if the said amount is found to be recoverable as a result of any proceeding instituted, whether before or after the appointed day, against such person under the earlier law.				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
		Explanation.— For the purpose of this section and section 146, the expression "eligible duties and taxes" means- (i) the duty of excise specified in the First Schedule to the Central Excise Tariff Act, 1985(5 of 1986); (ii) the duty of excise specified in the Second Schedule to the Central Excise Tariff Act, 1985(5 of 1986); (iii) the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Textile and Textile Articles) Act, 1978 (40 of 1978); (iv) the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957(58 of 1957); (v) the National Calamity Contingent Duty leviable under section 136 of the Finance Act, 2001(14 of 2001); (vi) the additional duty leviable under sub-section (1) of section 3 of the Customs Tariff Act, 1975 (51 of 1975); (vii) the additional duty leviable under sub-section (5) of section 3 of the Customs Tariff Act, 1975 (51 of 1975); and (viii) the service tax leviable under section 66B of the Finance Act, 1994 (32 of 1994);— in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day. (CGST Law)				
		(1) A registered taxable person, who was not liable to be registered under the earlier law or who was engaged in the sale of exempted goods under the earlier law but which are liable to tax under this Act, shall be entitled to take, in his electronic credit ledger, credit of the Value Added Tax in respect of inputs held in stock and inputs contained in semifinished or finished goods held in stock on the appointed day subject to the following conditions: (i) such inputs and / or goods are used or intended to be used for making taxable supplies under this Act; (ii) the said taxable person was eligible for input tax credit on purchase of such inputs and/or goods under the earlier law but for his not being liable for registration or the goods remaining exempt under the said law; (iii) the said taxable person is eligible for input tax credit under this Act; (iv) the said taxable person is in possession of invoice and/or other prescribed documents evidencing payment of tax under the earlier law in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day; and (v) such invoice and /or other prescribed documents were issued not earlier than twelve months immediately preceding the appointed day.				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
		(2) The amount of credit under sub-section (1) shall be calculated in accordance with generally accepted accounting principles in such manner as may be prescribed.				
		(3) The amount taken as credit under sub-section (1) shall be recovered as an arrear of tax under this Act from the taxable person if the said amount is found to be recoverable as a result of any proceeding instituted, whether before or after the appointed day, against such person under the earlier law. (SGST Law)				
146		**Credit of eligible duties and taxes on inputs held in stock to be allowed to a taxable person switching over from composition scheme**				
146		(1) A registered taxable person, who was either paying tax at a fixed rate or paying a fixed amount in lieu of the tax payable under the earlier law (hereinafter referred to in this section as a "composition taxpayer"), shall be entitled to take, in his electronic credit ledger, credit of eligible duties and taxes in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed date subject to the following conditions: (i) such inputs and / or goods are used or intended to be used for making taxable supplies under this Act; (ii) the said person is not paying tax under section 8;				The taxable person not availing cenvat credit or input credit under the earlier law and thereafter opting under GST scheme other than composition scheme, such cenvat lying in the stock of inputs and input contents in WIP & finished goods will have to be availed.

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
		(iii) the said taxable person was eligible for cenvat credit on receipt of such inputs and/or goods under the earlier law but for his being a composition taxpayer under the said law; (iv) the said taxable person is eligible for input tax credit under this Act; (v) the said taxable person is in possession of invoice and/or other prescribed documents evidencing payment of duty / tax under the earlier law in respect of inputs held in stock and inputs contained in semi- finished or finished goods held in stock on the appointed day; and (vi) such invoices and /or other prescribed documents were issued not earlier than twelve months immediately preceding the appointed day. (2) The amount of credit under sub-section (1) shall be calculated in accordance with generally accepted accounting principles in such manner as may be prescribed. (3) The amount taken as credit under sub-section (1) shall be recovered as an arrear of tax under this Act from the taxable person if the said amount is found to be recoverable as a result of any proceeding instituted, whether before or after the appointed day,				
		(2) The amount of credit under sub-section (1) shall be calculated in accordance with generally accepted accounting principles in such manner as may be prescribed. (3) The amount taken as credit under sub-section (1) shall be recovered as an arrear of tax under this Act from the taxable person if the said amount is found to be recoverable as a result of any proceeding instituted, whether before or after the appointed day, against such person under the earlier law.				
147		**Amount payable in the event of a taxable person switching over to composition scheme**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
147		(1) Where a taxable person who has carried forward the amount of eligible credit in a return, furnished under the earlier law, in respect of the period ending with the day immediately preceding the appointed day, switches over to the composition scheme under section 8, he shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date of such switch over: Provided that after payment of such amount, the balance of input tax credit, if any lying in his electronic credit ledger shall lapse. (CGST Law)				The taxable person availing cenvat credit under the earlier law and thereafter opting under composition scheme, such cenvat lying in the stock of inputs and input contents in WIP & finished goods will have to be reversed and then only opt for composition. Further any cenvat credit lying on the appointed day after such reversal will lapse.
		(1) Where a taxable person who has carried forward the amount of eligible credit on account of Value Added Tax in a return, furnished under the earlier law, in respect of the period ending with the day immediately preceding the appointed day, switches over to the composition scheme under section 8, he shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date of such switch over: Provided that after payment of such amount, the balance of input tax credit, if any lying in his electronic credit ledger shall lapse. (SGST Law)				
148		**Exempted goods returned to the place of business on or after the appointed day**				
148		Where any goods on which duty had been exempt under the earlier law at the time of removal thereof, not being earlier than six months prior to the appointed day, are returned to any place of business on or after the appointed day, no tax shall be payable thereon if such goods are returned to the said place of business within a period of six months from the appointed day and such goods are identifiable to the satisfaction of the proper officer: Provided that tax shall be payable by the person returning the goods if the said goods are liable to tax under this Act and are returned after a period of six months from the appointed day.				1. Goods which has been supplied without payment of duty being exempt but returned within 6 months of such removal after appointed day, such supplies will be without payment of taxes. Further it has to be ensured identification which will cause the hardship. However, if returned after 6 months and such goods are taxable in GST regime then tax will be payable and recipient will be entitled to avail input tax credit under GST Regime. 2. When the same goods are send back to the purchaser after repair/ processing, then also it will attract GST? 3. To avoid such conflict, it is advisable to call all such goods sent for job word or repairs or processing before 6 months after appointed day but prior to 6 months of such removal.

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
		Where any goods on which tax had been exempt under the earlier law at the time of sale thereof, not being earlier than six months prior to the appointed day, are returned to any place of business on or after the appointed day, no tax shall be payable thereon if such goods are returned to the said place of business within a period of six months from the appointed day and such goods are identifiable to the satisfaction of the proper officer: Provided that tax shall be payable by the person returning the goods if the said goods are liable to tax under this Act and are returned after a period of six months from the appointed day.				
149		**duty paid goods returned to the place of business on or after the appointed day**				
149		(1) Where any goods on which duty had been paid under the earlier law at the time of removal thereof, not being earlier than six months prior to the appointed day, are returned to any place of business on or after the appointed day, no tax shall be payable thereon if such goods are returned to the said place of business within a period of six months from the appointed day and such goods are identifiable to the satisfaction of the proper officer: Provided that tax shall be payable by the taxable person returning the goods if the said goods are liable to tax under this Act and are returned after a period of six months from the appointed day. (2) Every taxable person who receives such goods within a period of six months shall be entitled to take credit of the duty paid earlier at the time of removal. (CGST Law)				1. Goods which has been supplied without payment of duty being exempt but returned within 6 months of such removal after appointed day, such supplies will be without payment of taxes. Further it has to be ensured identification which will cause the hardship. However, if returned after 6 months and such goods are taxable in GST regime then tax will be payable and recipient will be entitled to avail input tax credit under GST Regime. 2. When the same goods are send back to the purchaser after repair/ processing, then also it will attract GST? 3. To avoid such conflict, it is advisable to call all such goods sent for job word or repairs or processing before 6 months after appointed day but prior to 6 months of such removal.

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
		(1) Where any goods on which tax had been paid under the earlier law at the time of sale thereof, not being earlier than six months prior to the appointed day, are returned to the supplier thereof on or after the appointed day, no tax shall be payable thereon if such goods are returned to the said supplier within a period of six months from the appointed day and such goods are identifiable to the satisfaction of the proper officer: Provided that tax shall be payable by the person returning the goods if the said goods are liable to tax under this Act and are returned after a period of six months from the appointed day. (2) Every taxable person who receives such goods within a period of six months shall be entitled to take credit of the tax paid earlier at the time of sale. (SGST Law)				
150		**Inputs removed for job work and returned on or after the appointed day**				
150		(1) Where any inputs received in a factory had been removed as such or removed after being partially processed to a job worker for further processing, testing, repair, reconditioning or any other purpose in accordance with the provisions of earlier law prior to the appointed day and such inputs, after completion of the job work, are returned to the said factory on or after the appointed day, no tax shall be payable if such inputs are returned to the said factory within six months from the appointed day: Provided that the aforesaid period of six months may, on sufficient cause being shown, be extended by the competent authority for a further period not exceeding two months: Provided further that tax shall be payable by the job worker if such inputs are liable to tax under this Act, and are returned after a period of six months or the extended period, as the case may be, from the appointed day: Provided also that tax shall be payable by the manufacturer if such inputs are liable to tax under this Act, and are not returned within a				When goods are sent for job work or processing or removed as such or repairs, testing , caliberation etc, in accordance with earlier law and such goods are returned after appointed day within the 6 months of appointed day or further 2 months as extended, such goods to be removed without payment of tax. However, if it is returned after 6 months or after extended period, then tax will be liable to be paid on such return. Further, if it is returned after 6 months or extended period then in accordance with earlier law, cenvat credit is required to be reversed and therefore tax will have to be paid by such manufacturer.

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
		(1) Where any inputs received at a place of business had been despatched as such or despatched after being partially processed to a job worker for further processing, testing, repair, reconditioning or any other purpose in accordance with the provisions of earlier law prior to the appointed day and such inputs, after completion of the job work, are returned to the said place of business on or after the appointed day, no tax shall be payable if such inputs are returned to the said place of business within six months from the appointed day: Provided that the aforesaid period of six months may, on sufficient cause being shown, be extended by the competent authority for a further period not exceeding two months: Provided further that tax shall be payable by the job worker if such inputs are liable to tax under this Act, and are returned after a period of six months or the extended period, as the case may be, from the appointed day:				
		Provided also that tax shall be payable by the person despatching the inputs if such inputs are liable to tax under this Act, and are not returned within a period of six months or the extended period, as the case may be, from the appointed day. (2) The provisions of sub-section (1) shall apply only if the person despatching the inputs and the job worker declare the details of the goods held in stock by the job worker on behalf of the said person on the appointed day in such form and manner and within such time as may be prescribed. (SGST Law)				
151		**Semi-finished goods removed for job work and returned on or after the appointed day**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
151		(1) Where any semi-finished goods had been removed from the factory to any other premises for carrying out certain manufacturing processes in accordance with the provisions of earlier law prior to the appointed day and such goods after undergoing manufacturing processes (herein after referred to as "the said goods") are returned to the said factory on or after the appointed day, no tax shall be payable if the said goods are returned to the said factory within six months from the appointed day: Provided that the aforesaid period of six months may, on sufficient cause being shown, be extended by the competent authority for a further period not exceeding two months: Provided further that tax shall be payable by the person returning the said goods if such goods are liable to tax under this Act and are returned after a period of six months or the extended period, as the case may be, from the appointed day: Provided also that tax shall be payable by the manufacturer if such goods are liable to tax under this Act, and are not returned within a				When semi-finished goods are sent for job work or processing or removed as such or repairs, testing , caliberation etc, in accordance with earlier law and such goods are returned after appointed day within the 6 months of appointed day or further 2 months as extended, such goods to be removed without payment of tax. However, if it is returned after 6 months or after extended period, then tax will be liable to be paid on such return. Further, if it is returned after 6 months or extended period then in accordance with earlier law, cenvat credit is required to be reversed and therefore tax will have to be paid by such manufacturer. Further, if such goods after processing is required to be removed directly to another taxable person or export therefrom, after appointed day, it will be on payment of tax or without payment of tax for exports. However, it is necessary taht manufacturer and job worker give the declaration of such stock on appointed day.
		appointed day, no tax shall be payable if the said goods are returned to such place within six months from the appointed day: Provided that the aforesaid period of six months may, on sufficient cause being shown, be extended by the competent authority for a further period not exceeding two months: Provided further that tax shall be payable by the person returning the said goods if such goods are liable to tax under this Act and are returned after a period of six months or the extended period, as the case may be, from the appointed day: Provided also that tax shall be payable by the person despatching the goods if such goods are liable to tax under this Act, and are not returned to him within a period of six months or the extended period, as the case may be, from the appointed day: Provided also that the person despatching the goods may, in accordance with the provisions of the earlier law, transfer the said goods to the premises of any registered taxable person for the purpose of supplying therefrom on payment of				
152		**Finished goods removed for carrying out certain processes and returned on or after the appointed day**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
152		Where any excisable goods manufactured in a factory had been removed without payment of duty for carrying out tests or any other process not amounting to manufacture, to any other premises, whether registered or not, in accordance with the provisions of earlier law prior to the appointed day and such goods, after undergoing tests or any other process (herein after referred to as the "said goods") are returned to the said factory on or after the appointed day, no tax shall be payable if the said goods are returned to the said factory within six months from the appointed day: Provided that the aforesaid period of six months may, on sufficient cause being shown, be extended by the competent authority for a further period of two months: Provided further that tax shall be payable by the person returning the said goods if such goods are liable to tax under this Act and are returned after a period of six months or the extended period, as the case may be, from the appointed day: Provided also that the manufacturer may, in accordance				When finished goods are sent for job work or processing or removed as such or repairs, testing , caliberation etc, in accordance with earlier law and such goods are returned after appointed day within the 6 months of appointed day or further 2 months as extended, such goods to be removed without payment of tax. However, if it is returned after 6 months or after extended period, then tax will be liable to be paid on such return. Further, if it is returned after 6 months or extended period then in accordance with earlier law, cenvat credit is required to be reversed and therefore tax will have to be paid by such manufacturer. Further, if such goods after processing is required to be removed directly to another taxable person or export therefrom, after appointed day, it will be on payment of tax or without payment of tax for exports. However, it is necessary taht manufacturer and job worker give the declaration of such stock on appointed day.
		tax in India or without payment of tax for exports within six months or the extended period, as the case may be, from the appointed day. (CGST Law) Where any goods had been despatched from the place of business without payment of tax for carrying out tests or any other process, to any other premises, whether registered or not, in accordance with the provisions of earlier law prior to the appointed day and such goods, after undergoing tests or any other process (herein after referred to as the "said goods") are returned to the said place of business on or after the appointed day, no tax shall be payable if the said goods are returned to such place within six months from the appointed day: Provided that the aforesaid period of six months may, on sufficient cause being shown, be extended by the competent authority for a further period not exceeding two months: Provided further that tax shall be payable by the person returning the said goods if such goods are liable to tax under this Act and are				
153		**Issue of supplementary invoices, debit or credit notes where price is revised in pursuance of a contract**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
153		(1) Where, in pursuance of a contract entered into prior to the appointed day, the price of any goods and/or services is revised upwards on or after the appointed day, the taxable person who had removed / provided such goods and/or services may issue to the recipient a supplementary invoice or debit note, containing such particulars as may be prescribed, within thirty days of such price revision and for the purposes of this Act such supplementary invoice or debit note shall be deemed to have been issued in respect of an outward supply made under this Act. (CGST Law)				Clarification required w.r.t. upward/down revision of prices prior to appointed day and the supplimentory invoice/ debit note/credit note is required to be issued within 30 days after such price revision and if tax is payable it should be paid or on reduction of prices, reduce the tax liability accordingly
		(1) Where, in pursuance of a contract entered into prior to the appointed day, the price of any goods is revised upwards on or after the appointed day, the taxable person who had sold such goods may issue to the recipient a supplementary invoice or debit note, containing such particulars as may be prescribed, within thirty days of such price revision and for the purposes of this Act such supplementary invoice or debit note shall be deemed to have been issued in respect of an outward supply made under this Act. (SGST Law)				
		(2) Where, in pursuance of a contract entered into prior to the appointed day, the price of any goods and/or services is revised downwards on or after the appointed day, the taxable person who had removed / provided such goods and/or services may issue to the recipient a supplementary invoice or credit note, containing such particulars as may be prescribed, within thirty days of such price revision and for the purposes of this Act such supplementary invoice or credit note shall be deemed to have been issued in respect of an outward supply made under this Act: Provided that the taxable person shall be allowed to reduce his tax liability on account of issue of the said invoice or credit note only if the recipient of the invoice or credit note has reduced his input tax credit corresponding to such reduction of tax liability. (CGST Law) (2) Where, in pursuance of a contract entered into prior to the appointed day, the price of any goods is revised downwards on or after the appointed day, the taxable person who had sold such goods may issue to the				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
154		**Pending refund claims to be disposed of under earlier law**				
154		Every claim for refund of any duty/tax and interest, if any, paid on such duty/tax or any other amount, filed by any person before the appointed day, shall be disposed of in accordance with the provisions of earlier law and any amount eventually accruing to him shall be paid in cash, notwithstanding anything to the contrary contained under the provisions of earlier law other than the provisions of sub-section (2) of section 11B of the Central Excise Act, 1944 (1 of 1944): Provided that where any claim for refund is fully or partially rejected, the amount so rejected shall lapse. (CGST Law) Every claim for refund of any tax and interest, if any, paid on such tax or any other amount, filed by any person before the appointed day, shall be disposed of in accordance with the provisions of earlier law and any amount eventually accruing to him shall be refunded to him in accordance with the provisions of the said law: Provided that where any claim for refund is fully or partially rejected, the amount				1. Application of refund of duty, interest and penalty, if made prior to appointed day, such refund will be dealt based on the provisions of the earlier law and if such refund is fully or partially rejected, the differential amount is deemed to be considered as a duty and hence lapse, even if appellate proceedings is mandated. 2. Further, assuming appointed day is on 1st April 2017, refund application pertaining to earlier quarter or prior to 31st March 2017 will be made after appointed day only but there is no provision of processing such application under the earlier law, since the amount is carried forward in GST regime. Howevere such refund application needs to be processed under earlier law and after granting the refund, electronic credit register will be debited accordingly, but rebate application has to be processed and cash rebate needs to be sanctioned under the provisions of earlier law. 3. In case of VAT refund application for VAT refund is made along with VAT audit in the month od December / January subsequent to the end of financial year, in such cases cllarification is required whether the refund will be granted as per existing Law or as per GST? 4. In case of rejection of claim (partial/fully) then such credit will lapse. However in existing Law there is a provistion of self credit in such cases and also appeal in such cases is also allowed therefore such provision needs to be amended 5. Detailed Clarification/ provision w.r.t. Rabate and refund cases pertaining to quarter ending prior to appointed day to be provided and processed under the earlier law.
155		**Claim of cenvat credit to be disposed of under the earlier law**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
155		(1) Every proceeding of appeal, revision, review or reference relating to a claim for CENVAT credit under the earlier law shall be disposed of in accordance with the provisions of earlier law, and any amount of credit found to be admissible to the claimant shall be refunded to him in cash, notwithstanding anything to the contrary contained under the provisions of earlier law other than the provisions of sub-section (2) of section 11B of the Central Excise Act, 1944 and shall not be admissible as input tax credit under this Act. (CGST Law) (2)Every proceeding of appeal, revision, review or reference relating to recovery of CENVAT credit under the earlier law shall be disposed of in accordance with the provisions of earlier law, and if any amount of credit becomes recoverable as a result of appeal, revision, review or reference, the same shall be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act. (CGST Law) (1) Every proceeding of appeal, revision, review or				Any proceedings of Appeal revision pertaining to claim of cenvat credit under earlier law will be disposed of in accordance with provisions of earlier law and if any refund is accruing on account of such decision, it will be refunded in cash and not adjusted under input tax credit and if amount is required to be recovered on account of such decision, it will be recovered as an arrears of tax but not be paid from input tax credit.
156		**Finalization of proceedings relating to output duty liability**				
156		156. Finalization of proceedings relating to output duty liability (1) Every proceeding of appeal, revision, review or reference relating to any output duty liability initiated before the appointed day, shall be disposed of in accordance with the provisions of the earlier law, and if any amount becomes recoverable as a result of such appeal, revision, review or reference, the same shall be recovered as an arrear of tax under this Act and amount so recovered shall not be admissible as input tax credit under this Act. (2)Every proceeding of appeal, revision, review or reference relating to any output duty liability initiated before the appointed day, shall be disposed of in accordance with the provisions of the earlier law, and any amount found to be admissible to the claimant shall be refunded to him in cash, notwithstanding anything to the contrary contained under the provisions of earlier law other than the provisions of sub-section (2) of section 11B of the Central Excise Act, 1944and shall not be admissible as input tax credit under this Act. (CGST Law)				Any proceedings of Appeal revision pertaining to claim of Out put duty liability under earlier law will be disposed of in accordance with provisions of earlier law and if any refund is accruing on account of such decision, it will be refunded in cash and not adjusted under input tax credit and if amount is required to be recovered on account of such decision, it will be recovered as an arrears of tax but not be paid from input tax credit.

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
157		**Treatment of the amount recovered or refunded in pursuance of assessment or adjudication proceedings**				
157		(1) Where in pursuance of an assessment or adjudication proceedings instituted, whether before or after the appointed day, under the earlier law, any amount of tax, interest, fine or penalty becomes recoverable from the taxable person, the same shall be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act. (CGST Law) (1) Where in pursuance of an assessment proceedings instituted, whether before or after the appointed day, under the earlier law, any amount of tax, interest, fine or penalty becomes recoverable from the taxable person, the same shall be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act. (SGST Law) (2) Where in pursuance of an assessment or adjudication proceedings instituted, whether before or after the appointed day, under the earlier law, any amount of tax, interest, fine or penalty becomes refundable to the taxable person,				Any proceedings of Appeal revision pertaining to claim of Out put duty liability or any other proceedings under earlier law will be disposed of in accordance with provisions of earlier law and if any refund is accruing on account of such decision, it will be refunded in cash and not adjusted under input tax credit and if amount is required to be recovered on account of such decision, it will be recovered as an arrears of tax but not be paid from input tax credit.
158		**Treatment of the amount recovered or refunded pursuant to revision of returns**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
158		(1) Where any return, furnished under the earlier law, is revised and if, pursuant to such revision, any amount is found to be recoverable from the taxable person, the same shall be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act. (CGST Law) (1) Where any return, furnished under the earlier law, is revised and if, pursuant to such revision, any amount is found to be recoverable from the taxable person, the same shall be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act. (SGST Law) (2) Where any return, furnished under the earlier law, is revised and if, pursuant to such revision, any amount is found to be refundable to any taxable person, the same shall be refunded to him in cash under the earlier law, notwithstanding anything to the contrary contained in the said law other than the provisions of sub-section (2) of section 11B of the Central				When returns are revised and any duty recoverable from such taxable person it will have to be considered as arrears of tax under the GST Regime and for which no input tax credit will be entitled to such receipient. However, on such revision some amount is refundable, such refund will be processed under the provisions of earlier law and cash refund will be granted on eligibility but no input tax credit will be allowed in the GST Regime.
159		**Treatment of long term construction / works contracts**				
159		The goods and/or services supplied on or after the appointed day in pursuance of a contract entered into prior to the appointed day shall be liable to tax under the provisions of this Act. (CGST Law) The goods and/or services supplied on or after the appointed day in pursuance of a contract entered into prior to the appointed day shall be liable to tax under the provisions of this Act. (SGST Law)				Long Term construction and works contract entered prior to appointed day but not completed , such contract will be liable to tax under the provisions of GST. Detailed treatment is separately given in the Annexure C
160		**Progressive or periodic supply of goods or services**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
160		Notwithstanding anything contained in section 12 and 13, no tax shall be payable on the supply of goods and/or services made on or after the appointed day if the consideration for the said supply has been received prior to the appointed day and the duty or tax payable thereon has already been paid under the earlier law. (CGST Law) Notwithstanding anything contained in section 12 and 13, no tax shall be payable on the supply of goods and/or services made on or after the appointed day if the consideration for the said supply has been received prior to the appointed day and the duty or tax payable thereon has already been paid under the earlier law. (SGST Law)				1. When there is continuous supply and consideration is received in advance, no tax will be payable even if supplies are made after appointed day, since duty has been alreday paid and cenvat is availed in case of services. Howevere, if the said provision applies for the goods also, then such goods will be non-tax paid goods. Clarification is required to be issued. 2. the similar clarification is required to be issued for service providers, who are paying service tax on cash basis rather than accrual below turnover of Rs. 50 Lacs
161		**Treatment of retention payments**				
161		Notwithstanding anything contained in section 12 and 13, no tax shall be payable on the supply of goods and/or services made before the appointed day where a part consideration for the said supply is received on or after the appointed day, but the full duty or tax payable on such supply has already been paid under the earlier law. (CGST Law) Notwithstanding anything contained in section 12 and 13, no tax shall be payable on the supply of goods and/or services made before the appointed day where a part consideration for the said supply is received on or after the appointed day, but the full duty or tax payable on such supply has already been paid under the earlier law. (SGST Law)				No tax will be payable on retention payment subsequent to appointed day since supplies are made prior to appointed day
162		**Credit distribution of service tax by ISD**				
162		Notwithstanding anything to the contrary contained in this Act, the input tax credit on account of any services received prior to the appointed day by an Input Service Distributor shall be eligible for distribution as credit under this Act even if the invoice(s) relating to such services is received on or after the appointed day. (CGST Law)				ISD credit can be distributed even after appointed day for the receipt of invoices dtd. prior to appointed day but received after appointed day
162A		**Tax paid on goods lying with agents to be allowed as credit**				

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
162A		Where any goods belonging to the principal are lying at the premises of the agent on the appointed day, the agent shall be entitled to take credit of the tax paid on such goods subject to fulfilment of the following conditions: (i) the agent is a registered taxable person under this Act; (ii) both the principal and the agent declare the details of stock of goods lying with such agent on the date immediately preceding the appointed dayin such form and manner and within such time as may be prescribed in this behalf; (iii) the invoices for such goods had been issued not earlier than twelve months immediately preceding the appointed day; and (iv) the principal has either reversed or not availed of the input tax credit in respect of such goods. (Only in SGST Law)				In the GST regime, agent also will have to take the registration and therefore stock lying with the agent, transitional credit will be allowed subject to duty paying documents prior to 12 months and principal and agent files the declaration of such stock. This provision has been made applicable only for SGST Law and should be made applicable for CGST also.
162B		**Tax paid on capital goods lying with agents to be allowed as credit**				
162B		Where any capital goods belonging to the principal are lying at the premises of the agent on the appointed day, the agent shall be entitled to take credit of the tax paid on such capital goods subject to fulfillment of the following conditions: (i) the agent is a registered taxable person under this Act; (ii) both the principal and the agent declare the details of the stock of capital goods lying with such agent on the date immediately preceding the appointed day in such form and manner and within such time as may be prescribed in this behalf; (iii) the invoices for such capital goods had been issued not earlier than twelve months immediately preceding the appointed day; and (iv) the principal has either not availed of the input tax credit in respect of such capital goods or, having availed of such credit, has reversed the said credit, to the extent availed of by him. (Only in SGST Law)				In the GST regime, agent also will have to take the registration and therefore capital goods with the agent, transitional credit will be allowed subject to duty paying documents prior to 12 months and principal and agent files the declaration of such capital goods . This provision has been made applicable only for SGST Law and should be made applicable for CGST also.
162C		**Treatment of branch transfers**				
162C		Notwithstanding anything to the contrary contained in this Act, any amount of input tax credit reversed prior to the appointed day shall not be admissible as credit of input tax under this Act. (Only in SGST Law)				When goods are transferred to any depot reversal of input tax credit is made at specified percentage and even if such goods so transferred to branch is lying in the stock, such reversal of input tax credit will not be allowed for input tax credit. That will be the permanant loss, since such branch transfer has effected prior to appointed day.

Section	Sub Section	Draft Act 14.06.2016	Parallel Provision in the existing Act / Rules	Existing Act / Rule	Existing Act / Rule No	Analysis
162D		**Goods sent on approval basis returned on or after the appointed day**				
162D		Where any goods sent on approval basis, not earlier than six months before the appointed day, are rejected or not approved by the buyer and returned to the seller on or after the appointed day, no tax shall be payable thereon if such goods are returned within six months from the appointed day: Provided that the aforesaid period of six months may, on sufficient cause being shown, be extended by the competent authority for a further period not exceeding two months: Provided further that the tax shall be payable by the person returning the goods if such goods are liable to tax under this Act, and are returned after a period of six months or the extended period, as the case may be, from the appointed day: Provided also that tax shall be payable by the person who has sent the goods on approval basis if such goods are liable to tax under this Act, and are not returned within a period of six months or the extended period , as the case may be, from the appointed day. (SGST Law)				When goods are removed on approval basis and such goods are returned within the period of 6 months from the appointed day or extended period then no tax is payable. It is in the same line of return of goods. This provision has been made applicable only for SGST Law and should be made applicable for CGST also.
162E		**Deduction of tax source**				
162E		Where a supplier has made any sale of goods in respect of which tax was required to be deducted at source under the earlier law and has also issued an invoice for the same before the appointed day, no deduction of tax at source under section 37 shall be made by the deductor under the said section where payment to the said supplier is made on or after the appointed day.				No TDS is required to be deducted when invoice is raised prior to appointed day and even if payment is received subsequent to appointed day.

THE INTEGRATED GOODS AND SERVICES TAX ACT, 2016					
Section	**Draft Act 14.06.2016**	**Parallel Provision in the Existing Act / Rules**	**Existing Act / Rule**	**Existing Act / Rule No**	**Analysis**
1	**Short title, extent and commencement**				
	(1) This Act may be called the Integrated Goods and Services Tax Act, 2016. (2) It extends to the whole of India. (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act.	1) This Act may be called the Central Sales Tax Act, 1956 (2) It extends to the whole of India (3)It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act.	Central Sales Tax Act, 1956	Sec.1	
2	**Definitions**				
	(1) In this Act, unless the context otherwise requires,- (a) "appropriate State", in relation to a taxable person, means that State where he is registered or liable to be registered under section 19 of the Central Goods and Services Tax Act, 2016. Explanation: For the purpose of this Act, "State" includes Union Territory with Legislature. (b) "Government" means the Central Government; (c) "Integrated Goods and Services Tax" (IGST) means tax levied under this Act on the supply of any goods and/or services in the course of inter-State trade or commerce. Explanation 1.- A supply of goods and/or services in the course of import into the territory of India shall be deemed to be a supply of goods and/or services in the course of inter-State trade or commerce. Explanation 2.- An export of goods and/or services shall be deemed to be a supply of goods and/or services in the course of inter-State trade or commerce.	(1) In this Act, unless the context otherwise requires,- (a)"approprate state",means- (i) in relation to a dealer who has one or more places of business situate in the same state, that state; (ii)in relation to a dealer who has places of business situate in different states, every such state with respect to the place or places of business situate within its territory.	Central Sales Tax Act, 1956	Sec.2	Government means Central Govt only IGST is the tax to be levied for supply of goods & services in the course of I**nter-State Trade or Commerce.** Purchases for own consumption even though inter-state will not be considered as inter-state movement and CGST & SGST will be payable Input Tax : Tax charged on any supplies of goods or services which are used and intended to be used in the course of furtherance of the business.
	(d) "input tax" in relation to a taxable person, means the Integrated Goods and Services Tax, Central Goods and Services Tax or State Goods and Services Tax, as the case may be, charged on any supply of goods and/or services to him which are used, or are intended to be used, in the course or furtherance of his business and includes the tax payable under sub-section (3) of section 4; (e) "input tax credit" means credit of 'input tax' as defined in clause (d) of subsection (1) of section 2; (f) "supply" has the same meaning as assigned to it in section 3 of the CGST Act, 2016; (g) "output tax" in relation to a taxable person, means the IGST chargeable under the Act on taxable supply of goods and/or services by him or his agent and excludes tax payable by him on reverse charge basis; (2) Words and expressions not defined in this Act shall have the meaning assigned to them in the Central Goods and Service Tax Act, 2016				
3	**Supplies of goods and/or services in the course of inter-State trade or commerce**				

THE INTEGRATED GOODS AND SERVICES TAX ACT, 2016					
Section	**Draft Act 14.06.2016**	**Parallel Provision in the Existing Act / Rules**	**Existing Act / Rule**	**Existing Act / Rule No**	**Analysis**
	(1) Subject to the provisions of section 5, supply of goods in the course of inter-State trade or commerce means any supply where the location of the supplier and the place of supply are in different States. (2) Subject to the provisions of section 6, supply of services in the course of inter-State trade or commerce means any supply where the location of the supplier and the place of supply are in different States.	A Sale or purchase of goods shall be deemed to take place in the course of inter-state trade of commerce if the sale or purchase- (a) occasions the movement of goods from one State to another or (b) is effected by a transfer of documents of title to the goods during their movement from one State to another. **Explanation 1** : Where goods are delivered to a carrier or other bailee for transmission, the movement of the goods shall, for the purposes of clause(b), be deemed to commence at the time of such delivery and terminate at the time when delivery is taken from such carrier or bailee. **Explanation 2**: Where the movement of goods commences and terminates in the same State it shall not be deemed to be a movement of goods from one State to another by reason merely of the fact that in the course of such movement the goods pass through the territory of any other State. **Explination 3:** Where the gas sold or purchased and transpoted through a common career or pipeline or any other common transport or distribuation system become co-mingled and fungible with other gas in the pipeline or system and such gas is introduced in to the pipeline or system in one state and is taken out from the pipeline in another state, such sale or purchase of gas shall be deemed to be a movement of goods from one state to another.	Central Sales Tax Act, 1956	Sec.3	where location of supplier and place of supplies are in different state, it is considered supplies in the course of inter-state Trade or Commerce. IGST will be applicable.
3A	**Supplies of goods and/or services in the course of intra-State trade or commerce**				
	(1) Subject to the provisions of section 5, intra-state supply of goods means any supply where the location of the supplier and the place of supply are in the same State. (2) Subject to the provisions of section 6, intra-state supply of services means any supply where the location of the supplier and the place of supply are in the same State.	-	-	-	where location of supplier and place of supplies are in the same state, it is considered supplies in the course of intra-state Trade or Commerce and no IGST will be applicable
4	**Levy and collection of Integrated Goods and Services Tax**				

THE INTEGRATED GOODS AND SERVICES TAX ACT, 2016					
Section	**Draft Act 14.06.2016**	**Parallel Provision in the Existing Act / Rules**	**Existing Act / Rule**	**Existing Act / Rule No**	**Analysis**
	(1) There shall be levied a tax called the Integrated Goods and Services Tax on all supplies of goods and/or services made in the course of inter-State trade or commerce at the rate specified in the Schedule to this Act and collected in such manner as may be prescribed. (2) The Integrated Goods and Services Tax shall be paid by every taxable person in accordance with the provisions of this Act. (3) Notwithstanding anything contained in sub-section (2), the Central Government may, on recommendation of the Council, by notification, specify categories of supply of goods and/or services the tax on which is payable on reverse charge basis and the tax thereon shall be paid by the person receiving such goods and/or services and all the provisions of this Act shall apply to such person as if he is the person liable for paying the tax in relation to such goods and/or services. (4) Notwithstanding anything contained in sub-section (1) but subject to such conditions as may be notified in this behalf, no tax under this Act shall be payable by any taxable person in respect of such supplies of goods and/or services as are specified in Schedule . . . to the Act.	(1) The tax payable by any dealer under this Act on sales of goods effected by him in the course of inter-state trade or commerce, whether such sales fall within clause [a] or clause[b] of section 3, shall be levied by the Government of India and the tax so levied shall be collected by that Government in accordance with the provisions of subsection[2] , in the State from which the movement of the goods commenced. 2 Provided that, in the case of a sale of goods during their movement from one State to another, being a sale subsequent to the first sale in respect of the same goods and being also a sale which does not fall within sub-section [2] of section 6, the tax shall be levied and collected (a) where such subsequent sale has been effected by a registered dealer in the State from which the registered dealer obtained or, as the case may be, could have obtained, the form prescribed for the purposes of clause[a] of sub- section [4] of section 8 in connection with the purchase of such goods,and (b) where such subsequent sale has been effected by an unregistered dealer in the State from which such subsequent sale has been effected. [2] Subject to the other provisions of this Act and the rules made there under, the authorities for the time being empowered to assess, reassess, collect and enforce payment of any tax under the General Sales Tax law of the appropriate State,shall on behalf of the Government of India, assess, reassess, collect and enforce payment of tax, including any	Central Sales Tax Act, 1956	Sec.9	IGST rate may be aggregate of CGST and SGST Rate.
		2[[2A] All the 3[provisions relating to offences, interest and penalties] [including provisions relating to penalties in lieu of prosecution for an offence or in additions to the penalties or punishment for an offence but excluding the provisions relating to matters provided for in sections 10 and 10A] of General sales Tax law of each state shall, with necessary modifications, apply in relation to the assessment, reassessment, collection and the enforcement of payment of any tax required to be collected under this Act in such State or in relation to any process connected with such assessment, reassessment, collection or enforcement of payment as if the tax under this Act were a tax under such			

THE INTEGRATED GOODS AND SERVICES TAX ACT, 2016					
Section	**Draft Act 14.06.2016**	**Parallel Provision in the Existing Act / Rules**	**Existing Act / Rule**	**Existing Act / Rule No**	**Analysis**
		sales tax law.] [[2B] If the tax payable by any dealer under this Act is not paid in time, the dealer shall be liable to pay interest for delayed payment of such tax and all the provisions relating to due date for payment of tax, rate of interest for delayed payment of tax and assessment and collection of interest for delayed payment of tax, of the General Sales Tax law of each State, shall apply in relation to due date for payment of tax, rate of interest for delayed payment of tax, and assessment and collection of interest for delayed payment of tax under this Act in such States as if the tax and the interest payable under this Act were a tax and an interest under such sales tax law. [3] The proceeds in any financial year of any tax, 5[including any interest or penalty], levied and collected under this Act in any State (other than a Union Territory) on behalf of the Government of India shall be assigned to that State and shall be retained by it; and the proceeds attributable to Union Territories shall form part of the Consolidated Fund of India.			
		9(A) Collection of tax to be only by registered dealers: No person who is not a registered dealer shall collect in respect of any sale by him of goods in the course of interstate trade or commerce any amount by way of tax under this Act, and no registered dealer shall make any such collection except in accordance with this Act and the rules made there under.			
CHAPTER– IV PLACE OF SUPPLY	**Place of supply of goods**				
5	(1) The provisions of this section shall apply to determine the place of supply of goods. (2) Where the supply involves movement of goods, whether by the supplier or the recipient or by any other person, the place of supply of goods shall be the location of the goods at the time at which the movement of goods terminates for delivery to the recipient. (2A) Where the goods are delivered by the supplier to a recipient or any other person,on the direction of a third person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to the goods or otherwise, it shall be deemed that the said third person has received the goods and the place of supply of such goods shall be the principal place of business of such person. (3) Where the supply does not involve movement of goods, whether by the supplier or the recipient, the place of supply shall be the location of such goods at the time of the delivery to the recipient.	-	-	-	It is in same line in accordance with provisions of Central Sales Tax. Now there will be no requirement of the parallel provision of section 6 of CST for transit sale. More detailed analysis is furnished separately in Annexure D

THE INTEGRATED GOODS AND SERVICES TAX ACT, 2016					
Section	**Draft Act 14.06.2016**	**Parallel Provision in the Existing Act / Rules**	**Existing Act / Rule**	**Existing Act / Rule No**	**Analysis**
	(4) Where the goods are assembled or installed at site, the place of supply shall be the place of such installation or assembly. (5) Where the goods are supplied on board a conveyance, such as a vessel, an aircraft, a train or a motor vehicle, the place of supply shall be the location at which such goods are taken on board. (6) Where the place of supply of goods cannot be determined in terms of sub-section (2), (3), (4) and (5), the same shall be determined by law made by the Parliament in accordance with the recommendation of the Council.				
6	**Place of supply of services**				
	(1) The provisions of this section shall apply to determine the place of supply of services. (2) The place of supply of services, except the services specified in sub-sections (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14) and (15), made to a registered person shall be the location of such person. (3) The place of supply of services, except the services specified in sub-sections (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14) and (15), made to any person other than a registered person shall be (i) the location of the recipient where the address on record exists, and (ii) the location of the supplier of services in other cases. (4) The place of supply of services, - (a) in relation to an immovable property, including services provided by architects, interior decorators, surveyors, engineers and other related experts or estate agents, any service provided by way of grant of rights to use immovable property or for carrying out or co-ordination of construction work, or (b) by way of lodging accommodation by a hotel, inn, guest house, homestay, club or campsite, by whatever name called and including a house boat or any other vessel, or (c) by way of accommodation in any immovable property for organizing any marriage or reception or matters related therewith, official, social, cultural, religious or business function including services provided in relation to such function at such property, or (d) any services ancillary to the services referred to in clause (a), (b) and (c), shall be the location at which the immovable property or boat or vessel is located or intended to be located. Explanation.- Where the immovable property or boat or vessel is located in more than one State, the supply of service shall be treated as made in each of the States in proportion to the value for services separately collected or determined, in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other reasonable basis as may be prescribed in this behalf	Place of Provision of Service rules 2012			It is in same line in accordance with Place of Provisions of Service Rules 2012 as amended without any change but with additional cases such as lodging, accommodation, restaurant and catering services, etc etc. More detailed analysis is furnished separately in Annexure D

THE INTEGRATED GOODS AND SERVICES TAX ACT, 2016					
Section	**Draft Act 14.06.2016**	**Parallel Provision in the Existing Act / Rules**	**Existing Act / Rule**	**Existing Act / Rule No**	**Analysis**
	(5) The place of supply of restaurant and catering services, personal grooming, fitness, beauty treatment, health service including cosmetic and plastic surgery shall be the location where the services are actually performed. (6) The place of supply of services in relation to training and performance appraisal to (a) a registered person, shall be the location of such person; (b) a person other than a registered person, shall be the location where the services are actually performed. (7) The place of supply of services provided by way of admission to a cultural, artistic, sporting, scientific, educational, or entertainment event or amusement park or any other place and services ancillary thereto, shall be the place where the event is actually held or where the park or such other place is located. (8) The place of supply of services provided by way of— (a) organization of a cultural, artistic, sporting, scientific, educational or entertainment event including supply of service in relation to a conference, fair, exhibition, celebration or similar events, or (b) services ancillary to organization of any of the above events or services, or assigning of sponsorship of any of the above events, to (i) a registered person, shall be the location of such person; (ii) a person other than a registered person, shall be the place where the event is actually held.				
	Explanation.- Where the event is held in more than one State and a consolidated amount is charged for supply of services relating to such event, the place of supply of such services shall be taken as being in the each of the States in proportion to the value of services so provided in each State as ascertained from the terms of the contract or agreement entered into in this regard or, in absence of such contract or agreement, on such other reasonable basis as may be prescribed in this behalf. (9) The place of supply of services by way of transportation of goods, including by mail or courier to, (a) a registered person, shall be the location of such person; (b) a person other than a registered person, shall be the location at which such goods are handed over for their transportation. (10) The place of supply of passenger transportation service to (a) a registered person, shall be the location of such person; (b) a person other than a registered person, shall be the place where the passenger embarks on the conveyance for a continuous journey: Provided that where the right to passage is given for future use and the point of embarkation is not known at the time of issue of right to passage, the place of supply of such service shall be determined in the manner specified in sub-sections (2) or (3), as the case may be. Explanation.- For the purposes of this sub-section, the return journey shall be treated as a separate journey even if the right to passage for onward and return journey is issued at the same time. (11) The place of supply of services on board a conveyance such as vessel, aircraft, train or motor vehicle, shall be the location of the first scheduled point of departure of that conveyance for the journey. (12) The place of supply of telecommunication services including data transfer, broadcasting, cable and direct to home television services to any person shall— (a) in case of services by way of fixed telecommunication line, leased circuits, internet leased circuit, cable or dish antenna, be the location where the telecommunication line, leased circuit or cable connection or dish antenna is installed for receipt of services;				

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Section	**Draft Act 14.06.2016**	**Parallel Provision in the Existing Act / Rules**	**Existing Act / Rule**	**Existing Act / Rule No**	**Analysis**
	(b) in case of mobile connection for telecommunication and internet services provided on post-paid basis, be the location of billing address of the recipient of services on record of the supplier of services; (c) in cases where mobile connection for telecommunication and internet service are provided on pre-payment through a voucher or any other means, be the location where such pre-payment is received or such vouchers are sold: Provided that if such pre-paid service is availed or the recharge is made through internet banking or other electronic mode of payment, the location of the recipient of services on record of the supplier of services shall be the place of supply of such service.				
	(13) The place of supply of banking and other financial services including stock broking services to any person shall be the location of the recipient of services on the records of the supplier of services: Provided that if the service is not linked to the account of the recipient of services, the place of supply shall be location of the supplier of services. (14) The place of supply of insurance services shall: (a) to a registered person, be the location of such person; (b) to a person other than a registered person, be the location of the recipient of services on the records of the supplier of services. (15) The place of supply of advertisement services to the Central Government, a State Government, a statutory body or a local authority meant for identifiable States, shall be taken as located in each of such States and the value of such supplies specific to each State shall be in proportion to amount attributable to service provided by way of dissemination in the respective States as may be determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other reasonable basis as may be prescribed in this behalf.	Place of Provision of Service rules 2012			
CHAPTER-V PAYMENT OF TAX	**Payment of tax, interest, penalty and other amounts**				

THE INTEGRATED GOODS AND SERVICES TAX ACT, 2016					
Section	**Draft Act 14.06.2016**	**Parallel Provision in the Existing Act / Rules**	**Existing Act / Rule**	**Existing Act / Rule No**	**Analysis**
7	(1) 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. Explanation.- The date of credit to the account of the appropriate Government in the authorized bank shall be deemed to be the date of deposit. (2) The input tax credit as self-assessed in the return of a taxable person shall be credited to his electronic credit ledger to be maintained in the manner as may be prescribed. (3) The amount available in the electronic cash ledger may be used for making any payment towards tax, interest, penalty, fees or any other amount payable under the provisions of the Act or the rules made thereunder in such manner and subject to such conditions and within such time as may be prescribed. (4) The amount available in the electronic credit ledger may be used for making any payment towards tax payable under the provisions of the Act or the rules made thereunder in such manner and subject to such conditions and within such time as may be prescribed. (5)(a) The amount of input tax credit on account of IGST available in the electronic credit ledger 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. (b) The amount of input tax credit on account of CGST available in the electronic credit ledger shall first be utilized towards payment of CGST and the amount remaining, if any, may be utilized towards the payment of IGST. (c) The amount of input tax credit on account of SGST available in the electronic credit ledger shall first be utilized towards payment of SGST and the amount remaining,	**Penalties** If any person,- [a] furnishes a certificate or declaration under sub-section (2) of section 6 or sub-section [1] of section 6A or sub-section [4] or sub-section[8] of section 8, which he knows, or has reason to believe, to be false; or (aa) fails to get himself registered as required by section 7, or fails to comply with an order under sub-section[3A] or with the requirements of sub-section[3c] or sub-section [3E], of that section; or (b) being a registered dealer, falsely represents when purchasing any class of goods that goods of such class are covered by his certificate of registration; or (c) not being a registered dealer, falsely represents when purchasing goods in the course of inter-state trade or commerce that he is a registered dealer; or (d) after purchasing any goods for any of the purposes specified in 4[clause [b] or clause [c] or clause [d] of sub-section [3] 5[or sub-section [6] of section 8 fails, without reasonable excuse, to make use of the goods for any such purpose; (e) has in his possession any form prescribed for the purpose of sub-section[4] [or sub-section[8] of section 8 which has not been obtained by him or by his principal or by his agent in accordance with the provisions of this Act or any rules made there under; or 6[[f] collects any account by way of tax in contravention	Sales Tax Act 1956	Sec 10	1. Tax, interest, penalties, late fees can be made through internet banking, debit cards, credit cards, NEFT, RTGS or any other mode as prescribed and such amount will be credited to electronic cash ledger to be maintained by the Common Portal. Date of deposit will be the date of credit to the Government Account. 2. Input Tax Credit on self-assessment will be credited to the Electronic Cash Ledger. 3. Balance in Electronic Cash Ledger may be utilised towards making payment of tax, interest, penalties, fees or any other amount payable. 4. Balance in Electronic Credit Ledger may be utilised towards making payment of tax. 5. IGST to be utilised for the payment of IGST, CGST & SGST in the sequential manner. 6. CGST to be utilized for payment of CGST & IGST in the sequently manner. 7. SGST to be utilised for payment of SGST and IGST in the sequently manner. 8. The refund of the balance in cash / credit register can
	(7) All liabilities of a taxable person under this Act shall be recorded and maintained in an electronic register as may be prescribed. (8) Every taxable person shall discharge his tax and other dues under this Act or the rules made thereunder in the following order: (a) self-assessed tax, and other dues related to returns of previous tax periods; (b) self-assessed tax, and other dues related to the return of the current tax period; (c) any other amount payable under the Act or the rules made thereunder including the demand determined under section 51 of the CGST Act. (9) Every person who has paid the tax on goods and/or services under this Act shall, unless the contrary is proved by him, be deemed to have passed on the full incidence of such tax to the recipient of such goods and/or services.				
8	**Claim of input tax credit, provisional acceptance, matching, reversal and reclaim thereof**				
	(1) Every registered taxable person shall, subject to such conditions and restrictions as may be prescribed in this behalf, be entitled to take credit of input tax, as self assessed, in his return and such amount shall be credited, on a provisional basis, to his electronic credit ledger to be maintained in the manner as may be prescribed. (2) The provisions of section 29 of the CGST Act, 2016 relating to matching, reversal and reclaim of input tax credit shall apply mutatis mutandis to the matching, reversal and reclaim of input tax credit under this section.				The same provisions are applicable of Sec 29 of CGST Act.
9	**Transfer of input tax credit**				

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Section	**Draft Act 14.06.2016**	**Parallel Provision in the Existing Act / Rules**	**Existing Act / Rule**	**Existing Act / Rule No**	**Analysis**
9	(1) On utilization of input tax credit availed under this Act for payment of tax dues under the CGST Act as per sub-section (5) of section 7, the amount collected as IGST shall stand reduced by an amount equal to the credit so utilized and the Central Government shall transfer an amount equal to the amount so reduced from the IGST account to the CGST account in the manner and time as may be prescribed. (2) On utilization of input tax credit availed under this Act for payment of tax dues under the SGST Act as per sub-section (5) of section 7, the amount collected as IGST shall stand reduced by an amount equal to the credit so utilized and the Central Government shall transfer an amount equal to the amount so reduced from the IGST account to the SGST account of the appropriate State Government in the manner and time as may be prescribed.				6. CGST to be utilized for payment of CGST & IGST in the sequently manner. 7. SGST to be utilised for payment of SGST and IGST in the sequently manner. Respective balance of CGST and SGST will be reduced for such utilisation of IGST.
CHAPTER- VII APPORTIONMENT OF TAX AND SETTLEMENT OF FUNDS	**Apportionment of tax collected under the Act and settlement of funds**				
10	(1) Out of the IGST paid to the Central Government in respect of inter-State supply of goods and/or services to an unregistered person or to a taxable person paying tax under section 8 of the CGST Act, the amount of tax calculated at the rate equivalent to the CGST on similar intra-state supply shall be apportioned to the Central Government. (2) Out of the IGST paid to the Central Government in respect of inter-State supply of goods and/or services made in a year to a registered taxable person, where such taxable person is either not eligible for input tax credit or where he does not avail of the said credit within the specified period and thus remains in the IGST account after expiry of the due date for filing of annual return for such year in which the supply was made, the amount of tax calculated at the rate equivalent to the CGST on similar intra-state supply shall be apportioned to the Central Government. (3) Out of the IGST paid to the Central Government in respect of import of goods and / or services by an unregistered person or by a taxable person paying tax under section 8 of the CGST Act, the amount of tax calculated at the rate equivalent to the CGST on similar intra-state supply shall be apportioned to the Central Government. (4) Out of the IGST paid to the Central Government in respect of import of goods and / or services made in a year by a registered taxable person, where the such taxable person is either not eligible for input tax credit or where he does not avail of the said credit within the specified period and thus remains in the IGST account after expiry of the due date for filing of annual return for such year in which the supply was received, the amount of tax calculated at the rate equivalent to the CGST on similar intra-state supply shall be apportioned to the Central Government.		**Central Excise Act 1944**	Section 32	This is the procedure prescribed for settlement of tax between central & State govt and there will no interface with tax payer in any case. Tax payer will not be held responsible for any error or dispute arising from such transfer / settlement.

THE INTEGRATED GOODS AND SERVICES TAX ACT, 2016					
Section	**Draft Act 14.06.2016**	**Parallel Provision in the Existing Act / Rules**	**Existing Act / Rule**	**Existing Act / Rule No**	**Analysis**
	(5) The balance amount of tax remaining in the IGST account in respect of the supply for which an apportionment to the Central Government has been done under sub-section (1), (2) or (3) shall be apportioned, in the manner and time as may be prescribed, to the State where such supply takes place as per section9 5 or 6. (6) The provisions of sub-sections (1), (2), (3), (4) and (5) relating to apportionment of tax shall mutatis mutandis apply to the apportionment of interest and penalty realized in connection with the tax so apportioned. (7) Where an amount has been apportioned to the Central Government or a State Government under sub-sections (1), (2), (3), (4), (5) and (6), the amount collected as IGST shall stand reduced by an amount equal to the amount so apportioned and the Central Government shall transfer to the CGST account an amount equal to an amount apportioned to the Central Government and shall transfer to the SGST account of the State an amount equal to an amount apportioned to that State, in the manner and time as may be prescribed.				
CHAPTER - VIII SETTLEMENT OF CASES	**Definitions**				
11	(a) "Bench" means a Bench of the Settlement Commission; (b) "case" means any proceeding under this Act for the levy, assessment and collection of IGST before an IGST officer, or before a First Appellate Authority in connection with such levy, assessment or collection of IGST pending on the date on which an application under sub-section (1) of section 15 is made: Provided that where an order is passed by an adjudicating authority and for which the appeal period has not expired shall also be deemed to be a proceeding pending within the meaning of this clause: Provided further that where any appeal has been preferred after expiry of the period specified for filing such appeal under this Act and which has not been admitted, such appeal shall not be deemed to be a proceeding pending within the meaning of this clause: Provided also that where any Court or Appellate Tribunal or the First Appellate Authority refers a case back to the original adjudicating authority or the First Appellate Authority, as the case may be, for a fresh adjudication or decision, such proceeding shall not be deemed to be a proceeding pending within the meaning of this clause; (c) “Designated Officer” means an officer of the IGST appointed in the Settlement Commission to conduct inquiry or investigation for the purpose of this Chapter; (d)"Member" means a Member of the Settlement Commission and includes the National/State Chairman; (e)“Settlement Commission” means the National Goods and Services Tax Settlement Commission constituted under section 12.				
12	**Constitution of National Goods and Services Tax Settlement Commission**				
12	(1) The Central Government shall on the recommendation of the Council constitute a National Goods and Services Tax Settlement Commission for settlement of cases under this Act. (2) The Settlement Commission shall be headed by a National Chairman. (3) The Settlement Commission shall have one bench for one or more states, which shall be called the State Settlement Commission. (4) Every State Settlement Commission shall be headed by a State Chairman. (5) Every State Settlement Commission shall consist of a Chairman and as many Members (Technical –IGST) as may be prescribed, to exercise the powers and discharge the functions conferred on the Settlement Commission by this Act.				

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Section	**Draft Act 14.06.2016**	**Parallel Provision in the Existing Act / Rules**	**Existing Act / Rule**	**Existing Act / Rule No**	**Analysis**
	(6) The National Chairman/State Chairman shall be a person who is or has been a judge of the High Court. (7) The qualifications, eligibility conditions and the manner of selection and appointment of the National Chairman, the State Chairman, and the Members shall be such as may be prescribed on the recommendations of the Council. (8) The National Chairman and the State Chairman shall exercise such powers and discharge such functions as may be prescribed on the recommendations of the Council.				
13	**Jurisdiction and powers of Settlement Commission**				
13	(1) The jurisdiction of the State Settlement Commission constituted under this Act shall extend to the …… (name(s) of States). (2) Each Bench shall be presided over by the State Chairman and shall consist of two other Members. (3) Notwithstanding anything contained in the foregoing provisions of this section, and subject to any rules that may be made in this behalf, when one of the persons constituting a Bench (whether such person is the presiding officer or other Member of the Bench) is unable to discharge his functions owing to absence, illness or any other cause or in the event of the occurrence of any vacancy either in the office of the presiding officer or in the office of one or the other Members of the Bench, the remaining Members may function as the Bench and if the presiding officer of the Bench is not one of the remaining Members, the senior among the remaining Members shall act as the presiding officer of the Bench.		Central Excise Act, 1944	Section 32A	
14	**Decisions to be by majority**				
14	(1) If the Members of a Bench differ in opinion on any point, the point shall be decided according to the opinion of the majority. (2) In a case where the decision is taken by a two member Bench as provided under sub-section (3) of section 13 and Members are equally divided, the matter will be referred to the third Member and the decision will be according to the opinion of the majority.				
15	**Application for settlement of cases**				
15	(1) A taxable person may, in respect of a case or identical cases involving periodical show cause notices relating to him and pending before the adjudicating authority or the First Appellate Authority under the Act, make an application, in such form and in such manner as may be prescribed, containing a full and true disclosure of his tax liability which has not been disclosed before the jurisdictional IGST officer, the manner in which such liability has been derived, the additional amount of tax accepted to be payable by him and such other particulars as may be prescribed, to the Settlement Commission to		Central Excise Act, 1944	Section 32E	A taxable person can make an application for settlement of cases in respect of a case or identical cases involving periodical notices and pending before the adjudicating authority or the First Appellate Authority. An application for settlement cannot be made if the case is pending before Appellate Tribunal or any Court; or if the application is for determination of question in respect of

THE INTEGRATED GOODS AND SERVICES TAX ACT, 2016					
Section	**Draft Act 14.06.2016**	**Parallel Provision in the Existing Act / Rules**	**Existing Act / Rule**	**Existing Act / Rule No**	**Analysis**
	have the case(s)settled and any such application shall be disposed of in the manner hereinafter provided: Provided that no such application shall be made unless,- (a) the applicant has furnished the return(s), which he is or was required to furnish under the provisions of this Act; (b) a show cause notice for demand of tax issued by the IGST officer has been received by the applicant or an order confirming the demand of tax has been issued by the IGST officer and the same is pending before the First Appellate Authority; (c) the additional amount of tax accepted by the applicant in his application exceeds five lakh rupees; and (d) the applicant has paid the additional amount of tax accepted by him along with interest due thereon under section 36 of the CGST Act: Provided further that the Settlement Commission, if it is satisfied that the circumstances exist for not filing the return(s) referred to in clause (a) of the first proviso to subsection (1), may, after recording the reasons thereof, allow the applicant to make such application. (2) No application shall be entertained by the Settlement Commission under sub-section (1) in cases which are pending with the Appellate Tribunal or any Court. (3) No application under sub-section (1) shall be made for determination of any question having a bearing on the rate of tax or determination of liability to pay tax on goods and/or services under the Act. (4) Every application made under sub-section (1) shall be accompanied by such fees as may be prescribed. (5) An application made under sub-section (1) shall not be allowed to be withdrawn by the applicant.				rate of tax / determination of liability on any goods and / or services. It is in the similar line of existing provisions of customs, service tax & central excise
16	**Procedure for settlement on receipt of an application under section 15**				
16	(1) On receipt of an application under sub-section (1) of section 15, the Settlement Commission shall, within seven days from the date of receipt of the application, issue a notice to the applicant to explain in writing as to why the application made by him should be allowed to be proceeded with, and after taking into consideration the explanation provided by the applicant, it shall, within a period of forty five days from the date of the notice, by an order, allow the application to be proceeded with, or reject the application as the case may be, and the proceedings before the Settlement Commission shall abate on the date of rejection :		Central Excise Act, 1944	Section 32F	

THE INTEGRATED GOODS AND SERVICES TAX ACT, 2016					
Section	**Draft Act 14.06.2016**	**Parallel Provision in the Existing Act / Rules**	**Existing Act / Rule**	**Existing Act / Rule No**	**Analysis**
	Provided that an application shall not be rejected unless an opportunity has been given to the applicant of being heard; Provided further that where no notice has been issued or no order has been passed within the aforesaid period by the Settlement Commission, the application shall be deemed to have been allowed to be proceeded with. (2) A copy of every order under sub-section (1), shall be sent to the applicant and to the jurisdictional IGST officer. (3) Where an application is allowed under sub-section (1), the Settlement Commission shall, within seven days from the date of order under sub-section (1), call for a report along with the relevant records from the jurisdictional IGST officer and such officer shall furnish the report within a period of sixty days of the receipt of communication from the Settlement Commission: Provided that where the jurisdictional IGST officer does not furnish the report within the aforesaid period of sixty days, the Settlement Commission shall proceed further in the matter without the report of the said officer. (4) After examination of the report of the jurisdictional IGST officer received under subsection (3), if the Settlement Commission is of the opinion that any further enquiry or investigation in the matter is necessary, it may, within 15 days of the receipt of the report, direct, for reasons to be recorded in writing, the Designated Officer to make such further enquiry or investigation and furnish a report within a period of ninety days of the receipt of such direction, on the matters covered by the application and any other matter relating to the case : Provided that where the Designated Officer does not furnish the report within the aforesaid period, the Settlement Commission shall proceed to pass an order under subsection (5) without such report. (5) After examination of the records and the report of the jurisdictional IGST officer received under sub-section (3), and the report, if any, of the Designated Officer under sub-section (4), and after giving an opportunity to the applicant and to the jurisdictional IGST officer to be heard, either in person or through an authorised representative, and after examining such further evidence as may be placed before it or obtained by it, the Settlement Commission may pass such order as it thinks fit on the				
	(6) An order under sub-section (5) shall not be passed in respect of an application after twelve months from the last day of the month in which the application was made, failing which the settlement proceedings shall abate, and the adjudicating authority or the First Appellate Authority, as the case may be, before whom the proceeding at the time of making the application was pending, shall dispose of the case in accordance with the provisions of this Act as if no application under section 15 had been made. Provided that the period specified under this sub- section may, for reasons to be recorded in writing, be extended by the Settlement Commission for a further period not exceeding three months. (7) For the purposes of the time limit under section 51 or section 79, as the case may be, of the CGST Act and for the purposes of interest under section 36 of the said Act, in a case referred to in sub-section (1) or sub-section (6), as the case may be, the period commencing on and from the date of the application to the Settlement Commission under section 15 and ending with the date of abatement, shall be excluded. (8) The order passed under sub-section (5) shall provide for the terms of settlement including any demand by way of tax, interest, fine or penalty, the manner in which any sums due under the settlement shall be paid and all other matters to make the settlement effective and in case of rejection contain the reasons therefor: Provided that the amount of settlement ordered by the Settlement Commission shall not be less than the tax liability admitted by the applicant under section 15.				

THE INTEGRATED GOODS AND SERVICES TAX ACT, 2016					
Section	**Draft Act 14.06.2016**	**Parallel Provision in the Existing Act / Rules**	**Existing Act / Rule**	**Existing Act / Rule No**	**Analysis**
	(9) Settlement arrived under sub-section (5) shall be void if it is subsequently found by the Settlement Commission that it has been obtained by fraud or misrepresentation of facts. (10) Where any tax, interest, fine and penalty payable in pursuance of an order under sub-section (5) is not paid by the taxpayer within thirty days of receipt of a copy of the order by him, or within such period as extended by the Settlement Commission not exceeding three months, the amount which remains unpaid, shall be recovered along with interest due thereon at the rate prescribed under section 36 of the CGST Act, as the sums due to the Central/ State Government by the jurisdictional IGST officer in accordance with the provisions of section 54 of the CGST Act. (11) Where a settlement becomes void as provided under sub-section (9), the proceedings with respect to the matters covered by the settlement shall be deemed to have been revived from the stage at which the application was allowed to be proceeded with by the Settlement Commission and the jurisdictional IGST officer or the First Appellate Authority, as the case may be, may, notwithstanding anything contained in any other provision of this Act, complete such proceedings before the expiry of two years from the date of the receipt of communication that the settlement became void.				
17	**Power of Settlement Commission to order provisional attachment to protect revenue**				
17	(1) Where during the pendency of any proceeding before it, the Settlement Commission is of the opinion that for the purpose of protecting the interests of revenue it is necessary so to do, it may, by order, attach provisionally any property belonging to the applicant in the manner as may be prescribed. (2) Every provisional attachment made by the Settlement Commission under subsection (1) shall cease to have effect from the date, the sums due to the Central Government / the State Government for which such attachment is made are discharged by the applicant and evidence to that effect is submitted to the Settlement Commission.		Central Excise Act, 1944	Section 32G	
18	**Power of Settlement Commission to reopen completed proceedings**				
18	If the Settlement Commission is of the opinion (the reasons for such opinion to be recorded by it in writing) that, for the proper disposal of the case pending before it, it is necessary or expedient to reopen any proceeding connected with the case but which has been completed under this Act before application for settlement under section 15 was made, it may, with the concurrence of the applicant, reopen such proceeding and pass such order thereon as it thinks fit, as if the case in relation to which the application for settlement had been made by the applicant under that section covered such proceeding also : Provided that no proceeding shall be reopened by the Settlement Commission under this section after the expiry of five years from the date of application.		Central Excise Act, 1944	Section 32H	
19	**Inspection, etc. of reports**				
19	The Settlement Commission shall, on an application made in this behalf, and on payment of the prescribed fee by the applicant, for the purpose of rebutting any evidence brought on record against him in any report made by any IGST Officer or Designated officer, furnish to him a certified copy of any such report or part thereof relevant for the purpose.		Central Excise Act, 1944	Section 32J	
20	**Power of Settlement Commission to grant immunity from prosecution and penalty**				

THE INTEGRATED GOODS AND SERVICES TAX ACT, 2016					
Section	**Draft Act 14.06.2016**	**Parallel Provision in the Existing Act / Rules**	**Existing Act / Rule**	**Existing Act / Rule No**	**Analysis**
20	(1) The Settlement Commission may, if it is satisfied that any person who made the application for settlement under section 15 has co-operated with the Settlement Commission in the proceedings before it and has made a full and true disclosure of his tax liability, grant to such person, subject to such conditions as it may think fit to impose, immunity from prosecution for any offence under this Act and also either wholly		Central Excise Act, 1944	Section 32K	
	or in part from the imposition of any penalty and fine under this Act, with respect to the case covered by the settlement : Provided that no such immunity shall be granted by the Settlement Commission in cases where the proceedings for the prosecution for any such offence have been instituted before the date of receipt of the application under section 15. (2) An immunity granted to a person under sub-section (1) shall stand withdrawn if such person fails to pay any sum specified in the order of the settlement passed under subsection (5) of section 16 within the time specified in such order or within such extended period as permitted by the Settlement Commission or fails to comply with any other condition subject to which the immunity was granted and thereupon the provisions of this Act shall apply as if such immunity had not been granted. (3) An immunity granted to a person under sub-section (1) may, at any time, be withdrawn by the Settlement Commission, if it is satisfied that such person had, in the course of the settlement proceedings, concealed any particular material to the settlement or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the settlement and shall also become liable to the imposition of any penalty under this Act to which such person would have been liable, had no such immunity been granted.				
21	**Power of Settlement Commission to send a case back to the IGST officer**				
21	(1) The Settlement Commission may, if it is of opinion that any person who made an application for settlement under section 15 has not co-operated with the Settlement Commission in the proceedings before it, send the case back to the jurisdictional IGST officer or the First Appellate Authority, as the case may be, who shall thereupon dispose of the case in accordance with the provisions of this Act as if no application under section 15 had been made. (2) For the purpose of sub-section (1), the jurisdictional IGST Officer or the First Appellate Authority, as the case may be, shall be entitled to use all the materials and other information produced by the taxable person before the Settlement Commission or the results of the inquiry held or evidence recorded by the Settlement Commission in the course of the proceedings before it as if such materials, information, inquiry and evidence had been produced before such IGST Officer or the First Appellate Authority, as the case may be, or held or recorded by him in the course of the proceedings before him. (3) For the purposes of the time limit under section 51 or section 79, as the case may be, of the CGST Act and for the purposes of interest under section 36 of the said Act, in a case referred to in sub-section (1), the period commencing on and from the date of the application to the Settlement Commission under section 15 and ending with the date of receipt by the jurisdictional IGST Officer or the First Appellate Authority, as the case may be, of the order of the Settlement Commission sending the case back to the risdictional IGST officer or the First Appellate Authority, as the case may be, shall be excluded.		Central Excise Act, 1944	Section 32L	

THE INTEGRATED GOODS AND SERVICES TAX ACT, 2016					
Section	**Draft Act 14.06.2016**	**Parallel Provision in the Existing Act / Rules**	**Existing Act / Rule**	**Existing Act / Rule No**	**Analysis**
22	**Order of settlement to be conclusive**				
22	Every order of settlement passed under sub-section (5) of section 16 shall be conclusive as to the matters stated therein and no matter covered by such order shall, save as otherwise provided in this Chapter, be reopened in any proceeding under this Act or under any other law for the time being in force.		Central Excise Act, 1944	Section 32M	
23	**Bar on subsequent application for settlement in certain cases**				
23	(1) Where- (i) after the passing of an order of settlement under sub- section (5) of section 16, in relation to a case, such person is convicted of any offence under this Act in relation to that case; or (ii) the case of such person is sent back to the jurisdictional IGST Officer or the First Appellate Authority, as the case may be, by the Settlement Commission under section 21; then, he shall not be entitled to apply for settlement under section 15 in relation to any other matter. (2) No person shall be allowed to avail of the facility of settlement under this Chapter more than twice.		Central Excise Act, 1944	Section 32O	
24	**Rectification of mistakes by Settlement Commission**				
24	The Settlement Commission may amend any order passed by it under section 16 so as to rectify any mistake apparent from the record, if such mistake is noticed by the Settlement Commission on its own accord, or is brought to its notice by the jurisdictional IGST officer or the applicant within a period of three months from the date of the order: Provided that no rectification, which has the effect of enhancing the liability of the applicant, shall be made under this section, unless the Settlement Commission has given notice to the applicant and the jurisdictional IGST officer of its intention to do so and has allowed the applicant and the jurisdictional IGST officer a reasonable opportunity of being heard.				
25	**Powers of Settlement Commission**				
25	(1) The Settlement Commission shall, for the purpose of exercising its powers regarding discovery and inspection, enforcing the attendance of any person and examining him on oath, issuing commissions and compelling production of books of account and other records, have all the powers of a civil court under the Code of Civil Procedure, 1908 (5 of 1908). (2) The Settlement Commission shall be deemed to be a civil court for the purposes of section 195, but not for the purposes of Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974), and every proceeding before the Settlement Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196, of the Indian Penal Code (45 of 1860).		Central Excise Act, 1944	Section 32I	
26	**Procedure of Settlement Commission**				
26	The Settlement Commission shall, subject to the provisions of this Chapter, have power to regulate its own procedure in all matters arising out of the exercise of its powers under the Act.		Central Excise Act, 1944	Section 32I	
27	**Application of certain provisions of the CGST Act, 2016**				

THE INTEGRATED GOODS AND SERVICES TAX ACT, 2016					
Section	**Draft Act 14.06.2016**	**Parallel Provision in the Existing Act / Rules**	**Existing Act / Rule**	**Existing Act / Rule No**	**Analysis**
27	The provisions relating to registration, valuation, time of supply of goods, time of supply of services, change in rate of tax in respect of supply of services, exemption from payment of tax, input tax credit and utilization thereof, accounts and records, payment, return, audit, assessment, adjudication, demands, refunds, interest, recovery of tax, offences and penalties, inspection, search and seizure, prosecution and power to arrest, appeals, review, advance ruling and compounding shall apply, so far as may be, in relation to the levy of tax under this Act as they apply in relation to levy of tax under the CGST Act, 2016.				Most of the provisions are stipulated in the said section are applicable in accordance with corresponding provisions of CGST Law.
28	**Power to make rules**				
28	(1) The Central Government may, on the recommendation of the Council, by notification, make rules for carrying out the purposes of this Act. (2) In particular and without prejudice to the generality of the foregoing power, such rules may (i) provide for settlement of cases in accordance with Chapter VIIA of this Act; (ii) provide for all or any of the matters which under any provision of this Act are required to be prescribed or to be provided for by rules.				Central Govt. is empowered to make the rules only when it is recommended by GST Council.
29	**Interest on delayed payment of tax**				
29	(1) Every person liable to pay tax in accordance with the provisions of this Act or rules made there under, who fails to pay the tax or any part thereof to the account of the Central Government within the period prescribed, shall, on his own, for the period for which the tax or any part thereof remains unpaid, pay interest at such rate as may be notified, on the recommendation of the Council, by the Central Government. (2) The interest under sub-section (1) shall be calculated from the first day such tax was due to be paid. (3) In case a taxable person makes an undue or excess claim of input tax credit under sub-section (10) of section 29 of the CGST Act, he shall be liable to pay interest on such undue or excess claim at the prescribed rate for the period computed in the manner prescribed.				Provisions of CGST is also applicable for payment of interest on delayed payment of tax
30	**Tax wrongfully collected and deposited with the Central or a State Government**				
30	A taxable person who has paid IGST on a transaction considered by him to be an interstate supply, but which is subsequently held to be an intra-state supply, shall, upon payment of CGST and SGST in the appropriate State, be allowed to take the amount of IGST so paid as refund subject to the provisions of section 38 of the CGST Act, 2016 and such other conditions as may be prescribed.				Provisions of CGST is also applicable for refund of any tax, penalty & interest in accordance with Section 38 of CGST Act.
CHAPTER– X TRANSITIONAL PROVISIONS	**Import of services or inter-state supply of goods and/or services made on or after the appointed day**				

THE INTEGRATED GOODS AND SERVICES TAX ACT, 2016					
Section	**Draft Act 14.06.2016**	**Parallel Provision in the Existing Act / Rules**	**Existing Act / Rule**	**Existing Act / Rule No**	**Analysis**
31	Notwithstanding anything contained in section 12 and 13 of the CGST Act, import of services or inter-state supply of goods and/or services made after the appointed day shall be liable to tax under the provisions of this Act regardless of whether the transactions for such import of services or inter-state supply had been initiated before the appointed day: Provided that if the tax on such import or inter-state supply had been paid in full under the earlier law, no tax shall be payable on such import or inter-state supply under this Act: Provided further that if the tax on such import of services had been paid in part under the earlier law, balance amount of tax shall be payable on such import or inter-state supply under this Act. Explanation.- For the purpose of this section, a transaction shall be deemed to have been initiated before the appointed day if either the invoice relating to such supply or payment, either in full or in part, has been received or made before the appointed day.				Even if transactions of import of services or inter-state supplies of goods or services have been initiated on the appointed day but provided after appointed day are liable for payment of IGST. Initiation means invoice is issued prior to appointed day or payment is received prior to appointed day. However, if full tax has been already paid in accordance with earlier law on such transactions, in such case no IGST will be payable. Further, if partial tax has been already paid in accordance with earlier law then IGST will be payable on the balance amount. The care needs to be taken while importation of goods. if goods are landed in India for which Bill of Entry is filed but not assessed prior to appointed day then additional duties leviable under the earlier law i.e. CVD and SAD will be payable but any goods for which Bill of entry is filed but not assessed after appointed day, IGST will be payable. Proper clarification needs to be issued.
CHAPTER- XI ADMINISTRATION	**Classes of officers under the Integrated Goods and Services Tax Act, 2016**				
32	(1) There shall be the following classes of officers under the Integrated Goods and Services Tax Act, 2016 namely; (a) Principal Chief Commissioners of IGST or Principal Directors General of IGST, (b) Chief Commissioners of IGST or Directors General of IGST, (c) Principal Commissioners of IGST or Principal Additional Directors General of IGST, (d) Commissioners of IGST or Additional Directors General of IGST, (e) First Appellate Authority (f) Additional Commissioners of IGST or Additional Directors of IGST, (g) Joint Commissioners of IGST or Joint Directors of IGST, (h) Deputy Commissioners of IGST or Deputy Directors of IGST, (i) Assistant Commissioners of IGST or Assistant Directors of IGST, and (j) such other class of officers as may be appointed for the purposes of this Act.				All central excise officers will be deemed to be IGST officers for execution of the said act. However, VAT Officers dealing with CST will not be the officers under IGST
33	**Appointment of officers under the Integrated Goods and Services Tax Act, 2016**				

THE INTEGRATED GOODS AND SERVICES TAX ACT, 2016					
Section	**Draft Act 14.06.2016**	**Parallel Provision in the Existing Act / Rules**	**Existing Act / Rule**	**Existing Act / Rule No**	**Analysis**
	(1) The Board may appoint such persons as it may think fit to be officers under the Integrated Goods and Services Tax Act, 2016. (2) Without prejudice to the provisions of sub-section (1), the Board may authorize a Principal Chief Commissioner/Chief Commissioner of Central Goods and Services Tax or a Principal Commissioner/Commissioner of Central Goods and Services Tax or an Additional/Joint or Deputy/Assistant Commissioner of Central Goods and Service Tax to appoint officers of Integrated Goods and Services Tax below the rank of Assistant Commissioner of Integrated Goods and Services Tax Act, 2016.				

GST Valuation (Determination of the Value of supply of Goods and Services)Rules, 2016

Rules	Sub-Rule	Main Provision	Parallel Provision in the existing Act / Rules	Changes	Analysis
2		(a) "Act" means the IGST Act or the CGST Act or, as the case may be, the SGST Act; (b) "goods of like kind and quality" means goods which are identical or similar in physical characteristics, quality and reputation as the goods being valued, and perform the same functions or are commercially interchangeable with the goods being valued and supplied by the same person or by a different person; (c) "services of like kind and quality" means services which are identical or similar in nature, quality and reputation as the services being valued and supplied by the same person or by a different person; and (d) "transaction value" means the value of goods and/or services within the meaning of section 15 of the IGST / CGST / SGST Act.	Transaction value has been defined under section 4 of Central Excise act, 1944. Similar goods and identical goods ahs been defined in Customs Valuation (Determination of value of Imported Goods) Rules, 2007	services of like kind and quality is new concept	1.In Customs Valuation Rules similar and identical goods are defined, taking the que from Customs Valuation Rules, the concept of goods of like kind and quality has been introduced. However it appears there is no distiction has been made between similar goods and identical goods as specifically defined in Customs Valuation Rules. 2. Valuation of services of like kind and qualiy will be difficult, as it is difficult to find two services which are similar/ identical in kind and quality. The services are determined by various factors such as skill levels, cost, indirect overheads, management costs, which may vary in case of each service provider. 3 The Rules do not include any special valuation mechanisms, such as composition schemes for hotels and restaurants and insurance services. 4 No specific valuation provisions have been prescribed in respect of transactions in the nature of barter/exchange which are treated as taxable supplies. 5 The pure agent conditions and valuation mechanism for money changes is identical as existing under the Service tax legislation.
3		**Methods of determination of value**			
	1	(1) Subject to rule 7, the value of goods and/or services shall be the transaction value.	Similar provisions		
	2	(2) The "transaction value" shall be the value determined in monetary terms.	Similar provisions		
	3	(3) Where the supply consists of both taxable and non-taxable supply, the taxable supply shall be deemed to be for such part of the monetary consideration as is attributable thereto.	-		
	4	(4) The transaction value shall be accepted even where the supplierand recepient of supply are related, provided that the relationship has not influenced the price.	Similar provisions		Prices needs to be determined on arms length basis even if goods or services are supplied to related parties. There is a basic deviation from existing central excise valuation rules.
	5	(5) Where goods are transferred from— (a) one place of business to another place of the same business, (b) the principal to an agent or from an agent to the principal, whether or not situated in the same State, the value of such supply shall be the transaction value.	Exisiting excise valuation rules covers such setuation, in such case value of goods is determined as cost of production of goods plus 10%.	Now in case of inter unit transfer/ transfer of goods to agent or vise -a versa, goods are valued at transaction value	Transaction value is defined as the value determined in monetory term, such setuation will never occur, hence this rule needs to be revisited.
	6	(6) The value of supplies specified in sub-section (4) of section 15 of the Actshall be determined by proceeding sequentially through rules 4 to 6.			
4	1	4. Determination of value of supply by comparison— (1) Where the value of a supply cannot be determined under rule 3, the value shall be determined on the basis of the transaction value of goods and/or services of like kind and quality supplied at or about the same time to other customers, adjusted in accordance with the provisions of sub-rule (2).	Similar provision as per Customs Valuation Rules	New provision for supply of goods and services	Similar provision as per Customs Valuation Rules

Rules	Sub-Rule	Main Provision	Parallel Provision in the existing Act / Rules	Changes	Analysis
	2	(2) In determining the value of goods and/or services under sub-rule (1), the proper officer shall make such adjustments as appear to him reasonable, taking into consideration the relevant factors, including- (a) difference in the dates of supply, (b) difference in commercial levels and quantity levels, (c) difference in composition, quality and design between the goods and/or services being valued and the goods and/or serviceswith which they are compared, (d) difference in freight and insurance charges depending on the place of supply.	Similar provision as per Customs Valuation Rules	New provision for supply of goods and services	Current Customs valuation rules w.r.t. simillar goods and identical goods are clubed.
5		5. Computed value method— If the value cannot be determined under rule 4, it shall be based on a computed value which shall include the following:- (a) the cost of production, manufacture or processing of the goods or, the cost of provision of the services; (b) charges, if any, for the design or brand; (c) an amount towards profitand general expenses equal to that usually reflected in supply of goods and/or services of the same class or kind as the goods and/or services being valued which are made by other suppliers.	Similar provision as per Customs Valuation Rules	New provision for supply of goods and services	Provisions in line with Customs Valuation are incorporated. Now goods / services supplied even for captive consumption to related parties then valuation to be made in accordance with computed value based on cost accounting standards and necessary certification preferably to be obtained from cost accountants to avoid the litigations.
6		Residual method— Where the value of the goods and/or services cannot be determined under the provisions of rule 5, the value shall be determined using reasonable means consistent with the principles and general provisions of these rules.	Similar provision as per Customs Valuation Rules	New provision for supply of goods and services	Provisions in line with Customs Valuation are incorporated
7	1	Rejection of declared value— (1)(a) When the proper officer has reason to doubt the truth or accuracy of the value declared in relation to any goods and/or services, he may ask the supplier to furnish further information, including documents or other evidence and if, after receiving such further information, or in the absence of any response from such supplier, the proper officer still has reasonable doubt about the truth or accuracy of the value so declared, it shall be deemed that the transaction value of such goods and/or services cannot be determined under the provisions of sub-rule (1) of rule 3. (b) The reasons to doubt the truth or accuracy of the value of the supply declared by the supplier shall include, but not be limited to the following: (i) the significantly higher value at which goods and/or services of like kind or quality supplied at or about the same time in comparable quantities in a comparable commercial transaction were assessed; (ii) the significantly lower or higher value of the supply of goods and/or services compared to the market value of goods and/or services of like kind and quality at the time of supply; or (iii)anymis-declaration of goods and/or services in parameters such as description, quality, quantity, year of manufacture or production.	Similar provision as per Customs Valuation Rules	New provision for supply of goods and services	Provisions in line with Customs Valuation are incorporated. It means proper declaration of the value needs to be done as specified in the customs valuation rules when goods / services are supplied to the related parties

Rules	Sub-Rule	Main Provision	Parallel Provision in the existing Act / Rules	Changes	Analysis
	2 3	(2) The proper officer shall intimate the supplier in writing the grounds for doubting the truth or accuracy of the value declared in relation to the supply of goods and/or services by such supplier and provide a reasonable opportunity of being heard, before taking a final decision under sub-rule (1). (3) If after hearing the supplier as aforesaid, the proper officer is, for reasons to be recorded in writing, not satisfied with the value declared, he shall proceed to determine the value in accordance with the provisions of rule 4 or rule 5 or rule 6, proceeding sequentially. Explanation: For removal of doubts, it is hereby declared that this rule by itself does not provide a method for determination of value. It provides a mechanism and procedure for rejection of declared value in cases where there is reasonable doubt that the declared value does not represent the transaction value.			
8	1	Valuationin certain cases (1) Pure Agent (a) Notwithstanding anything contained in these rules, the expenditure or costs incurred by the service provider as a pure agent of the recipient of service, shall be excluded from the value of the taxable service if all the following conditions are satisfied, namely:- (i) the service provider acts as a pure agent of the recipient of service when he makes payment to third party for the goods and/or services procured; (ii) the recipient of service receives and uses the goods and/or services so procured by the service provider in his capacity as pure agent of the recipient of service; (iii) the recipient of service is liable to make payment to the third party; (iv) the recipient of service authorises the service provider to make payment on his behalf; (v) the recipient of service knows that the goods and/or services for which payment has been made by the service provider shall be provided by the third party; (vi) the payment made by the service provider on behalf of the recipient of service has been separately indicated in the invoice issued by the service provider to the recipient of service;	Simillar provisions are specified in Service tax	No Change	Provisions of in line with Service Tax Valuation Rules and Service tax Rules, 1994 are incorporated.
		(vii) the service provider recovers from the recipient of service only such amount as has been paid by him to the third party; and (viii) the goods and/or services procured by the service provider from the third party as a pure agent of the recipient of service are in addition to the services he provides on his own account. Explanation: For the purposes of this sub-rule, “pure agent” means a person who– (a) enters into a contractual agreement with the recipient of service to act as his pure agent to incur expenditure or costs in the course of providing taxable service; (b) neither intends to hold nor holds any title to the goods and/or services so procured or provided as pure agent of the recipient of service; (c) does not use such goods and/or services so procured; and (d) receives only the actual amount incurred to procure such goods and/or services.			

Rules	Sub-Rule	Main Provision	Parallel Provision in the existing Act / Rules	Changes	Analysis
	2	(2) Money Changer The value of taxable service provided for the services in so far as it pertains to purchase or sale of foreign currency, including money changing, shall be determined by the service provider in the following manner:- For a currency, when exchanged from, or to, Indian Rupees (INR), the value shall be equal to the difference in the buying rate or the selling rate, as the case may be, and the Reserve Bank of India (RBI) reference rate for that currency at that time, multiplied by the total units of currency: Provided that in case where the RBI reference rate for a currency is not available, the value shall be 1% of the gross amount of Indian Rupees provided or received, by the person changing the money: Provided further that in case where neither of the currencies exchanged is Indian Rupee, the value shall be equal to 1% of the lesser of the two amounts the person changing the money would have received by converting any of the two currencies into Indian Rupee on that day at the reference rate provided by RBI.			

TIME OF SUPPLY

TIME OF SUPPLY [SECTIONS 12 & 13]

Time of supply is to be the earliest of the following:

Category	Goods	Services
Forward charge	• Date of removal of goods / making available the goods to the buyer (where not required to be removed) • Date of issuance of invoice • Date of receipt of payment • Date on which recipient shows receipt of goods in books of account	• Date of issuance of invoice • Date of receipt of payment • Date of completion of service (if invoice not issued within prescribed period) • Date on which recipient shows receipt of service in books of account (where there is no invoice or payment)
Reverse charge	• Date of receipt of goods • Date of receipt of invoice • Date of making payment • Date of debit in the books of accounts	• Date of receipt of services • Date or receipt of invoice • Date of making payment • Date of debit in the books of accounts

For the following cases the time of supply is as specified:

Scenario	Goods	Services
Continuous supply	• Where successive statements of accounts/ payments are involved - date of expiry of period to which such statements relate • Where no such statements of account are involved – date of issuance of invoice or receipt of payment, whichever is earlier	• Where due date of payment is ascertainable from the contract – date on which payment is liable to be made by recipient, whether or not invoice issued or payment received by supplier • Where due date of payment is not ascertainable from the contract – each time when the supplier receives payment or issues an invoice, whichever is earlier • Where payment is linked to completion of an event – time of completion of event

Specific scenarios	• Where it is not possible to determine when the supply will take place (e.g. sale on approval basis) – when it becomes known that the supply has taken place or, 6 months from date of removal, whichever is earlier	• Where supply of services ceases under a contract before the completion of the supply – when the supply ceases
Residuary	• Where a periodical return is to be filed, the date on which such return is to be filed • In any other case, the date on which CGST/ SGST is paid	

Note: In all the above cases, receiving/ making payment refers to the date on which the payment is entered into books of account or date on which payment is credited/ debited to bank account, whichever is earlier.

Particulars	Applicability	Periodicity and due date	Particulars to be disclosed	Methodology/ Other comments
Return of outward supplies (Section 25)	Taxable person other than those paying tax under Composition levy (Section 8) or those deducting tax at source (Section 37)	Monthly and to be filed by 10th of the succeeding month	Details of outward supplies# of goods and/or services effected during the said tax period	The details provided by the supplier shall be communicated to the recipient of the said supplies within the time and in the manner as may be prescribed
Return of inward supplies (Section 26)		Monthly and to be filed by 15th of the succeeding month	The details of inward supplies of taxable goods and/or services, received during the tax period	The taxable person shall verify, validate, modify or, if required, delete the details relating to outward supplies and credit or debit notes communicated in terms of the return filed by the corresponding supplier under (1) above, to prepare the details of his inward supplies and credit or debit notes and may include therein, the details of inward supplies and credit or debit notes received by him in respect of such supplies that have not been declared by the supplier under (1) above
Periodic return (Section 27**)**		Monthly and to be filed by 20th of the succeeding month	Details 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	-
Periodic return (Section 27**)**	Taxable person paying tax under Composition levy (Section 8)	Quarterly and to be filed by 18th of the succeeding month	Prescribed details	-

Periodic return (Section 27)	Person deducting tax at source (Section 37)	Monthly and to be filed by 10th of the succeeding month	Prescribed details	The return has to be filed for the month in which such deductions have been made along with the payment of tax so deducted
Periodic return (Section 27)	Input service distributor	Monthly and to be filed within thirteen days after the end of such month	Prescribed details	-
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	Annual and to be filed by 31st December of the succeeding year	Prescribed details	Every taxable person who is required to get his accounts audited shall furnish the annual return along with the audited copy of the annual accounts and a reconciliation statement, reconciling the value of supplies declared in the return furnished for the year with the audited annual financial statement, and such other particulars as may be prescribed

Treatment in respect of specified scenarios:

Scenarios	Event before appointed date	Event after appointed date	Treatment
Long term construction/works contract – Section 159	contract entered into	Supply of goods and/or services	Taxed under model GST law
Progressive or periodic supply of goods or services – Section 160	Consideration received and Duty/ tax paid under the earlier law	Supply of goods and/or services	No tax payable under the Model GST law, notwithstanding Sections 12 and 13 of the Model GST law.
Treatment of retention payments – Section 161	Supply of goods and services and full duty or tax paid	Part consideration received	No tax payable under the Model GST law, notwithstanding Sections 12 and 13 of the Model GST law.

Section 5 : Place of Supply of Goods

Particulars	Place of Supply of Goods
Where supply involves movement of goods.	Location at which movement of goods terminates for delivery.
Where goods are delivered before or during their movement either by way of transfer of documents of title to the goods or otherwise, to a recipient or any other person on the direction of a third person.	Principal place of business of third person (the place which is mentioned in the registration certificate).
Where supply does not involve movement of goods.	Location of such goods at the time of delivery.
Installation / assembly at site.	Place of such installation or assembly.
Where the goods are supplied on board a conveyance, such as a vessel, an aircraft, a train or a motor vehicle.	Location at which such goods are taken on board.
In any other case (not covered above).	Determined by law made by the Parliament in accordance with the recommendations of the Council.

- **Place of supply of services [Section 6]**

Nature of Service	Place of Supply of Service
Services in relation to immovable property including ancillary services.	Location at which the immovable property is located.
• Lodging accommodation by a hotel, inn, guest house, homestay, club or campsite, by whatever name called and including a house boat or any other vessel. • Accommodation in any immovable property for organizing any marriage or reception or matters related therewith, official, social, cultural, religious or business function including services provided in relation to such function at such property.	Location at which the immovable property, boat or vessel is located.
Restaurant and catering, personal grooming, fitness, beauty treatment, health services, cosmetic and plastic surgery.	Location where the services are actually performed.

Nature of Service	Place of Supply of Service
Services in relation to training and performance appraisal.	• In case of registered person – location of such person. • Other than registered person - location where the services are actually performed.
Admission to a cultural, artistic, sporting, scientific, educational, or entertainment event or amusement park or any other place and services ancillary thereto.	Location of the event or park or other place, as the case may be.
• Services provided by way of organization of a cultural, artistic, sporting, scientific, educational or entertainment event including supply of service in relation to a conference, fair, exhibition, celebration or similar events. • Services ancillary to organization of any of the above events or services. • Assigning of sponsorship of any of the above events.	• When provided to a registered person – location of such person. • When provided to other than registered person - location where the services are actually performed.
Transportation of goods including mail or courier.	• When provided to a registered person – location of such person. • When provided to other than registered person - location at which the goods are handed over for their transportation.
Passenger transportation service.	• When provided to registered person – location of such person. • When provided to other than registered person - place where the passenger embarks on the conveyance for the continuous journey. • Other than above – as specified.
Service on board a conveyance such as vessel, aircraft, train or motor vehicle.	Location of the first scheduled point of departure of that conveyance for the journey.
Telecommunication services including data transfer, broadcasting, cable and direct to home television services: • Services by way of fixed telecommunication line, leased circuits,	• Location where the telecommunication line, leased circuit or cable connection or dish antenna is installed.

Nature of Service	Place of Supply of Service
internet leased circuit, cable or dish antenna; • Mobile connection for telecommunication and internet services provided on post-paid basis; • Mobile connection for telecommunication and internet services are provided on pre-payment through a voucher or any other means.	• Location of billing address of the service receiver on record of the service provider. • Location where such pre-payment is received or such vouchers are sold. If prepaid service is availed through electronic network – the location of the service recipient as per the record of the service provider.
Banking or other financial services including stock broking.	• Location of the service receiver on the record of the service provider. • Where the service is not linked to the account of the recipient of services, the place of supply shall be location of the supplier of services.
Insurance services.	• In case of registered person – location of such person • Other than registered person - location of the service receiver available on the records of the service provider.
Advertisement services to the central government, state government, a statutory body or a local authority meant for identifiable states.	Each such State.
Services not covered above.	• When provided to registered person – location of such person. • When provided to other than registered person - location of the service receiver available on the records of the service provider or location of the service provider.

- A taxable person can make an application for settlement of cases in respect of a case or identical cases involving periodical notices and pending before the adjudicating authority or the First Appellate Authority. An application for settlement cannot be made if the case is pending before Appellate Tribunal or any Court; or if the application is for determination of question in respect of rate of tax / determination of liability on any goods and / or services.

- Import of services / inter-state supply of goods and / or services ***made after appointed day*** shall be liable to IGST regardless of whether the transaction was initiated before the appointed day.

- If the tax on such import of services / inter-state supply of goods and / or services had been paid in full under earlier law, no tax shall be payable on such transaction under the IGST Act. If the tax on import of services is paid in part under the earlier law, the balance amount shall be payable under the IGST Act.
- The transaction shall be deemed to have been initiated prior to appointed day if either the invoice relating to such supply or payment (in full or in part) has been received or made prior to such date.

- The place of supply for goods has moved away from origin principle to destination principle.
- The default for determining the place of supply of services continues to be the location of the service recipient.
- In some cases, there is a differential treatment for determining the place of supply of services when provided to a registered and unregistered persons such as in case of transportation of goods.

GST Valuation Rules

- as

per Model Law 2016

Clause-wise Analysis

Finalized by:

Chairman, Taxation Committee

The Institute of Cost Accountants of India

www.icmai.in

GST Valuation (Determination of the Value of supply of Goods and Services)Rules, 2016

Rules	Sub-Rule	Main Provision	Parallel Provision in the existing Act / Rules	Changes	Analysis
2		(a) "Act" means the IGST Act or the CGST Act or, as the case may be, the SGST Act; (b) "goods of like kind and quality" means goods which are identical or similar in physical characteristics, quality and reputation as the goods being valued, and perform the same functions or are commercially interchangeable with the goods being valued and supplied by the same person or by a different person; (c) "services of like kind and quality" means services which are identical or similar in nature, quality and reputation as the services being valued and supplied by the same person or by a different person; and (d) "transaction value" means the value of goods and/or services within the meaning of section 15 of the IGST / CGST / SGST Act.	Transaction value has been defined under section 4 of Central Excise act, 1944. Similar goods and identical goods ahs been defined in Customs Valuation (Determination of value of Imported Goods) Rules, 2007	services of like kind and quality is new concept	1.In Customs Valuation Rules similar and identical goods are defined, taking the que from Customs Valuation Rules, the concept of goods of like kind and quality has been introduced. However it appears there is no distiction has been made between similar goods and identical goods as specifically defined in Customs Valuation Rules. 2. Valuation of services of like kind and qualiy will be difficult, as it is difficult to find two services which are similar/ identical in kind and quality. The services are determined by various factors such as skill levels, cost, indirect overheads, management costs, which may vary in case of each service provider. 3 The Rules do not include any special valuation mechanisms, such as composition schemes for hotels and restaurants and insurance services. 4 No specific valuation provisions have been prescribed in respect of transactions in the nature of barter/exchange which are treated as taxable supplies. 5 The pure agent conditions and valuation mechanism for money changes is identical as existing under the Service tax legislation.
3		**Methods of determination of value**			
	1	(1) Subject to rule 7, the value of goods and/or services shall be the transaction value.	Similar provisions		
	2	(2) The "transaction value" shall be the value determined in monetary terms.	Similar provisions		
	3	(3) Where the supply consists of both taxable and non-taxable supply, the taxable supply shall be deemed to be for such part of the monetary consideration as is attributable thereto.	-		
	4	(4) The transaction value shall be accepted even where the supplierand recepient of supply are related, provided that the relationship has not influenced the price.	Similar provisions		Prices needs to be determined on arms length basis even if goods or services are supplied to related parties. There is a basic deviation from existing central excise valuation rules.
	5	(5) Where goods are transferred from— (a) one place of business to another place of the same business, (b) the principal to an agent or from an agent to the principal, whether or not situated in the same State, the value of such supply shall be the transaction value.	Exisiting excise valuation rules covers such setuation, in such case value of goods is determined as cost of production of goods plus 10%.	Now in case of inter unit transfer/ transfer of goods to agent or vise -a versa, goods are valued at transaction value	Transaction value is defined as the value determined in monetory term, such setuation will never occur, hence this rule needs to be revisited.
	6	(6) The value of supplies specified in sub-section (4) of section 15 of the Actshall be determined by proceeding sequentially through rules 4 to 6.			
4	1	4. Determination of value of supply by comparison— (1) Where the value of a supply cannot be determined under rule 3, the value shall be determined on the basis of the transaction value of goods and/or services of like kind and quality supplied at or about the same time to other customers, adjusted in accordance with the provisions of sub-rule (2).	Similar provision as per Customs Valuation Rules	New provision for supply of goods and services	Similar provision as per Customs Valuation Rules

Rules	Sub-Rule	Main Provision	Parallel Provision in the existing Act / Rules	Changes	Analysis
	2	(2) In determining the value of goods and/or services under sub-rule (1), the proper officer shall make such adjustments as appear to him reasonable, taking into consideration the relevant factors, including- (a) difference in the dates of supply, (b) difference in commercial levels and quantity levels, (c) difference in composition, quality and design between the goods and/or services being valued and the goods and/or serviceswith which they are compared, (d) difference in freight and insurance charges depending on the place of supply.	Similar provision as per Customs Valuation Rules	New provision for supply of goods and services	Current Customs valuation rules w.r.t. simillar goods and identical goods are clubed.
5		5. Computed value method— If the value cannot be determined under rule 4, it shall be based on a computed value which shall include the following:- (a) the cost of production, manufacture or processing of the goods or, the cost of provision of the services; (b) charges, if any, for the design or brand; (c) an amount towards profitand general expenses equal to that usually reflected in supply of goods and/or services of the same class or kind as the goods and/or services being valued which are made by other suppliers.	Similar provision as per Customs Valuation Rules	New provision for supply of goods and services	Provisions in line with Customs Valuation are incorporated. Now goods / services supplied even for captive consumption to related parties then valuation to be made in accordance with computed value based on cost accounting standards and necessary certification preferably to be obtained from cost accountants to avoid the litigations.
6		Residual method— Where the value of the goods and/or services cannot be determined under the provisions of rule 5, the value shall be determined using reasonable means consistent with the principles and general provisions of these rules.	Similar provision as per Customs Valuation Rules	New provision for supply of goods and services	Provisions in line with Customs Valuation are incorporated
7	1	Rejection of declared value— (1)(a) When the proper officer has reason to doubt the truth or accuracy of the value declared in relation to any goods and/or services, he may ask the supplier to furnish further information, including documents or other evidence and if, after receiving such further information, or in the absence of any response from such supplier, the proper officer still has reasonable doubt about the truth or accuracy of the value so declared, it shall be deemed that the transaction value of such goods and/or services cannot be determined under the provisions of sub-rule (1) of rule 3. (b) The reasons to doubt the truth or accuracy of the value of the supply declared by the supplier shall include, but not be limited to the following: (i) the significantly higher value at which goods and/or services of like kind or quality supplied at or about the same time in comparable quantities in a comparable commercial transaction were assessed; (ii) the significantly lower or higher value of the supply of goods and/or services compared to the market value of goods and/or services of like kind and quality at the time of supply; or (iii)anymis-declaration of goods and/or services in parameters such as description, quality, quantity, year of manufacture or production.	Similar provision as per Customs Valuation Rules	New provision for supply of goods and services	Provisions in line with Customs Valuation are incorporated. It means proper declaration of the value needs to be done as specified in the customs valuation rules when goods / services are supplied to the related parties

Rules	Sub-Rule	Main Provision	Parallel Provision in the existing Act / Rules	Changes	Analysis
	2 3	(2) The proper officer shall intimate the supplier in writing the grounds for doubting the truth or accuracy of the value declared in relation to the supply of goods and/or services by such supplier and provide a reasonable opportunity of being heard, before taking a final decision under sub-rule (1). (3) If after hearing the supplier as aforesaid, the proper officer is, for reasons to be recorded in writing, not satisfied with the value declared, he shall proceed to determine the value in accordance with the provisions of rule 4 or rule 5 or rule 6, proceeding sequentially. Explanation: For removal of doubts, it is hereby declared that this rule by itself does not provide a method for determination of value. It provides a mechanism and procedure for rejection of declared value in cases where there is reasonable doubt that the declared value does not represent the transaction value.			
8	1	Valuationin certain cases (1) Pure Agent (a) Notwithstanding anything contained in these rules, the expenditure or costs incurred by the service provider as a pure agent of the recipient of service, shall be excluded from the value of the taxable service if all the following conditions are satisfied, namely:- (i) the service provider acts as a pure agent of the recipient of service when he makes payment to third party for the goods and/or services procured; (ii) the recipient of service receives and uses the goods and/or services so procured by the service provider in his capacity as pure agent of the recipient of service; (iii) the recipient of service is liable to make payment to the third party; (iv) the recipient of service authorises the service provider to make payment on his behalf; (v) the recipient of service knows that the goods and/or services for which payment has been made by the service provider shall be provided by the third party; (vi) the payment made by the service provider on behalf of the recipient of service has been separately indicated in the invoice issued by the service provider to the recipient of service;	Simillar provisions are specified in Service tax	No Change	Provisions of in line with Service Tax Valuation Rules and Service tax Rules, 1994 are incorporated.
		(vii) the service provider recovers from the recipient of service only such amount as has been paid by him to the third party; and (viii) the goods and/or services procured by the service provider from the third party as a pure agent of the recipient of service are in addition to the services he provides on his own account. Explanation: For the purposes of this sub-rule, “pure agent” means a person who– (a) enters into a contractual agreement with the recipient of service to act as his pure agent to incur expenditure or costs in the course of providing taxable service; (b) neither intends to hold nor holds any title to the goods and/or services so procured or provided as pure agent of the recipient of service; (c) does not use such goods and/or services so procured; and (d) receives only the actual amount incurred to procure such goods and/or services.			

Rules	Sub-Rule	Main Provision	Parallel Provision in the existing Act / Rules	Changes	Analysis
	2	(2) Money Changer The value of taxable service provided for the services in so far as it pertains to purchase or sale of foreign currency, including money changing, shall be determined by the service provider in the following manner:- For a currency, when exchanged from, or to, Indian Rupees (INR), the value shall be equal to the difference in the buying rate or the selling rate, as the case may be, and the Reserve Bank of India (RBI) reference rate for that currency at that time, multiplied by the total units of currency: Provided that in case where the RBI reference rate for a currency is not available, the value shall be 1% of the gross amount of Indian Rupees provided or received, by the person changing the money: Provided further that in case where neither of the currencies exchanged is Indian Rupee, the value shall be equal to 1% of the lesser of the two amounts the person changing the money would have received by converting any of the two currencies into Indian Rupee on that day at the reference rate provided by RBI.			

IGST Model - Taxation of Inter-State Sales / Supplies

IGST Model has been evolved to tax inter-state supplies. This is a unique feature of the Indian Version of GST.

1. Present Taxation of Inter-State Sales

- Centre levies CST on Inter-State Sales – Article 269 r/w Entry 92A of List I – Central levy but collected and retained by originating state
- Entry Tax levied by importing state – Article 246 r/w Entry 52 of List II
- Some % of Input Tax Credit availed on goods used in exported goods – retained by Exporting State
- Forms used for accounting and verification of inter-state movement of goods
- Verification at Border Check posts
- ITC of CST/ Entry Tax not allowed to buying dealer

2. Proposed Taxation of Inter-State Sales

- Centre to levy and collect IGST on supplies of goods or services in the course of inter-state trade or commerce including imports – proposed Article 269A
- Centre to levy non-vatable Additional Tax not exceeding 1% on inter-state supply of goods- to be collected & retained by originating state
- IGST applicable to
  - Inter-state supplies of goods or services in India
  - Import of goods or services
  - ITC of IGST allowed to buying dealer
  - ITC of Additional Tax not allowed to buying dealer
  - Place of Supply of goods or services Rules to be framed

3. Requirements of IGST Model

- Uniform e-Registration
- Common e-return for CGST,SGST, IGST
- Common periodicity of returns for a class of dealers
- Uniform cut-off date for filing of returns
- Mandatory reporting of sales and purchases invoice details prior to or along with filing of e-return
- system based verification of returns on monthly basis
- system based validation/consistency checks on the ITC availed, utilized and Tax payments

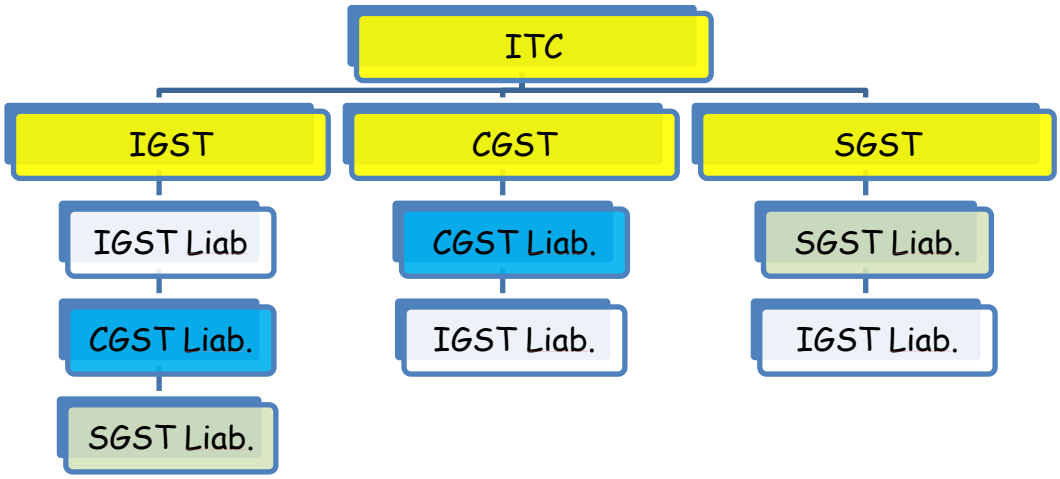
4. Working of IGST Model

- Tax payments by suppliers in Exporting State
- ITC availed by importing dealers
- Input Tax Credit (ITC) utilization

ITC utilization under the proposed GST structure:

Goods and Service Tax (GST) is embedded with the mechanism of allowing tax credit available at every point of procurement of goods and services. The Input Tax Credit (ITC) available with the Tax Payer shall be utilized for payment of Output Tax Liability levied and determined on the value at the prescribed rate/s on the basis of 'place of supply of goods and services'.

The procedure for availing the ITC is represented as follows:



- This means that ITC of IGST to be utilized for payment of IGST liability then CGST liability and thereafter SGST liability.
- ITC of CGST to be utilized for payment of CGST liability and then IGST Liability
- ITC of SGST to be utilized for payment of SGST Liability and then IGST Liability.

There shall be no cross utilization between CGST & SGST.

Gist: CGST can be set off against CGST & IGST but cannot be set off with SGST

SGST can be set off against SGST & IGST but cannot be set off with CGST

IGST can be set off with both CGST & SGST

Note-1: If there is any excess or unutilized SGST, CGST, IGST it may not be refundable except in case of export or supplies to SEZ.

Note-2: Separate set of books have to be maintained to claim input tax credit.

Note-3: Additional tax levied in case of Inter-State Sale is a non-vatable item, hence cannot be set of with any of these GST.

Case 1: A trader has paid CGST & SGST at the time of purchase of goods within the state and subsequently he is going to sell the goods within the state then he has to pay CGST & SGST. At the time of payment of CGST, he can claim the set off of CGST (input) credit and also at the time of payment of SGST, he can claim the set off of SGST (input) credit. But CGST (input) credit cannot be set off with SGST and vice versa.

Case 2: A trader has paid CGST & SGST at the time of purchase goods within the state and subsequently he is going to sell the goods outside the state then he has to pay IGST & Additional Tax. At the time of payment of IGST he can claim the set off of CGST&SGST (input) credit.

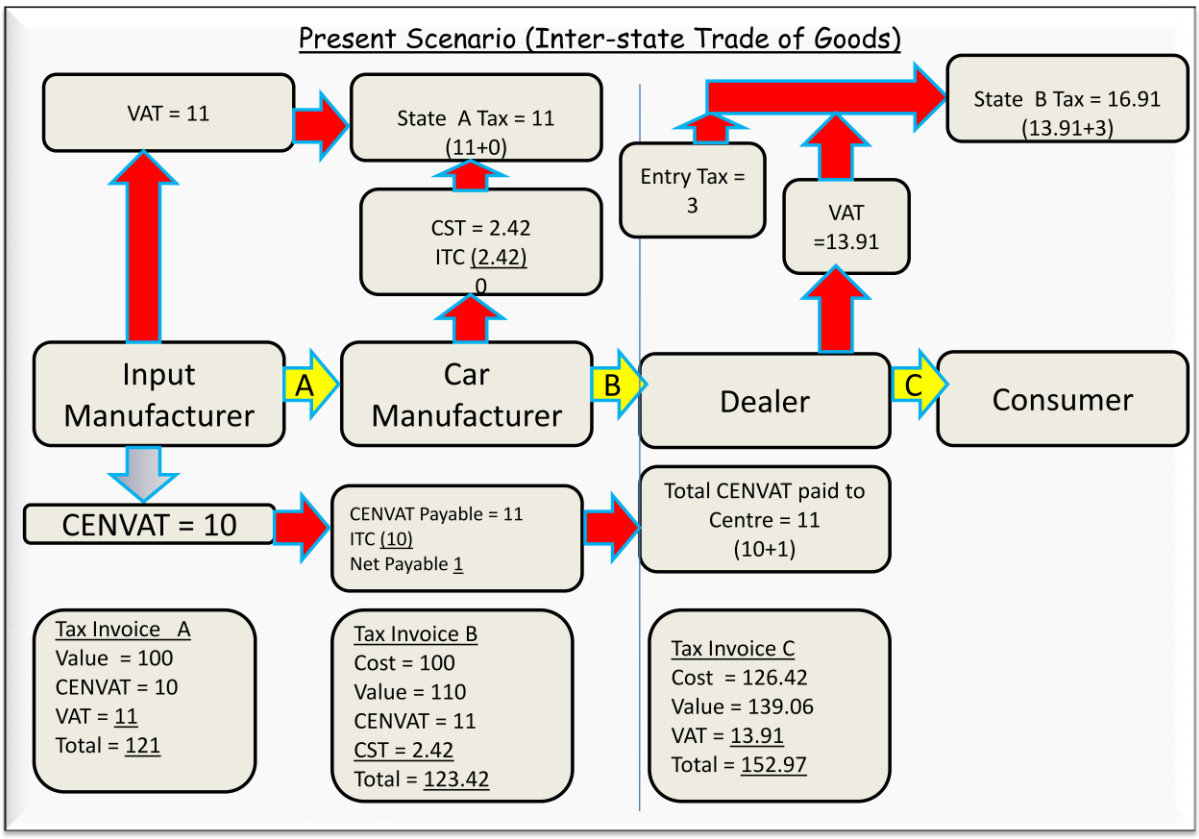
Case 3: A trader has paid IGST & Additional Tax at the time of purchase goods from outside the state and subsequently he is going to sell the goods within the state then he has to pay CGST & SGST. At the time of payment of CGST & SGST he can claim the set off IGST (input) credit. Input credit of additional tax is not available and it wouldn't be set off with any.

Case 4: A trader has paid IGST & Additional Tax at the time of purchase goods from outside the state and subsequently he is going to sell to outside the state so he has to pays IGST & Additional Tax. At the time of payment of IGST he can set off the earlier IGST credit. Input credit of additional tax is not available and it wouldn't be set off with any taxes.

Working of IGST Model - revenue sharing mechanism between Centre and States

- Credit of SGST used for payment of IGST – to be transferred by Exporting State to the Centre
- Credit of IGST used for payment of SGST – to be transferred by Centre to Importing State
- Inter-Governmental Transfers to take place at the end of the Tax Period
- Central Government to act as a Clearing House and transfer the funds across the States

5. Pre-GST (i.e. Present Scenario)

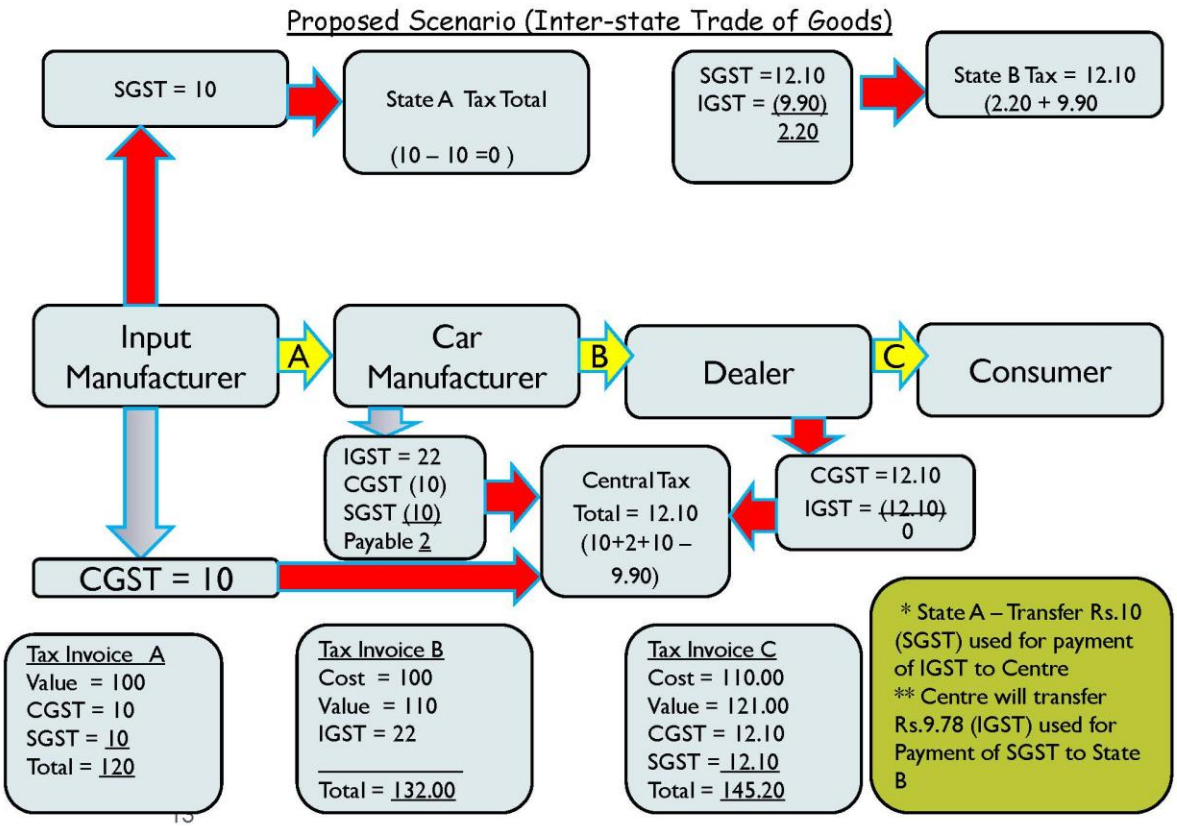


Note: Assumptions underlying the above :

CENVAT = 10% ; Value Addition = 10% ; VAT = 10% ; CST = 2% ; ITC = Input Tax Credit

The final price to be paid by the Consumer is Rs.152.97

6. Post- GST (Proposed Scenario)



Note: Assumptions underlying the above :

CGST = 10%; SGST = 10%; IGST = CGST + SGST + 20%; ITC = Input Tax Credit

The final price to be paid by the Consumer is Rs.146.65

7. Comparative Analysis : Inter-State Supply

Sl.No	Particulars	Present (Rs.)	Proposed (Rs.)
1	Initial Value	121.00	121.00
2	Centre's Tax	11.00	12.10
3	State (A)'s Tax	11.00	---
4	State (B)'s Tax	16.91	12.10
5	States Total Tax (Row 3 + Row 4)	(11.00 + 16.91) = 27.91	12.10
6	Total Tax paid to Govt. (Row 2 + Row 5)	38.91	24.20
7	Non-vatable tax borne by business	25.00	---
8	Total Tax paid by Consumer	13.91	24.20
9	Final Value paid by Consumer	152.97	145.20

Note: The tax component increases due to transparency in post-GST scenario but the final value to be paid by the consumer decreases.

8.Advantages of IGST Model – for Tax payers

- uninterrupted ITC chain on inter-state for dealers located across States
- No refund claim for suppliers in exporting State, as ITC is utilized for payment of Tax Liability
- No substantial blockage of funds for the inter-state supplier or buyer
- No cascading as full ITC of IGST paid by supplier allowed to buyer
- Model Handles "B2B" and "B2C" transactions

9. Advantages of IGST Model – for Tax Administrators

- upfront tax payments by suppliers in exporting state
- no refund claims on account of inter-state supplies
- tax gets transferred to importing state in accordance with destination principle
- self-monitored model
- result in improved compliance levels
- effective fund settlement mechanism between the centre and the state

Illustrations:

1. Goods manufactured, Raw material purchased within the state and Finished goods sold within the state

Tax Applicability under Existing Tax System: At the time of Raw material purchased within the state we have paid VAT then manufactured and subsequently sold the finished goods within the state, so we have to pay Excise Duty & VAT

VAT payable will be = Output VAT – Input VAT

Tax Applicability under GST: At the time of Raw material purchased within the state we have paid SGST & CGST and when finished goods sold within the state, we have SGST & CGST payable.

Net SGST payable will be = Output SGST – Input SGST

Net CGST payable will be = Output CGST – Input CGST

(CGST Credit cannot be set off with SGST input & vice versa)

A reference to the following illustration may be made:

A manufacturing organisation purchased raw-material of Rs. 50000 (excluding Taxes) from trader. Other cost like labor and overhead is Rs. 30000 and made a profit of Rs. 20000.

EXISTING		**Proposed**	**CGST 5% SGST 7%**	**CGST 8% SGST 8%**	**CGST 10% SGST 10%**
(a) Purchase of Raw Material	50000	**(a)** Purchase of Raw Material	50000	50000	50000
(b) VAT Paid @ 12.5% (credit available)	6250	**(b)** CGST paid (Credit Available – not part of cost)	2500 (@ 5%)	4000 (@ 8%)	5000 (@ 10%)
		(c) SGST paid (Credit Available- not part of cost)	3500 (@ 7%)	4000 (@ 8%)	5000 (@ 10%)
(c) Other Manufacturing Cost (Labour, Overhead etc)	30000	**(d)** Other Manufacturing Cost (Labour, Overhead etc)	30000	30000	30000
(d) Profit (say)	20000	**(e)** Profit (say)	20000	20000	20000
(e) Sale price (50000+30000+20000)	100000	**(f)** Sale price (a+d+e)	100000	100000	100000
(f) Excise Duty @ 12.5%	12500	**(g)** CGST	5000 (@ 5%)	8000 (@ 8%)	10000 (@ 10%)
(g) Base for VAT calculation (Sale price + Excise Duty)	112500	**(h)** SGST	7000 (@ 7%)	8000 (@ 8%)	10000 (@ 10%)
(h) VAT @ 12.5%	14063				
(i) Price to customer (50000+30000+20000+12500+14063)	126563	**(i)** Price to customer (f+g+h)	112000	116000	120000
(j) VAT Credit availed	6250	**(j)** Net CGST outflow (after availment of Credit (g-b)	2500	4000	5000
(k) Net Vat payable (14063-6250)	7813	**(k)** Net SGST outflow after availment of Credit (h-c)	3500	4000	5000
(l) Total Tax outflow (6250+12500+7813)	26563	**(l)** Total Tax outflow (b+c+j+k)	12000	16000	20000

Conclusion: From the above illustration we can see that total tax outflow & price to customer in Current Tax System is much higher than propose GST model because of Un-utilization of Credit & Cascading effect in present system.

Benefit to the Consumer	Benefit to the Taxpayer	Benefit to the Government
• Individual customer will be benefitted as prices for Goods & Services are likely to come down due to decrease in Tax cost. • Benefits of economies of scale will pass on from manufacturers/service providers to the ultimate consumer.	• Lower price means more consumption which leads to more production, thereby helping in the growth of the company. • Savings in Cash Flow due to full utilization of all input taxes (except Additional Tax) • Reduction in cascading effect of tax on tax. • Ease of compliance- The idea to bring GST is to make Indirect Tax code simple. • Economies of scale	• Growth in the individual company leads to growth in the Industry which creates more employment opportunities & increase GDP at a large. • The idea to bring GST is to make a chain which is difficult to break and base of tax collection may widen, so that at lower rate better tax maybe collected. • Effective administration because of Consolidation of multiple Centre & State taxes

2. Goods manufactured, Raw material purchased within the state and finished goods sold outside the state in India

Tax Applicability under Existing Tax System: At the time of Raw material purchased within the state we have paid VAT then manufactured and subsequently sold the finished goods outside the state, so we have to pay Excise Duty & CST

Tax Applicability under GST: At the time of Raw material purchased within the state we have paid SGST & CGST and when finished goods sold outside the state then we have to pay IGST & Additional Tax

Net IGST payable will be = Output IGST – (Input SGST +Input CGST)

(CGST Credit & SGST Credit both can be set off with IGST & vice versa)

A reference to the following illustration may be made:

A manufacturing organisation purchase raw-material of Rs. 50000 (excluding Taxes) within the state. Other cost like labor and overhead is Rs.30000 and Profit is 20000.

EXISTING		PROPOSED	CGST 5% SGST 7%	CGST 8% SGST 8%	CGST 10% SGST 10%
(a) Purchase of Raw Material	50000	**(a)** Purchase of Raw Material	50000	50000	50000
(b) VAT Paid @ 12.5% (Credit/Refund available)	6250	**(b)** CGST paid (Credit Available – not part of cost)	2500 (@5%)	4000 (@8%)	5000 (@10%)
		(c) SGST paid@ 10% (Credit Available- not part of cost)	3500 (@7%)	4000 (@8%)	5000 (@10%)
(c) Other Manufacturing Cost (Labour, Overhead etc)	30000	**(d)** Other Manufacturing Cost (Labour, Overhead etc)	30000	30000	30000
(d) Profit (say)	20000	**(e)** Profit (say)	20000	20000	20000
(e) Sale price (50000+30000+20000)	100000	**(f)** Sale price (a+d+e)	100000	100000	100000
(f) Excise Duty @ 12.5%	12500	**(g)** IGST [f × (CGST + SGST)]	12000	16000	20000
(g) Base for CST calculation (Sale price + Excise Duty)	112500	**(h)** Additional Tax@ 1%	1000	1000	1000
(h) CST @ 2%	2250				
(i) Price to customer	114250	**(i)** Price to customer	121000	121000	121000
		(j) Net IGST outflow (g-b-c)	6000	8000	10000
(j) Total Tax outflow (12500+2250)	14750	**(k)** Total Tax outflow (b+c+h+j)	13000	17000	21000

Conclusion: From the above illustration we can see the total tax outflow & price to customer in Current Tax System is bit low than propose GST model but if this type of transaction happen three four times before reaching to the ultimate customer then scenario will be change drastically, because every time taxpayer have to pay tax on tax and cannot utilize credit of input taxes so ultimately price of the product will be on a higher side.

In the above illustration we are assuming that taxpayer will take full VAT credit or take the refund, then only existing tax comes at a lower side. But if taxpayer won't able to take the credit/refund then tax outflow comes at ₹ 21,922 accordingly price to customer coming up at ₹1,21,922. In the proposed GST model we are hoping that credit mechanism will be so simple that every manufacturer even though small trader will able to take the credit. Seamless credit is one of the objectives of GST.

Benefit to the Stakeholders continues to be the same

3. Goods manufactured, Raw material purchased from outside the state and Finished goods sold within the state

Tax Applicability under Existing Tax System: At the time of Raw material purchased from outside the state, CST has been paid & sold the finished goods within the state we have to pay Excise Duty & VAT

Tax Applicability under GST: At the time of Raw material purchased from outside the state, IGST & Additional tax has been paid & when sold the goods within the state we have to pay SGST & CGST

Net SGST payable will be = Output SGST – Input IGST

Net CGST payable will be = Output CGST – Input IGST (balanced amount)

(IGST Credit can be set off with SGST as well as CGST & vice versa)

A reference to the following illustration may be made:

A manufacturing organisation purchase raw-material of Rs. 50000 (excluding Taxes). Other cost like labor and overhead is 30000 & made a profit of Rs. 20000.

EXISTING		PROPOSED	CGST 5% SGST 7%	CGST 8% SGST 8%	CGST 10% SGST 10%
(a) Purchase of Raw Material	50000	**(a)** Purchase of Raw Material	50000	50000	50000
(b) CST Paid @ 2% (Credit not available)	1000	**(b)** IGST (CGST+SGST) paid (Credit Available- not part of cost)	6000 (@ 12%)	8000 (@ 16%)	10000 (@ 20%)
		(c) Additional Tax @ 1% (Credit not Available – part of cost)	500	500	500
(c) Other Manufacturing Cost (Labour, Overhead etc)	30000	**(d)** Other Manufacturing Cost (Labour, Overhead etc)	30000	30000	30000
(d) Profit (say)	20000	**(e)** Profit (say)	20000	20000	20000
(e) Sale price (51000+30000+20000+1000)	101000	**(f)** Sale price (a+c+d+e)	100500	100500	100500
(f) Excise Duty @ 12.5%	12625	**(g)** CGST	5025 (@ 5%)	8040 (@ 8%)	10050 (@ 10%)
(g) Base for VAT calculation (Sale price + Excise Duty)	113625	**(h)** SGST	7035 (@ 7%)	8040 (@ 8%)	10050 (@ 10%)
(h) VAT @ 12.5%	14203				
(i) Price to customer	127828	**(i)** Price to customer (f+g+h)	112560	116580	120600
		(j) Net CGST outflow (g-b)	0	40	50
		(k) Credit Balance of IGST available after adjustment of CGST (b-g)	975	0	0
		(l) Net SGST outflow (h-k)	6060	8040	10050
(j) Total Tax outflow (1000+12625+14203)	27828	**(m)** Total Tax outflow (b+c+j+l)	12560	16580	20600

Conclusion: From the above illustration we can see the total tax outflow & price to customer in Current Tax System is bit higher than propose GST model because of Un-utilization of Credit & Cascading effect in present system.

Benefit to the Stakeholders continues to be the same

4.Goods manufactured, Raw material purchased from outside the state and Finished goods sold outside the state

Tax Applicability under Existing Tax System: At the time of Raw material purchased from outside the state, CST has been paid & sold the finished goods outside the state then we have to pay Excise Duty & CST

Tax Applicability under GST: At the time of Raw material purchased from outside the state, IGST & Additional tax has been paid & when sold the goods outside the state we have to pay IGST & Additional tax

Net IGST payable will be = Output IGST – Input IGST

A reference to the following illustration may be made:

A manufacturing organisation purchase raw-material of Rs. 50000. (excluding Taxes). Other cost like labor and overhead is 30000 and made a profit of Rs. 20000.

EXISTING		PROPOSED	CGST 5% SGST 7%	CGST 8% SGST 8%	CGST 10% SGST 10%
(a) Purchase of Raw Material	50000	**(a)** Purchase of Raw Material	50000	50000	50000
(b) CST Paid @ 2% (Credit not available)	1000	**(b)** IGST paid (Credit Available- not part of cost)	6000 (@ 12%)	8000 (@ 16%)	10000 (@ 20%)
		(c) Additional Tax @ 1% (Credit not Available – part of cost)	500	500	500
(c) Other Manufacturing Cost (Labour, Overhead etc)	30000	**(d)** Other Manufacturing Cost (Labour, Overhead etc)	30000	30000	30000
(d) Profit (say)	20000	**(e)** Profit (say)	20000	20000	20000
(e) Sale price (50000+30000+20000+1000)	101000	**(f)** Sale price (a+c+d+e)	100500	100500	100500
(f) Excise Duty @ 12.5%	12625	**(g)** IGST	12060 (@ 12%)	16080 (@ 16%)	20100 (@ 20%)
(g) Base for VAT calculation (Sale price + Excise Duty)	113625	**(h)** Additional tax @ 1%	1005	1005	1005
(h) CST @ 2%	2273				
(i) Price to customer	115898	**(i)** Price to customer (f+g+h)	113565	117585	121605
		(j) Net IGST outflow (g-b)	6060	8080	10100
(j) Total Tax outflow (1000+12625+2273)	15898	**(k)** Total Tax outflow (b+c+h+j)	13565	17585	21605

Conclusion: From the above illustration we can see the total tax outflow & price to customer in Current Tax System is bit low than propose GST model but if this type of transaction happen three four times before reaching to the ultimate customer then scenario will be change drastically, because every time taxpayer have to pay tax on tax

and cannot utilize credit of input taxes so ultimately price of the product will be on a higher side.

Benefit to the Stakeholders continues to be the same.

5. Goods purchased within the state and also sold within the state

Tax Applicability under Existing Tax System: At the time of Goods purchased within the state & also sold goods within the same state we have to pay only VAT
VAT payable will be = Output VAT – Input VAT
Tax Applicability under GST: At the time of Goods purchased within the state & also sold goods within the same state we have to pay SGST & CGST
Net SGST payable will be = Output SGST – Input SGST
Net CGST payable will be = Output CGST – Input CGST
(CGST Credit cannot be set off with SGST input & vice versa)

A reference to the following illustration may be made:
A Trader purchased Goods of Rs. 100000 (excluding Taxes) and made a profit of 20000.

EXISTING		PROPOSED	CGST 5% SGST 7%	CGST 8% SGST 8%	CGST 10% SGST 10%
(a) Goods Purchased	100000	**(a)** Goods Purchased	100000	100000	100000
(b) VAT Paid @ 12.5% (credit available)	12500	**(b)** CGST paid (Credit Available- not part of cost)	5000 (@5%)	8000 (@8%)	10000 (@10%)
		(c) SGST paid (Credit Available – not part of cost)	7000 (@7%)	8000 (@8%)	10000 (@10%)
(c) Profit (say)	20,000	**(d)** Profit (say)	20,000	20,000	20,000
(d) Sale price (100000+20000)	120000	**(e)** Sale price (a+d)	120000	120000	120000
(e) VAT @ 12.5%	15000	**(f)** CGST	6000 (@5%)	9600 (@8%)	12000 (@10%)
		(g) SGST	8400 (@7%)	9600 (@8%)	12000 (@10%)
(f) Price to customer	135000	**(h)** Price to customer (e+f+g)	134400	139200	144000
(g) Net Vat payable (15000-12500)	2500	**(i)** Net CGST outflow (f-b)	1000	1600	2000
		(j) Net SGST outflow (g-c)	1400	1600	2000
(h) Total Tax outflow (12500+2500)	15000	**(k)** Total Tax outflow (b+c+i+j)	14400	19200	24000

Conclusion: In this case impact would be remain same because if there is only VAT transaction then we can take full credit of VAT, the same continues in GST regime in border term.

6. Goods purchased within the state and sold outside the state

Tax Applicability under Existing Tax System: At the time of Goods purchased within the state we have paid VAT & sold the goods outside the state, we have to pay only CST

Tax Applicability under GST: At the time of Goods purchased within the state, we have paid SGST & CGST & also when goods sold outside the state we have to pay IGST & Additional Tax

Net IGST payable will be = Output IGST – (Input SGST +Input CGST)

(CGST Credit & SGST Credit both can be set off with IGST & vice versa)

A reference to the following illustration may be made:

A Trader purchase Goods of Rs. 100000 (excluding Taxes) and made a profit of Rs. 20000.

EXISTING		PROPOSED	CGST 5% SGST 7%	CGST 8% SGST 8%	CGST 10% SGST 10%
(a) Goods Purchased	100000	**(a)** Goods Purchased	100000	100000	100000
(b) VAT Paid @ 12.5% (Credit/Refund available)	12500	**(b)** CGST paid (Credit Available- not part of cost)	5000 (@5%)	8000 (@8%)	10000 (@10%)
		(c) SGST paid (Credit Available – not part of cost)	7000 (@7%)	8000 (@8%)	10000 (@10%)
(c) Profit (say)	20000	**(d)** Profit (say)	20000	20000	20000
(d) Sale price	120000	**(e)** Sale price (a+d)	120000	120000	120000
(e) CST @ 2%	2400	**(f)** IGST [e × (CGST+SGST)]	14400 (@ 12%)	19200 (@ 16%)	24000 (@ 20%)
		(g) Additional Tax @ 1%	1200	1200	1200
(f) Price to customer	122400	**(h)** Price to customer (e+f+g)	135600	140400	145200
		(i) Net IGST outflow (f-b-c)	2400	3200	4000
(g) Total Tax outflow (At the payment of CST, used VAT Credit)	Nil	**(j)** Total Tax outflow (b+c+g+i)	15600	20400	25200

Conclusion: From the above illustration we can see the total tax outflow & price to customer in Current Tax System is bit low than propose GST model but if this type of transaction happen three four times before reaching the goods or services to the hand of customer then scenario will be change automatically because every time taxpayer have to pay tax on tax and cannot utilize credit of input taxes so ultimately price of the product will be on a higher side.

In the above illustration we are assuming that taxpayer will take full VAT credit or take the refund, then only existing tax comes at a lower side. But if taxpayer won't able to take the credit/refund then tax outflow comes at 14,900/- accordingly price to customer coming up at 1,14,900/-. In the proposed GST model we are hoping that credit mechanism will be so simple that every manufacturer even though small trader will able to take the credit. Seamless credit is one of the objective of GST.

Benefit to the Stakeholders continues to be the same.

7. Goods purchased outside the state and sold within the state

Tax Applicability under Existing Tax System: At the time of Goods purchased outside the state, we have paid CST on input & also sold the goods within the same state so VAT payable.

Tax Applicability under GST: At the time of Goods purchased outside the state we have paid IGST & Additional tax and when goods sold within the state we have to pay SGST & CGST

Net SGST payable will be = Output SGST – Input IGST

Net CGST payable will be = Output CGST – Input IGST (balanced amount)

(IGST Credit can be set off with SGST as well as CGST & vice versa)

(Credit is not available on Additional Tax)

A reference to the following illustration may be made:

A Trader Purchased Goods of Rs. 100000 (excluding Taxes) and made a profit of Rs. 20000.

EXISTING		PROPOSED	CGST 5% SGST 7%	CGST 8% SGST 8%	CGST 10% SGST 10%
(a) Goods Purchased	100000	**(a)** Goods Purchased	100000	100000	100000
(b) CST Paid @ 2% (Credit not available)	2000	**(b)** IGST (CGST+SGST) paid (Credit Available-not part of cost)	12000 (@ 12%)	16000 (@ 16%)	20000 (@ 20%)
		(c) Additional Tax @ 1%	1000	1000	1000
(c) Profit (say)	20000	**(d)** Profit (say)	20000	20000	20000
(d) Sale price (100000+2000+20000)	122000	**(e)** Sale price (a+c+d)	121000	121000	121000
(e) VAT @ 12.5%	15250	**(f)** CGST	6050 (@5%)	9680 (@8%)	12100 (@10%)
		(g) SGST @ 10%	8470 (@7%)	9680 (@8%)	12100 (@10%)
(f) Price to customer	137250	**(h)** Price to customer (e+f+g)	135520	140360	145200
		(i) Net CGST outflow (f-b)	0	0	0
		(j) Balance IGST credit available after utilization of IGST for payment of CGST (b-f)	5950	6320	7900
		(k) Net SGST outflow (g-j)	2520	3360	4200
(g) Total Tax outflow (2000+15250)	17250	**(l)** Total Tax outflow (b+c+j)	15520	20360	25200

Conclusion: From the above illustration we can see the total tax outflow & price to customer in Current Tax System is bit low than propose GST model but if this type of transaction happen three four times before reaching the goods or services to the hand of customer then scenario will be change automatically because every time taxpayer have to pay tax on tax and cannot utilize credit of input taxes so ultimately price of the product will be on a higher side.

Benefit to the Stakeholders continues to be the same.

8. Goods purchased and sold outside the state

Tax Applicability under Existing Tax System: At the time of Goods purchased outside the state we have paid CST on input & also sold goods outside the state so again CST payable (Credit is not available on CST input).

Tax Applicability under GST: At the time of Goods purchased outside the state and we have paid IGST & Additional Tax on it & also we sold the goods outside the state, again IGST & Additional Tax payable

Net IGST payable will be = Output IGST – Input IGST

(Credit is not available on Additional Tax)

A reference to the following illustration may be made:

A Trader purchase Goods of Rs. 100000 (excluding Taxes) and made a profit of Rs. 20000.

EXISTING		PROPOSED	CGST 5% SGST 7%	CGST 8% SGST 8%	CGST 10% SGST 10%
(a) Goods Purchased	100000	**(a)** Goods Purchased	100000	100000	100000
(b) CST @2% (Credit not available)	2000	**(b)** IGST paid (Credit Available- not part of cost)	12000 (@ 12%)	16000 (@ 16%)	20000 (@ 20%)
		(c) Additional Tax @ 1%	1000	1000	1000
(c) Profit (say)	20000	**(d)** Profit (say)	20000	20000	20000
(d) Sale price (100000+2000+20000)	122000	(v) Sale price (100000+20000+1000)	121000	121000	121000
(e) CST @ 2%	2440	**(e)** IGST	14520 (@ 12%)	19360 (@ 16%)	24200 (@ 20%)
		(f) Additional Tax @ 1%	1210	1210	1210
(f) Price to customer	124440	**(g)** Price to customer	136730	141570	146410
		(h) Net IGST outflow **(e-b)**	2520	3360	4200
(g) Total Tax outflow (2000+2440)	4440	**(i)** Total Tax outflow **(b+c+f+h)**	16730	21570	26410

Conclusion: From the above illustration we can see the total tax outflow & price to customer in Current Tax System is bit low than propose GST model but if this type of transaction happen three four times before reaching the goods or services to the hand of customer then scenario will be change automatically because every time taxpayer have to pay tax on tax and cannot utilize credit of input taxes so ultimately price of the product will be on a higher side.

Benefit to the Stakeholders continues to be the same.

INTEGRATED GOODS AND SERVICES TAX (IGST) Act, 2016

- Bare Act Provisions

(extracted from Model GST Law, 2016)

THE INTEGRATED GOODS AND SERVICES TAX ACT, 2016

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THE INTEGRATED GOODS AND SERVICES TAX ACT, 2016

CHAPTER– I

PRELIMINARY

1. Short title, extent and commencement

(1) This Act may be called the Integrated Goods and Services Tax Act, 2016.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act.

2. Definitions

(1) In this Act, unless the context otherwise requires,-

(a) **"appropriate State"**, in relation to a taxable person, means that State where he is registered or liable to be registered under section 19 of the Central Goods and Services Tax Act, 2016.

Explanation: For the purpose of this Act, "State" includes Union Territory with Legislature.

(b) "**Government**" means the Central Government;

(c) **"Integrated Goods and Services Tax" (IGST)** means tax levied under this Act on the supply of any goods and/or services in the course of inter-State trade or commerce.

Explanation 1.- A supply of goods and/or services in the course of import into the territory of India shall be deemed to be a supply of goods and/or services in the course of inter-State trade or commerce.

Explanation 2.- An export of goods and/or services shall be deemed to be a supply of goods and/or services in the course of inter-State trade or commerce.

(d) "**input tax**" in relation to a taxable person, means the Integrated Goods and Services Tax, Central Goods and Services Tax or State Goods and Services Tax, as the case may be, charged on any supply of goods and/or services to him which are used, or are intended to be used, in the course or furtherance of his business and includes the tax payable under sub-section (3) of section 4;

(e) **"input tax credit"** means credit of 'input tax' as defined in clause (d) of sub-section (1) of section 2;

(f) **"supply"** has the same meaning as assigned to it in section 3 of the CGST Act, 2016;

(g) **"output tax"** in relation to a taxable person, means the IGST chargeable under the Act on taxable supply of goods and/or services by him or his agent and excludes tax payable by him on reverse charge basis;

(2) Words and expressions not defined in this Act shall have the meaning assigned to them in the Central Goods and Service Tax Act, 2016.

CHAPTER- II

PRINCIPLES FOR DETERMINING SUPPLY OF GOODS AND/OR SERVICES IN THE COURSE OF INTER-STATE TRADE OR COMMERCE

3. Supplies of goods and/or services in the course of inter-State trade or commerce

(1) Subject to the provisions of section 5, supply of goods in the course of inter-State trade or commerce means any supply where the location of the supplier and the place of supply are in different States.

(2) Subject to the provisions of section 6, supply of services in the course of inter-State trade or commerce means any supply where the location of the supplier and the place of supply are in different States.

3A. Supplies of goods and/or services in the course of intra-State trade or commerce

(1) Subject to the provisions of section 5, intra-state supply of goods means any supply where the location of the supplier and the place of supply are in the same State.

(2) Subject to the provisions of section 6, intra-state supply of services means any supply where the location of the supplier and the place of supply are in the same State.

CHAPTER– III

LEVY AND COLLECTION OF TAX

4. Levy and collection of Integrated Goods and Services Tax

(1) There shall be levied a tax called the Integrated Goods and Services Tax on all supplies of goods and/or services made in the course of inter-State trade or commerce at the rate specified in the Schedule to this Act and collected in such manner as may be prescribed.

(2) The Integrated Goods and Services Tax shall be paid by every taxable person in accordance with the provisions of this Act.

(3) Notwithstanding anything contained in sub-section (2), the Central Government may, on recommendation of the Council, by notification, specify categories of supply of goods and/or services the tax on which is payable on reverse charge basis and the tax thereon shall be paid by the person receiving such goods and/or services and all the provisions of this Act shall apply to such person as if he is the person liable for paying the tax in relation to such goods and/or services.

(4) Notwithstanding anything contained in sub-section (1) but subject to such conditions as may be notified in this behalf, no tax under this Act shall be payable by any taxable person in respect of such supplies of goods and/or services as are specified in Schedule . . . to the Act.

CHAPTER– IV

PLACE OF SUPPLY OF GOODS AND/OR SERVICES

5. Place of supply of goods

(1) The provisions of this section shall apply to determine the place of supply of goods.

(2) Where the supply involves movement of goods, whether by the supplier or the recipient or by any other person, the place of supply of goods shall be the location of the goods at the time at which the movement of goods terminates for delivery to the recipient.

(2A) Where the goods are delivered by the supplier to a recipient or any other person, on the direction of a third person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to the goods or otherwise, it shall be deemed that the said third person has received the goods and the place of supply of such goods shall be the principal place of business of such person.

(3) Where the supply does not involve movement of goods, whether by the supplier or the recipient, the place of supply shall be the location of such goods at the time of the delivery to the recipient.

(4) Where the goods are assembled or installed at site, the place of supply shall be the place of such installation or assembly.

(5) Where the goods are supplied on board a conveyance, such as a vessel, an aircraft, a train or a motor vehicle, the place of supply shall be the location at which such goods are taken on board.

(6) Where the place of supply of goods cannot be determined in terms of sub-section (2), (3), (4) and (5), the same shall be determined by law made by the Parliament in accordance with the recommendation of the Council.

6. Place of supply of services

(1) The provisions of this section shall apply to determine the place of supply of services.

(2) The place of supply of services, except the services specified in sub-sections (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14) and (15), made to a registered person shall be the location of such person.

(3) The place of supply of services, except the services specified in sub-sections (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14) and (15), made to any person other than a registered person shall be

(i) the location of the recipient where the address on record exists, and

(ii) the location of the supplier of services in other cases.

(4) The place of supply of services, -

(a) in relation to an immovable property, including services provided by architects, interior decorators, surveyors, engineers and other related experts or estate agents, any service provided by way of grant of rights to use immovable property or for carrying out or co-ordination of construction work, or

(b) by way of lodging accommodation by a hotel, inn, guest house, homestay, club or campsite, by whatever name called and including a house boat or any other vessel, or

(c) by way of accommodation in any immovable property for organizing any marriage or reception or matters related therewith, official, social, cultural, religious or business function including services provided in relation to such function at such property, or

(d) any services ancillary to the services referred to in clause (a), (b) and (c),

shall be the location at which the immovable property or boat or vessel is located or intended to be located.

Explanation.- Where the immovable property or boat or vessel is located in more than one State, the supply of service shall be treated as made in each of the States in proportion to the value for services separately collected or determined, in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other reasonable basis as may be prescribed in this behalf.

(5) The place of supply of restaurant and catering services, personal grooming, fitness, beauty treatment, health service including cosmetic and plastic surgery shall be the location where the services are actually performed.

(6) The place of supply of services in relation to training and performance appraisal to

(a) a registered person, shall be the location of such person;

(b) a person other than a registered person, shall be the location where the services are actually performed.

(7) The place of supply of services provided by way of admission to a cultural, artistic, sporting, scientific, educational, or entertainment event or amusement park or any other place and services ancillary thereto, shall be the place where the event is actually held or where the park or such other place is located.

(8) The place of supply of services provided by way of—

(a) organization of a cultural, artistic, sporting, scientific, educational or entertainment event including supply of service in relation to a conference, fair, exhibition, celebration or similar events, or

(b) services ancillary to organization of any of the above events or services, or assigning of sponsorship of any of the above events,

to

(i) a registered person, shall be the location of such person;

(ii) a person other than a registered person, shall be the place where the event is actually held.

Explanation.- Where the event is held in more than one State and a consolidated amount is charged for supply of services relating to such event, the place of supply of such services shall be taken as being in the each of the States in proportion to the value of services so provided in each State as ascertained from the terms of the contract or agreement entered into in this regard or, in absence of such contract or agreement, on such other reasonable basis as may be prescribed in this behalf.

(9) The place of supply of services by way of transportation of goods, including by mail or courier to,

(a) a registered person, shall be the location of such person;

(b) a person other than a registered person, shall be the location at which such goods are handed over for their transportation.

(10) The place of supply of passenger transportation service to

(a) a registered person, shall be the location of such person;

(b) a person other than a registered person, shall be the place where the passenger embarks on the conveyance for a continuous journey:

Provided that where the right to passage is given for future use and the point of embarkation is not known at the time of issue of right to passage, the place of supply of such service shall be determined in the manner specified in sub-sections (*2*) or (*3*), as the case may be.

Explanation.- For the purposes of this sub-section, the return journey shall be treated as a separate journey even if the right to passage for onward and return journey is issued at the same time.

(11) The place of supply of services on board a conveyance such as vessel, aircraft, train or motor vehicle, shall be the location of the first scheduled point of departure of that conveyance for the journey.

(12) The place of supply of telecommunication services including data transfer, broadcasting, cable and direct to home television services to any person shall—

(a) in case of services by way of fixed telecommunication line, leased circuits, internet leased circuit, cable or dish antenna, be the location where the telecommunication line, leased circuit or cable connection or dish antenna is installed for receipt of services;

(b) in case of mobile connection for telecommunication and internet services provided on post-paid basis, be the location of billing address of the recipient of services on record of the supplier of services;

(c) in cases where mobile connection for telecommunication and internet service are provided on pre-payment through a voucher or any other means, be the location where such pre-payment is received or such vouchers are sold:

Provided that if such pre-paid service is availed or the recharge is made through internet banking or other electronic mode of payment, the location of the recipient of services on record of the supplier of services shall be the place of supply of such service.

(13) The place of supply of banking and other financial services including stock broking services to any person shall be the location of the recipient of services on the records of the supplier of services:

Provided that if the service is not linked to the account of the recipient of services, the place of supply shall be location of the supplier of services.

(14) The place of supply of insurance services shall:

(a) to a registered person, be the location of such person;

(b) to a person other than a registered person, be the location of the recipient of services on the records of the supplier of services.

(15) The place of supply of advertisement services to the Central Government, a State Government, a statutory body or a local authority meant for identifiable States, shall be taken as located in each of such States and the value of such supplies specific to each

State shall be in proportion to amount attributable to service provided by way of dissemination in the respective States as may be determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other reasonable basis as may be prescribed in this behalf.

CHAPTER-V

PAYMENT OF TAX

7. Payment of tax, interest, penalty and other amounts

(1) 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.

Explanation.- The date of credit to the account of the appropriate Government in the authorized bank shall be deemed to be the date of deposit.

(2) The input tax credit as self-assessed in the return of a taxable person shall be credited to his electronic credit ledger to be maintained in the manner as may be prescribed.

(3) The amount available in the electronic cash ledger may be used for making any payment towards tax, interest, penalty, fees or any other amount payable under the provisions of the Act or the rules made thereunder in such manner and subject to such conditions and within such time as may be prescribed.

(4) The amount available in the electronic credit ledger may be used for making any payment towards tax payable under the provisions of the Act or the rules made thereunder in such manner and subject to such conditions and within such time as may be prescribed.

(5)(a) The amount of input tax credit on account of IGST available in the electronic credit ledger 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.

(b) The amount of input tax credit on account of CGST available in the electronic credit ledger shall first be utilized towards payment of CGST and the amount remaining, if any, may be utilized towards the payment of IGST.

(c) The amount of input tax credit on account of SGST available in the electronic credit ledger shall first be utilized towards payment of SGST and the amount remaining, if any, may be utilized towards the payment of IGST.

(6) The balance in the cash or credit ledger after payment of tax, interest, penalty, fee or any other amount payable under the Act or the rules made thereunder may be refunded in accordance with the provisions of section 38 of the CGST Act and the amount collected as IGST shall stand reduced to that extent.

(7) All liabilities of a taxable person under this Act shall be recorded and maintained in an electronic register as may be prescribed.

(8) Every taxable person shall discharge his tax and other dues under this Act or the rules made thereunder in the following order:

(a) self-assessed tax, and other dues related to returns of previous tax periods;

(b) self-assessed tax, and other dues related to the return of the current tax period;

(c) any other amount payable under the Act or the rules made thereunder including the demand determined under section 51 of the CGST Act.

(9) Every person who has paid the tax on goods and/or services under this Act shall, unless the contrary is proved by him, be deemed to have passed on the full incidence of such tax to the recipient of such goods and/or services.

CHAPTER– VI

INPUT TAX CREDIT

8. Claim of input tax credit, provisional acceptance, matching, reversal and reclaim thereof

(1) Every registered taxable person shall, subject to such conditions and restrictions as may be prescribed in this behalf, be entitled to take credit of input tax, as self-assessed, in his return and such amount shall be credited, on a provisional basis, to his electronic credit ledger to be maintained in the manner as may be prescribed.
(2) The provisions of section 29 of the CGST Act, 2016 relating to matching, reversal and reclaim of input tax credit shall apply *mutatis mutandis* to the matching, reversal and reclaim of input tax credit under this section.

9. Transfer of input tax credit

(1) On utilization of input tax credit availed under this Act for payment of tax dues under the CGST Act as per sub-section (5) of section 7, the amount collected as IGST shall stand reduced by an amount equal to the credit so utilized and the Central Government shall transfer an amount equal to the amount so reduced from the IGST account to the CGST account in the manner and time as may be prescribed.

(2) On utilization of input tax credit availed under this Act for payment of tax dues under the SGST Act as per sub-section (5) of section 7, the amount collected as IGST shall stand reduced by an amount equal to the credit so utilized and the Central Government shall transfer an amount equal to the amount so reduced from the IGST account to the SGST account of the appropriate State Government in the manner and time as may be prescribed.

CHAPTER- VII

APPORTIONMENT OF TAX AND SETTLEMENT OF FUNDS

10. Apportionment of tax collected under the Act and settlement of funds

(1) Out of the IGST paid to the Central Government in respect of inter-State supply of goods and/or services to an unregistered person or to a taxable person paying tax under section 8 of the CGST Act, the amount of tax calculated at the rate equivalent to the CGST on similar intra-state supply shall be apportioned to the Central Government.

(2) Out of the IGST paid to the Central Government in respect of inter-State supply of goods and/or services made in a year to a registered taxable person, where such taxable person is either not eligible for input tax credit or where he does not avail of the said credit within the specified period and thus remains in the IGST account after expiry of the due date for filing of annual return for such year in which the supply was made, the amount of tax calculated at the rate equivalent to the CGST on similar intra-state supply shall be apportioned to the Central Government.

(3) Out of the IGST paid to the Central Government in respect of import of goods and / or services by an unregistered person or by a taxable person paying tax under section 8 of the CGST Act, the amount of tax calculated at the rate equivalent to the CGST on similar intra-state supply shall be apportioned to the Central Government.

(4) Out of the IGST paid to the Central Government in respect of import of goods and / or services made in a year by a registered taxable person, where the such taxable person is either not eligible for input tax credit or where he does not avail of the said credit within the specified period and thus remains in the IGST account after expiry of the due date for filing of annual return for such year in which the supply was received, the amount of tax calculated at the rate equivalent to the CGST on similar intra-state supply shall be apportioned to the Central Government.

(5) The balance amount of tax remaining in the IGST account in respect of the supply for which an apportionment to the Central Government has been done under sub-section (1), (2) or (3) shall be apportioned, in the manner and time as may be prescribed, to the State where such supply takes place as per section9 5 or 6.

(6) The provisions of sub-sections (1), (2), (3), (4) and (5) relating to apportionment of tax shall *mutatis mutandis* apply to the apportionment of interest and penalty realized in connection with the tax so apportioned.

(7) Where an amount has been apportioned to the Central Government or a State Government under sub-sections (1), (2), (3), (4), (5) and (6), the amount collected as IGST shall stand reduced by an amount equal to the amount so apportioned and the Central Government shall transfer to the CGST account an amount equal to an amount apportioned to the Central Government and shall transfer to the SGST account of the State an amount equal to an amount apportioned to that State, in the manner and time as may be prescribed.

CHAPTER - VIII
SETTLEMENT OF CASES

11. Definitions

(a) "Bench" means a Bench of the Settlement Commission;

(b) "case" means any proceeding under this Act for the levy, assessment and collection of IGST before an IGST officer, or before a First Appellate Authority in connection with such levy, assessment or collection of IGST pending on the date on which an application under sub-section (1) of section 15 is made:

Provided that where an order is passed by an adjudicating authority and for which the appeal period has not expired shall also be deemed to be a proceeding pending within the meaning of this clause:

Provided further that where any appeal has been preferred after expiry of the period specified for filing such appeal under this Act and which has not been admitted, such appeal shall not be deemed to be a proceeding pending within the meaning of this clause:

Provided also that where any Court or Appellate Tribunal or the First Appellate Authority refers a case back to the original adjudicating authority or the First Appellate Authority, as the case may be, for a fresh adjudication or decision, such proceeding shall not be deemed to be a proceeding pending within the meaning of this clause;

(c) "Designated Officer" means an officer of the IGST appointed in the Settlement Commission to conduct inquiry or investigation for the purpose of this Chapter;

(d)"Member" means a Member of the Settlement Commission and includes the National/State Chairman;

(e)"Settlement Commission" means the National Goods and Services Tax Settlement Commission constituted under section 12.

12. Constitution of National Goods and Services Tax Settlement Commission

(1) The Central Government shall on the recommendation of the Council constitute a National Goods and Services Tax Settlement Commission for settlement of cases under this Act.

(2) The Settlement Commission shall be headed by a National Chairman.

(3) The Settlement Commission shall have one bench for one or more states, which shall be called the State Settlement Commission.

(4) Every State Settlement Commission shall be headed by a State Chairman.

(5) Every State Settlement Commission shall consist of a Chairman and as many Members (Technical –IGST) as may be prescribed, to exercise the powers and discharge the functions conferred on the Settlement Commission by this Act.

(6) The National Chairman/State Chairman shall be a person who is or has been a judge of the High Court.

(7) The qualifications, eligibility conditions and the manner of selection and appointment of the National Chairman, the State Chairman, and the Members shall be such as may be prescribed on the recommendations of the Council.

(8) The National Chairman and the State Chairman shall exercise such powers and discharge such functions as may be prescribed on the recommendations of the Council.

13. Jurisdiction and powers of Settlement Commission

(1) The jurisdiction of the State Settlement Commission constituted under this Act shall extend to the …… (name(s) of States).

(2) Each Bench shall be presided over by the State Chairman and shall consist of two other Members.

(3) Notwithstanding anything contained in the foregoing provisions of this section, and subject to any rules that may be made in this behalf, when one of the persons constituting a Bench (whether such person is the presiding officer or other Member of the Bench) is unable to discharge his functions owing to absence, illness or any other cause or in the event of the occurrence of any vacancy either in the office of the presiding officer or in the office of one or the other Members of the Bench, the remaining Members may function as the Bench and if the presiding officer of the Bench is not one of the remaining Members, the senior among the remaining Members shall act as the presiding officer of the Bench.

14. Decisions to be by majority

(1) If the Members of a Bench differ in opinion on any point, the point shall be decided according to the opinion of the majority.

(2) In a case where the decision is taken by a two member Bench as provided under sub-section (3) of section 13 and Members are equally divided, the matter will be referred to the third Member and the decision will be according to the opinion of the majority.

15. Application for settlement of cases

(1) A taxable person may, in respect of a case or identical cases involving periodical show cause notices relating to him and pending before the adjudicating authority or the First Appellate Authority under the Act, make an application, in such form and in such manner as may be prescribed, containing a full and true disclosure of his tax liability which has not been disclosed before the jurisdictional IGST officer, the manner in which such liability has been derived, the additional amount of tax accepted to be payable by him and such other particulars as may be prescribed, to the Settlement Commission to

have the case(s)settled and any such application shall be disposed of in the manner hereinafter provided:

Provided that no such application shall be made unless,-

(a) the applicant has furnished the return(s), which he is or was required to furnish under the provisions of this Act;

(b) a show cause notice for demand of tax issued by the IGST officer has been received by the applicant or an order confirming the demand of tax has been issued by the IGST officer and the same is pending before the First Appellate Authority;

(c) the additional amount of tax accepted by the applicant in his application exceeds five lakh rupees; and

(d) the applicant has paid the additional amount of tax accepted by him along with interest due thereon under section 36 of the CGST Act:

Provided further that the Settlement Commission, if it is satisfied that the circumstances exist for not filing the return(s) referred to in clause (a) of the first proviso to sub-section (1), may, after recording the reasons thereof, allow the applicant to make such application.

(2) No application shall be entertained by the Settlement Commission under sub-section (1) in cases which are pending with the Appellate Tribunal or any Court.

(3) No application under sub-section (1) shall be made for determination of any question having a bearing on the rate of tax or determination of liability to pay tax on goods and/or services under the Act.

(4) Every application made under sub-section (1) shall be accompanied by such fees as may be prescribed.

(5) An application made under sub-section (1) shall not be allowed to be withdrawn by the applicant.

16. Procedure for settlement on receipt of an application under section 15

(1) On receipt of an application under sub-section (1) of section 15, the Settlement Commission shall, within seven days from the date of receipt of the application, issue a notice to the applicant to explain in writing as to why the application made by him should be allowed to be proceeded with, and after taking into consideration the explanation provided by the applicant, it shall, within a period of forty five days from the date of the notice, by an order, allow the application to be proceeded with, or reject the application as the case may be, and the proceedings before the Settlement Commission shall abate on the date of rejection :

Provided that an application shall not be rejected unless an opportunity has been given to the applicant of being heard;

Provided further that where no notice has been issued or no order has been passed within the aforesaid period by the Settlement Commission, the application shall be deemed to have been allowed to be proceeded with.

(2) A copy of every order under sub-section (1), shall be sent to the applicant and to the jurisdictional IGST officer.

(3) Where an application is allowed under sub-section (1), the Settlement Commission shall, within seven days from the date of order under sub-section (1), call for a report along with the relevant records from the jurisdictional IGST officer and such officer shall furnish the report within a period of sixty days of the receipt of communication from the Settlement Commission:

Provided that where the jurisdictional IGST officer does not furnish the report within the aforesaid period of sixty days, the Settlement Commission shall proceed further in the matter without the report of the said officer.

(4) After examination of the report of the jurisdictional IGST officer received under sub-section (3), if the Settlement Commission is of the opinion that any further enquiry or investigation in the matter is necessary, it may, within 15 days of the receipt of the report, direct, for reasons to be recorded in writing, the Designated Officer to make such further enquiry or investigation and furnish a report within a period of ninety days of the receipt of such direction, on the matters covered by the application and any other matter relating to the case :

Provided that where the Designated Officer does not furnish the report within the aforesaid period, the Settlement Commission shall proceed to pass an order under sub-section (5) without such report.

(5) After examination of the records and the report of the jurisdictional IGST officer received under sub-section (3), and the report, if any, of the Designated Officer under sub-section (4), and after giving an opportunity to the applicant and to the jurisdictional IGST officer to be heard, either in person or through an authorised representative, and after examining such further evidence as may be placed before it or obtained by it, the Settlement Commission may pass such order as it thinks fit on the matters covered by the application and any other matter relating to the case not covered by the application, but referred to in the report of the jurisdictional IGST officer and Designated Officer under sub-section (3) or sub-section (4), as the case may be.

Explanation.- For the purposes of this sub-section, "authorised representative" shall have the meaning assigned to it in section 86 of the CGST Act.

(6) An order under sub-section (5) shall not be passed in respect of an application after twelve months from the last day of the month in which the application was made, failing which the settlement proceedings shall abate, and the adjudicating authority or the First Appellate Authority, as the case may be, before whom the proceeding at the time of making the application was pending, shall dispose of the case in accordance with the provisions of this Act as if no application under section 15 had been made.

Provided that the period specified under this sub- section may, for reasons to be recorded in writing, be extended by the Settlement Commission for a further period not exceeding three months.

(7) For the purposes of the time limit under section 51 or section 79, as the case may be, of the CGST Act and for the purposes of interest under section 36 of the said Act, in a case referred to in sub-section (1) or sub-section (6), as the case may be, the period commencing on and from the date of the application to the Settlement Commission under section 15 and ending with the date of abatement, shall be excluded.

(8) The order passed under sub-section (5) shall provide for the terms of settlement including any demand by way of tax, interest, fine or penalty, the manner in which any sums due under the settlement shall be paid and all other matters to make the settlement effective and in case of rejection contain the reasons therefor:

Provided that the amount of settlement ordered by the Settlement Commission shall not be less than the tax liability admitted by the applicant under section 15.

(9) Settlement arrived under sub-section (5) shall be void if it is subsequently found by the Settlement Commission that it has been obtained by fraud or misrepresentation of facts.

(10) Where any tax, interest, fine and penalty payable in pursuance of an order under sub-section (5) is not paid by the taxpayer within thirty days of receipt of a copy of the order by him, or within such period as extended by the Settlement Commission not exceeding three months, the amount which remains unpaid, shall be recovered along with interest due thereon at the rate prescribed under section 36 of the CGST Act, as the sums due to the Central/ State Government by the jurisdictional IGST officer in accordance with the provisions of section 54 of the CGST Act.

(11) Where a settlement becomes void as provided under sub-section (9), the proceedings with respect to the matters covered by the settlement shall be deemed to have been revived from the stage at which the application was allowed to be proceeded with by the Settlement Commission and the jurisdictional IGST officer or the First Appellate Authority, as the case may be, may, notwithstanding anything contained in any other provision of this Act, complete such proceedings before the expiry of two years from the date of the receipt of communication that the settlement became void.

17. Power of Settlement Commission to order provisional attachment to protect revenue

(1) Where during the pendency of any proceeding before it, the Settlement Commission is of the opinion that for the purpose of protecting the interests of revenue it is necessary so to do, it may, by order, attach provisionally any property belonging to the applicant in the manner as may be prescribed.

(2) Every provisional attachment made by the Settlement Commission under sub-section (1) shall cease to have effect from the date, the sums due to the Central Government / the State Government for which such attachment is made are discharged by the applicant and evidence to that effect is submitted to the Settlement Commission.

18. Power of Settlement Commission to reopen completed proceedings

If the Settlement Commission is of the opinion (the reasons for such opinion to be recorded by it in writing) that, for the proper disposal of the case pending before it, it is necessary or expedient to reopen any proceeding connected with the case but which has been completed under this Act before application for settlement under section 15 was made, it may, with the concurrence of the applicant, reopen such proceeding and pass such order thereon as it thinks fit, as if the case in relation to which the application for settlement had been made by the applicant under that section covered such proceeding also :

Provided that no proceeding shall be reopened by the Settlement Commission under this section after the expiry of five years from the date of application.

19. Inspection, etc. of reports

The Settlement Commission shall, on an application made in this behalf, and on payment of the prescribed fee bythe applicant, for the purpose of rebutting any evidence brought on record against him in any report made by any IGST Officer or Designated officer, furnish to him a certified copy of any such report or part thereof relevant for the purpose.

20. Power of Settlement Commission to grant immunity from prosecution and penalty

(1) The Settlement Commission may, if it is satisfied that any person who made the application for settlement under section 15 has co-operated with the Settlement Commission in the proceedings before it and has made a full and true disclosure of his tax liability, grant to such person, subject to such conditions as it may think fit to impose, immunity from prosecution for any offence under this Act and also either wholly

or in part from the imposition of any penalty and fine under this Act, with respect to the case covered by the settlement :
Provided that no such immunity shall be granted by the Settlement Commission in cases where the proceedings for the prosecution for any such offence have been instituted before the date of receipt of the application under section 15.

(2) An immunity granted to a person under sub-section (1) shall stand withdrawn if such person fails to pay any sum specified in the order of the settlement passed under sub-section (5) of section 16 within the time specified in such order or within such extended period as permitted by the Settlement Commission or fails to comply with any other condition subject to which the immunity was granted and thereupon the provisions of this Act shall apply as if such immunity had not been granted.

(3) An immunity granted to a person under sub-section (1) may, at any time, be withdrawn by the Settlement Commission, if it is satisfied that such person had, in the course of the settlement proceedings, concealed any particular material to the settlement or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the settlement and shall also become liable to the imposition of any penalty under this Act to which such person would have been liable, had no such immunity been granted.

21. Power of Settlement Commission to send a case back to the IGST officer

(1) The Settlement Commission may, if it is of opinion that any person who made an application for settlement under section 15 has not co-operated with the Settlement Commission in the proceedings before it, send the case back to the jurisdictional IGST officer or the First Appellate Authority, as the case may be, who shall thereupon dispose of the case in accordance with the provisions of this Act as if no application under section 15 had been made.

(2) For the purpose of sub-section (1), the jurisdictional IGST Officer or the First Appellate Authority, as the case may be, shall be entitled to use all the materials and other information produced by the taxable person before the Settlement Commission or the results of the inquiry held or evidence recorded by the Settlement Commission in the course of the proceedings before it as if such materials, information, inquiry and evidence had been produced before such IGST Officer or the First Appellate Authority, as the case may be, or held or recorded by him in the course of the proceedings before him.

(3) For the purposes of the time limit under section 51 or section 79, as the case may be, of the CGST Act and for the purposes of interest under section 36 of the said Act, in a case referred to in sub-section (1), the period commencing on and from the date of the application to the Settlement Commission under section 15 and ending with the date of receipt by the jurisdictional IGST Officer or the First Appellate Authority, as the case may be, of the order of the Settlement Commission sending the case back to the jurisdictional IGST officer or the First Appellate Authority, as the case may be, shall be excluded.

22. Order of settlement to be conclusive

Every order of settlement passed under sub-section (5) of section 16 shall be conclusive as to the matters stated therein and no matter covered by such order shall, save as otherwise provided in this Chapter, be reopened in any proceeding under this Act or under any other law for the time being in force.

23. Bar on subsequent application for settlement in certain cases

(1) Where-

(i) after the passing of an order of settlement under sub- section (5) of section 16, in relation to a case, such person is convicted of any offence under this Act in relation to that case; or

(ii) the case of such person is sent back to the jurisdictional IGST Officer or the First Appellate Authority, as the case may be, by the Settlement Commission under section 21;

then, he shall not be entitled to apply for settlement under section 15 in relation to any other matter.

(2) No person shall be allowed to avail of the facility of settlement under this Chapter more than twice.

24. Rectification of mistakes by Settlement Commission

The Settlement Commission may amend any order passed by it under section 16 so as to rectify any mistake apparent from the record, if such mistake is noticed by the Settlement Commission on its own accord, or is brought to its notice by the jurisdictional IGST officer or the applicant within a period of three months from the date of the order:

Provided that no rectification, which has the effect of enhancing the liability of the applicant, shall be made under this section, unless the Settlement Commission has given notice to the applicant and the jurisdictional IGST officer of its intention to do so and has allowed the applicant and the jurisdictional IGST officer a reasonable opportunity of being heard.

25. Powers of Settlement Commission

(1) The Settlement Commission shall, for the purpose of exercising its powers regarding discovery and inspection, enforcing the attendance of any person and examining him on oath, issuing commissions and compelling production of books of account and other records, have all the powers of a civil court under the Code of Civil Procedure, 1908 (5 of 1908).

(2) The Settlement Commission shall be deemed to be a civil court for the purposes of section 195, but not for the purposes of Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974), and every proceeding before the Settlement Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196, of the Indian Penal Code (45 of 1860).

26. Procedure of Settlement Commission

The Settlement Commission shall, subject to the provisions of this Chapter, have power to regulate its own procedure in all matters arising out of the exercise of its powers under the Act.

CHAPTER– IX
MISCELLANEOUS

27. Application of certain provisions of the CGST Act, 2016

The provisions relating to registration, valuation, time of supply of goods, time of supply of services, change in rate of tax in respect of supply of services, exemption from payment of tax, input tax credit and utilization thereof, accounts and records, payment, return, audit, assessment, adjudication, demands, refunds, interest, recovery of tax, offences and penalties, inspection, search and seizure, prosecution and power to arrest, appeals, review, advance ruling and compounding shall apply, so far as may be, in relation to the levy of tax under this Act as they apply in relation to levy of tax under the CGST Act, 2016.

28. Power to make rules

(1) The Central Government may, on the recommendation of the Council, by notification, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may

(i) provide for settlement of cases in accordance with Chapter VIIA of this Act;

(ii) provide for all or any of the matters which under any provision of this Act are required to be prescribed or to be provided for by rules.

29. Interest on delayed payment of tax

(1) Every person liable to pay tax in accordance with the provisions of this Act or rules made there under, who fails to pay the tax or any part thereof to the account of the Central Government within the period prescribed, shall, on his own, for the period for which the tax or any part thereof remains unpaid, pay interest at such rate as may be notified, on the recommendation of the Council, by the Central Government.

(2) The interest under sub-section (1) shall be calculated from the first day such tax was due to be paid.

(3) In case a taxable person makes an undue or excess claim of input tax credit under sub-section (10) of section 29 of the CGST Act, he shall be liable to pay interest on such undue or excess claim at the prescribed rate for the period computed in the manner prescribed.

30. Tax wrongfully collected and deposited with the Central or a State Government

A taxable person who has paid IGST on a transaction considered by him to be an inter-state supply, but which is subsequently held to be an intra-state supply, shall, upon payment of CGST and SGST in the appropriate State, be allowed to take the amount of IGST so paid as refund subject to the provisions of section 38 of the CGST Act, 2016 and such other conditions as may be prescribed.

CHAPTER– X

TRANSITIONAL PROVISIONS

31. Import of services or inter-state supply of goods and/or services made on or after the appointed day

Notwithstanding anything contained in section 12 and 13 of the CGST Act, import of services or inter-state supply of goods and/or services made after the appointed day shall be liable to tax under the provisions of this Act regardless of whether the transactions for such import of services or inter-state supply had been initiated before the appointed day:

Provided that if the tax on such import or inter-state supply had been paid in full under the earlier law, no tax shall be payable on such import or inter-state supply under this Act:

Provided further that if the tax on such import of services had been paid in part under the earlier law, balance amount of tax shall be payable on such import or inter-state supply under this Act.

Explanation.- For the purpose of this section, a transaction shall be deemed to have been initiated before the appointed day if either the invoice relating to such supply or payment, either in full or in part, has been received or made before the appointed day.

CHAPTER- XI

ADMINISTRATION

32. Classes of officers under the Integrated Goods and Services Tax Act, 2016

(1) There shall be the following classes of officers under the Integrated Goods and Services Tax Act, 2016 namely;

(a) Principal Chief Commissioners of IGST or
Principal Directors General of IGST,

(b) Chief Commissioners of IGST or
Directors General of IGST,

(c) Principal Commissioners of IGST or
Principal Additional Directors General of IGST,

(d) Commissioners of IGST or
Additional Directors General of IGST,

(e) First Appellate Authority

(f) Additional Commissioners of IGST or
Additional Directors of IGST,

(g) Joint Commissioners of IGST or
Joint Directors of IGST,

(h) Deputy Commissioners of IGST or
Deputy Directors of IGST,

(i) Assistant Commissioners of IGST or
Assistant Directors of IGST, and

(j) such other class of officers as may be appointed for the purposes of this Act.

33. Appointment of officers under the Integrated Goods and Services Tax Act, 2016

(1) The Board may appoint such persons as it may think fit to be officers under the Integrated Goods and Services Tax Act, 2016.

(2) Without prejudice to the provisions of sub-section (1), the Board may authorize a Principal Chief Commissioner/Chief Commissioner of Central Goods and Services Tax or a Principal Commissioner/Commissioner of Central Goods and Services Tax or an Additional/Joint or Deputy/Assistant Commissioner of Central Goods and Service Tax to appoint officers of Integrated Goods and Services Tax below the rank of Assistant Commissioner of Integrated Goods and Services Tax Act, 2016.

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IGST - Model Law 2016

Clause-wise Analysis

Finalized by:

Chairman,

Taxation Committee

The Institute of Cost Accountants of India

www.icmai.in

THE INTEGRATED GOODS AND SERVICES TAX ACT, 2016					
Section	**Draft Act 14.06.2016**	**Parallel Provision in the Existing Act / Rules**	**Existing Act / Rule**	**Existing Act / Rule No**	**Analysis**
1	**Short title, extent and commencement**				
	(1) This Act may be called the Integrated Goods and Services Tax Act, 2016. (2) It extends to the whole of India. (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act.	1) This Act may be called the Central Sales Tax Act, 1956 (2) It extends to the whole of India (3)It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act.	Central Sales Tax Act, 1956	Sec.1	
2	**Definitions**				
	(1) In this Act, unless the context otherwise requires,- (a) "appropriate State", in relation to a taxable person, means that State where he is registered or liable to be registered under section 19 of the Central Goods and Services Tax Act, 2016. Explanation: For the purpose of this Act, "State" includes Union Territory with Legislature. (b) "Government" means the Central Government; (c) "Integrated Goods and Services Tax" (IGST) means tax levied under this Act on the supply of any goods and/or services in the course of inter-State trade or commerce. Explanation 1.- A supply of goods and/or services in the course of import into the territory of India shall be deemed to be a supply of goods and/or services in the course of inter-State trade or commerce. Explanation 2.- An export of goods and/or services shall be deemed to be a supply of goods and/or services in the course of inter-State trade or commerce.	(1) In this Act, unless the context otherwise requires,- (a)"approprate state",means- (i) in relation to a dealer who has one or more places of business situate in the same state, that state; (ii)in relation to a dealer who has places of business situate in different states, every such state with respect to the place or places of business situate within its territory.	Central Sales Tax Act, 1956	Sec.2	Government means Central Govt only IGST is the tax to be levied for supply of goods & services in the course of I**nter-State Trade or Commerce.** Purchases for own consumption even though inter-state will not be considered as inter-state movement and CGST & SGST will be payable Input Tax : Tax charged on any supplies of goods or services which are used and intended to be used in the course of furtherance of the business.
	(d) "input tax" in relation to a taxable person, means the Integrated Goods and Services Tax, Central Goods and Services Tax or State Goods and Services Tax, as the case may be, charged on any supply of goods and/or services to him which are used, or are intended to be used, in the course or furtherance of his business and includes the tax payable under sub-section (3) of section 4; (e) "input tax credit" means credit of 'input tax' as defined in clause (d) of subsection (1) of section 2; (f) "supply" has the same meaning as assigned to it in section 3 of the CGST Act, 2016; (g) "output tax" in relation to a taxable person, means the IGST chargeable under the Act on taxable supply of goods and/or services by him or his agent and excludes tax payable by him on reverse charge basis; (2) Words and expressions not defined in this Act shall have the meaning assigned to them in the Central Goods and Service Tax Act, 2016				
3	**Supplies of goods and/or services in the course of inter-State trade or commerce**				

THE INTEGRATED GOODS AND SERVICES TAX ACT, 2016					
Section	**Draft Act 14.06.2016**	**Parallel Provision in the Existing Act / Rules**	**Existing Act / Rule**	**Existing Act / Rule No**	**Analysis**
	(1) Subject to the provisions of section 5, supply of goods in the course of inter-State trade or commerce means any supply where the location of the supplier and the place of supply are in different States. (2) Subject to the provisions of section 6, supply of services in the course of inter-State trade or commerce means any supply where the location of the supplier and the place of supply are in different States.	A Sale or purchase of goods shall be deemed to take place in the course of inter-state trade of commerce if the sale or purchase- (a) occasions the movement of goods from one State to another or (b) is effected by a transfer of documents of title to the goods during their movement from one State to another. **Explanation 1** : Where goods are delivered to a carrier or other bailee for transmission, the movement of the goods shall, for the purposes of clause(b), be deemed to commence at the time of such delivery and terminate at the time when delivery is taken from such carrier or bailee. **Explanation 2**: Where the movement of goods commences and terminates in the same State it shall not be deemed to be a movement of goods from one State to another by reason merely of the fact that in the course of such movement the goods pass through the territory of any other State. **Explination 3:** Where the gas sold or purchased and transpoted through a common career or pipeline or any other common transport or distribuation system become co-mingled and fungible with other gas in the pipeline or system and such gas is introduced in to the pipeline or system in one state and is taken out from the pipeline in another state, such sale or purchase of gas shall be deemed to be a movement of goods from one state to another.	Central Sales Tax Act, 1956	Sec.3	where location of supplier and place of supplies are in different state, it is considered supplies in the course of inter-state Trade or Commerce. IGST will be applicable.
3A	**Supplies of goods and/or services in the course of intra-State trade or commerce**				
	(1) Subject to the provisions of section 5, intra-state supply of goods means any supply where the location of the supplier and the place of supply are in the same State. (2) Subject to the provisions of section 6, intra-state supply of services means any supply where the location of the supplier and the place of supply are in the same State.	-	-	-	where location of supplier and place of supplies are in the same state, it is considered supplies in the course of intra-state Trade or Commerce and no IGST will be applicable
4	**Levy and collection of Integrated Goods and Services Tax**				

THE INTEGRATED GOODS AND SERVICES TAX ACT, 2016					
Section	**Draft Act 14.06.2016**	**Parallel Provision in the Existing Act / Rules**	**Existing Act / Rule**	**Existing Act / Rule No**	**Analysis**
	(1) There shall be levied a tax called the Integrated Goods and Services Tax on all supplies of goods and/or services made in the course of inter-State trade or commerce at the rate specified in the Schedule to this Act and collected in such manner as may be prescribed. (2) The Integrated Goods and Services Tax shall be paid by every taxable person in accordance with the provisions of this Act. (3) Notwithstanding anything contained in sub-section (2), the Central Government may, on recommendation of the Council, by notification, specify categories of supply of goods and/or services the tax on which is payable on reverse charge basis and the tax thereon shall be paid by the person receiving such goods and/or services and all the provisions of this Act shall apply to such person as if he is the person liable for paying the tax in relation to such goods and/or services. (4) Notwithstanding anything contained in sub-section (1) but subject to such conditions as may be notified in this behalf, no tax under this Act shall be payable by any taxable person in respect of such supplies of goods and/or services as are specified in Schedule . . . to the Act.	(1) The tax payable by any dealer under this Act on sales of goods effected by him in the course of inter-state trade or commerce, whether such sales fall within clause [a] or clause[b] of section 3, shall be levied by the Government of India and the tax so levied shall be collected by that Government in accordance with the provisions of subsection[2] , in the State from which the movement of the goods commenced. 2 Provided that, in the case of a sale of goods during their movement from one State to another, being a sale subsequent to the first sale in respect of the same goods and being also a sale which does not fall within sub-section [2] of section 6, the tax shall be levied and collected (a) where such subsequent sale has been effected by a registered dealer in the State from which the registered dealer obtained or, as the case may be, could have obtained, the form prescribed for the purposes of clause[a] of sub- section [4] of section 8 in connection with the purchase of such goods,and (b) where such subsequent sale has been effected by an unregistered dealer in the State from which such subsequent sale has been effected. [2] Subject to the other provisions of this Act and the rules made there under, the authorities for the time being empowered to assess, reassess, collect and enforce payment of any tax under the General Sales Tax law of the appropriate State,shall on behalf of the Government of India, assess, reassess, collect and enforce payment of tax, including any	Central Sales Tax Act, 1956	Sec.9	IGST rate may be aggregate of CGST and SGST Rate.
		2[[2A] All the 3[provisions relating to offences, interest and penalties] [including provisions relating to penalties in lieu of prosecution for an offence or in additions to the penalties or punishment for an offence but excluding the provisions relating to matters provided for in sections 10 and 10A] of General sales Tax law of each state shall, with necessary modifications, apply in relation to the assessment, reassessment, collection and the enforcement of payment of any tax required to be collected under this Act in such State or in relation to any process connected with such assessment, reassessment, collection or enforcement of payment as if the tax under this Act were a tax under such			

THE INTEGRATED GOODS AND SERVICES TAX ACT, 2016					
Section	**Draft Act 14.06.2016**	**Parallel Provision in the Existing Act / Rules**	**Existing Act / Rule**	**Existing Act / Rule No**	**Analysis**
		sales tax law.] [[2B] If the tax payable by any dealer under this Act is not paid in time, the dealer shall be liable to pay interest for delayed payment of such tax and all the provisions relating to due date for payment of tax, rate of interest for delayed payment of tax and assessment and collection of interest for delayed payment of tax, of the General Sales Tax law of each State, shall apply in relation to due date for payment of tax, rate of interest for delayed payment of tax, and assessment and collection of interest for delayed payment of tax under this Act in such States as if the tax and the interest payable under this Act were a tax and an interest under such sales tax law. [3] The proceeds in any financial year of any tax, 5[including any interest or penalty], levied and collected under this Act in any State (other than a Union Territory) on behalf of the Government of India shall be assigned to that State and shall be retained by it; and the proceeds attributable to Union Territories shall form part of the Consolidated Fund of India.			
		9(A) Collection of tax to be only by registered dealers: No person who is not a registered dealer shall collect in respect of any sale by him of goods in the course of interstate trade or commerce any amount by way of tax under this Act, and no registered dealer shall make any such collection except in accordance with this Act and the rules made there under.			
CHAPTER– IV PLACE OF SUPPLY	**Place of supply of goods**				
5	(1) The provisions of this section shall apply to determine the place of supply of goods. (2) Where the supply involves movement of goods, whether by the supplier or the recipient or by any other person, the place of supply of goods shall be the location of the goods at the time at which the movement of goods terminates for delivery to the recipient. (2A) Where the goods are delivered by the supplier to a recipient or any other person,on the direction of a third person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to the goods or otherwise, it shall be deemed that the said third person has received the goods and the place of supply of such goods shall be the principal place of business of such person. (3) Where the supply does not involve movement of goods, whether by the supplier or the recipient, the place of supply shall be the location of such goods at the time of the delivery to the recipient.	-	-	-	It is in same line in accordance with provisions of Central Sales Tax. Now there will be no requirement of the parallel provision of section 6 of CST for transit sale. More detailed analysis is furnished separately in Annexure D

THE INTEGRATED GOODS AND SERVICES TAX ACT, 2016					
Section	**Draft Act 14.06.2016**	**Parallel Provision in the Existing Act / Rules**	**Existing Act / Rule**	**Existing Act / Rule No**	**Analysis**
	(4) Where the goods are assembled or installed at site, the place of supply shall be the place of such installation or assembly. (5) Where the goods are supplied on board a conveyance, such as a vessel, an aircraft, a train or a motor vehicle, the place of supply shall be the location at which such goods are taken on board. (6) Where the place of supply of goods cannot be determined in terms of sub-section (2), (3), (4) and (5), the same shall be determined by law made by the Parliament in accordance with the recommendation of the Council.				
6	**Place of supply of services**				
	(1) The provisions of this section shall apply to determine the place of supply of services. (2) The place of supply of services, except the services specified in sub-sections (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14) and (15), made to a registered person shall be the location of such person. (3) The place of supply of services, except the services specified in sub-sections (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14) and (15), made to any person other than a registered person shall be (i) the location of the recipient where the address on record exists, and (ii) the location of the supplier of services in other cases. (4) The place of supply of services, - (a) in relation to an immovable property, including services provided by architects, interior decorators, surveyors, engineers and other related experts or estate agents, any service provided by way of grant of rights to use immovable property or for carrying out or co-ordination of construction work, or (b) by way of lodging accommodation by a hotel, inn, guest house, homestay, club or campsite, by whatever name called and including a house boat or any other vessel, or (c) by way of accommodation in any immovable property for organizing any marriage or reception or matters related therewith, official, social, cultural, religious or business function including services provided in relation to such function at such property, or (d) any services ancillary to the services referred to in clause (a), (b) and (c), shall be the location at which the immovable property or boat or vessel is located or intended to be located. Explanation.- Where the immovable property or boat or vessel is located in more than one State, the supply of service shall be treated as made in each of the States in proportion to the value for services separately collected or determined, in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other reasonable basis as may be prescribed in this behalf	Place of Provision of Service rules 2012			It is in same line in accordance with Place of Provisions of Service Rules 2012 as amended without any change but with additional cases such as lodging, accommodation, restaurant and catering services, etc etc. More detailed analysis is furnished separately in Annexure D

THE INTEGRATED GOODS AND SERVICES TAX ACT, 2016					
Section	**Draft Act 14.06.2016**	**Parallel Provision in the Existing Act / Rules**	**Existing Act / Rule**	**Existing Act / Rule No**	**Analysis**
	(5) The place of supply of restaurant and catering services, personal grooming, fitness, beauty treatment, health service including cosmetic and plastic surgery shall be the location where the services are actually performed. (6) The place of supply of services in relation to training and performance appraisal to (a) a registered person, shall be the location of such person; (b) a person other than a registered person, shall be the location where the services are actually performed. (7) The place of supply of services provided by way of admission to a cultural, artistic, sporting, scientific, educational, or entertainment event or amusement park or any other place and services ancillary thereto, shall be the place where the event is actually held or where the park or such other place is located. (8) The place of supply of services provided by way of— (a) organization of a cultural, artistic, sporting, scientific, educational or entertainment event including supply of service in relation to a conference, fair, exhibition, celebration or similar events, or (b) services ancillary to organization of any of the above events or services, or assigning of sponsorship of any of the above events, to (i) a registered person, shall be the location of such person; (ii) a person other than a registered person, shall be the place where the event is actually held.				
	Explanation.- Where the event is held in more than one State and a consolidated amount is charged for supply of services relating to such event, the place of supply of such services shall be taken as being in the each of the States in proportion to the value of services so provided in each State as ascertained from the terms of the contract or agreement entered into in this regard or, in absence of such contract or agreement, on such other reasonable basis as may be prescribed in this behalf. (9) The place of supply of services by way of transportation of goods, including by mail or courier to, (a) a registered person, shall be the location of such person; (b) a person other than a registered person, shall be the location at which such goods are handed over for their transportation. (10) The place of supply of passenger transportation service to (a) a registered person, shall be the location of such person; (b) a person other than a registered person, shall be the place where the passenger embarks on the conveyance for a continuous journey: Provided that where the right to passage is given for future use and the point of embarkation is not known at the time of issue of right to passage, the place of supply of such service shall be determined in the manner specified in sub-sections (2) or (3), as the case may be. Explanation.- For the purposes of this sub-section, the return journey shall be treated as a separate journey even if the right to passage for onward and return journey is issued at the same time. (11) The place of supply of services on board a conveyance such as vessel, aircraft, train or motor vehicle, shall be the location of the first scheduled point of departure of that conveyance for the journey. (12) The place of supply of telecommunication services including data transfer, broadcasting, cable and direct to home television services to any person shall— (a) in case of services by way of fixed telecommunication line, leased circuits, internet leased circuit, cable or dish antenna, be the location where the telecommunication line, leased circuit or cable connection or dish antenna is installed for receipt of services;				

THE INTEGRATED GOODS AND SERVICES TAX ACT, 2016					
Section	**Draft Act 14.06.2016**	**Parallel Provision in the Existing Act / Rules**	**Existing Act / Rule**	**Existing Act / Rule No**	**Analysis**
	(b) in case of mobile connection for telecommunication and internet services provided on post-paid basis, be the location of billing address of the recipient of services on record of the supplier of services; (c) in cases where mobile connection for telecommunication and internet service are provided on pre-payment through a voucher or any other means, be the location where such pre-payment is received or such vouchers are sold: Provided that if such pre-paid service is availed or the recharge is made through internet banking or other electronic mode of payment, the location of the recipient of services on record of the supplier of services shall be the place of supply of such service.				
	(13) The place of supply of banking and other financial services including stock broking services to any person shall be the location of the recipient of services on the records of the supplier of services: Provided that if the service is not linked to the account of the recipient of services, the place of supply shall be location of the supplier of services. (14) The place of supply of insurance services shall: (a) to a registered person, be the location of such person; (b) to a person other than a registered person, be the location of the recipient of services on the records of the supplier of services. (15) The place of supply of advertisement services to the Central Government, a State Government, a statutory body or a local authority meant for identifiable States, shall be taken as located in each of such States and the value of such supplies specific to each State shall be in proportion to amount attributable to service provided by way of dissemination in the respective States as may be determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other reasonable basis as may be prescribed in this behalf.	Place of Provision of Service rules 2012			
CHAPTER-V PAYMENT OF TAX	**Payment of tax, interest, penalty and other amounts**				

THE INTEGRATED GOODS AND SERVICES TAX ACT, 2016					
Section	**Draft Act 14.06.2016**	**Parallel Provision in the Existing Act / Rules**	**Existing Act / Rule**	**Existing Act / Rule No**	**Analysis**
7	(1) 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. Explanation.- The date of credit to the account of the appropriate Government in the authorized bank shall be deemed to be the date of deposit. (2) The input tax credit as self-assessed in the return of a taxable person shall be credited to his electronic credit ledger to be maintained in the manner as may be prescribed. (3) The amount available in the electronic cash ledger may be used for making any payment towards tax, interest, penalty, fees or any other amount payable under the provisions of the Act or the rules made thereunder in such manner and subject to such conditions and within such time as may be prescribed. (4) The amount available in the electronic credit ledger may be used for making any payment towards tax payable under the provisions of the Act or the rules made thereunder in such manner and subject to such conditions and within such time as may be prescribed. (5)(a) The amount of input tax credit on account of IGST available in the electronic credit ledger 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. (b) The amount of input tax credit on account of CGST available in the electronic credit ledger shall first be utilized towards payment of CGST and the amount remaining, if any, may be utilized towards the payment of IGST. (c) The amount of input tax credit on account of SGST available in the electronic credit ledger shall first be utilized towards payment of SGST and the amount remaining,	**Penalties** If any person,- [a] furnishes a certificate or declaration under sub-section (2) of section 6 or sub-section [1] of section 6A or sub-section [4] or sub-section[8] of section 8, which he knows, or has reason to believe, to be false; or (aa) fails to get himself registered as required by section 7, or fails to comply with an order under sub-section[3A] or with the requirements of sub-section[3c] or sub-section [3E], of that section; or (b) being a registered dealer, falsely represents when purchasing any class of goods that goods of such class are covered by his certificate of registration; or (c) not being a registered dealer, falsely represents when purchasing goods in the course of inter-state trade or commerce that he is a registered dealer; or (d) after purchasing any goods for any of the purposes specified in 4[clause [b] or clause [c] or clause [d] of sub-section [3] 5[or sub-section [6] of section 8 fails, without reasonable excuse, to make use of the goods for any such purpose; (e) has in his possession any form prescribed for the purpose of sub-section[4] [or sub-section[8] of section 8 which has not been obtained by him or by his principal or by his agent in accordance with the provisions of this Act or any rules made there under; or 6[[f] collects any account by way of tax in contravention	Sales Tax Act 1956	Sec 10	1. Tax, interest, penalties, late fees can be made through internet banking, debit cards, credit cards, NEFT, RTGS or any other mode as prescribed and such amount will be credited to electronic cash ledger to be maintained by the Common Portal. Date of deposit will be the date of credit to the Government Account. 2. Input Tax Credit on self-assessment will be credited to the Electronic Cash Ledger. 3. Balance in Electronic Cash Ledger may be utilised towards making payment of tax, interest, penalties, fees or any other amount payable. 4. Balance in Electronic Credit Ledger may be utilised towards making payment of tax. 5. IGST to be utilised for the payment of IGST, CGST & SGST in the sequential manner. 6. CGST to be utilized for payment of CGST & IGST in the sequently manner. 7. SGST to be utilised for payment of SGST and IGST in the sequently manner. 8. The refund of the balance in cash / credit register can
	(7) All liabilities of a taxable person under this Act shall be recorded and maintained in an electronic register as may be prescribed. (8) Every taxable person shall discharge his tax and other dues under this Act or the rules made thereunder in the following order: (a) self-assessed tax, and other dues related to returns of previous tax periods; (b) self-assessed tax, and other dues related to the return of the current tax period; (c) any other amount payable under the Act or the rules made thereunder including the demand determined under section 51 of the CGST Act. (9) Every person who has paid the tax on goods and/or services under this Act shall, unless the contrary is proved by him, be deemed to have passed on the full incidence of such tax to the recipient of such goods and/or services.				
8	**Claim of input tax credit, provisional acceptance, matching, reversal and reclaim thereof**				
	(1) Every registered taxable person shall, subject to such conditions and restrictions as may be prescribed in this behalf, be entitled to take credit of input tax, as self assessed, in his return and such amount shall be credited, on a provisional basis, to his electronic credit ledger to be maintained in the manner as may be prescribed. (2) The provisions of section 29 of the CGST Act, 2016 relating to matching, reversal and reclaim of input tax credit shall apply mutatis mutandis to the matching, reversal and reclaim of input tax credit under this section.				The same provisions are applicable of Sec 29 of CGST Act.
9	**Transfer of input tax credit**				

THE INTEGRATED GOODS AND SERVICES TAX ACT, 2016					
Section	**Draft Act 14.06.2016**	**Parallel Provision in the Existing Act / Rules**	**Existing Act / Rule**	**Existing Act / Rule No**	**Analysis**
9	(1) On utilization of input tax credit availed under this Act for payment of tax dues under the CGST Act as per sub-section (5) of section 7, the amount collected as IGST shall stand reduced by an amount equal to the credit so utilized and the Central Government shall transfer an amount equal to the amount so reduced from the IGST account to the CGST account in the manner and time as may be prescribed. (2) On utilization of input tax credit availed under this Act for payment of tax dues under the SGST Act as per sub-section (5) of section 7, the amount collected as IGST shall stand reduced by an amount equal to the credit so utilized and the Central Government shall transfer an amount equal to the amount so reduced from the IGST account to the SGST account of the appropriate State Government in the manner and time as may be prescribed.				6. CGST to be utilized for payment of CGST & IGST in the sequently manner. 7. SGST to be utilised for payment of SGST and IGST in the sequently manner. Respective balance of CGST and SGST will be reduced for such utilisation of IGST.
CHAPTER- VII APPORTIONMENT OF TAX AND SETTLEMENT OF FUNDS	**Apportionment of tax collected under the Act and settlement of funds**				
10	(1) Out of the IGST paid to the Central Government in respect of inter-State supply of goods and/or services to an unregistered person or to a taxable person paying tax under section 8 of the CGST Act, the amount of tax calculated at the rate equivalent to the CGST on similar intra-state supply shall be apportioned to the Central Government. (2) Out of the IGST paid to the Central Government in respect of inter-State supply of goods and/or services made in a year to a registered taxable person, where such taxable person is either not eligible for input tax credit or where he does not avail of the said credit within the specified period and thus remains in the IGST account after expiry of the due date for filing of annual return for such year in which the supply was made, the amount of tax calculated at the rate equivalent to the CGST on similar intra-state supply shall be apportioned to the Central Government. (3) Out of the IGST paid to the Central Government in respect of import of goods and / or services by an unregistered person or by a taxable person paying tax under section 8 of the CGST Act, the amount of tax calculated at the rate equivalent to the CGST on similar intra-state supply shall be apportioned to the Central Government. (4) Out of the IGST paid to the Central Government in respect of import of goods and / or services made in a year by a registered taxable person, where the such taxable person is either not eligible for input tax credit or where he does not avail of the said credit within the specified period and thus remains in the IGST account after expiry of the due date for filing of annual return for such year in which the supply was received, the amount of tax calculated at the rate equivalent to the CGST on similar intra-state supply shall be apportioned to the Central Government.		**Central Excise Act 1944**	Section 32	This is the procedure prescribed for settlement of tax between central & State govt and there will no interface with tax payer in any case. Tax payer will not be held responsible for any error or dispute arising from such transfer / settlement.

THE INTEGRATED GOODS AND SERVICES TAX ACT, 2016					
Section	**Draft Act 14.06.2016**	**Parallel Provision in the Existing Act / Rules**	**Existing Act / Rule**	**Existing Act / Rule No**	**Analysis**
	(5) The balance amount of tax remaining in the IGST account in respect of the supply for which an apportionment to the Central Government has been done under sub-section (1), (2) or (3) shall be apportioned, in the manner and time as may be prescribed, to the State where such supply takes place as per section9 5 or 6. (6) The provisions of sub-sections (1), (2), (3), (4) and (5) relating to apportionment of tax shall mutatis mutandis apply to the apportionment of interest and penalty realized in connection with the tax so apportioned. (7) Where an amount has been apportioned to the Central Government or a State Government under sub-sections (1), (2), (3), (4), (5) and (6), the amount collected as IGST shall stand reduced by an amount equal to the amount so apportioned and the Central Government shall transfer to the CGST account an amount equal to an amount apportioned to the Central Government and shall transfer to the SGST account of the State an amount equal to an amount apportioned to that State, in the manner and time as may be prescribed.				
CHAPTER - VIII SETTLEMENT OF CASES	**Definitions**				
11	(a) "Bench" means a Bench of the Settlement Commission; (b) "case" means any proceeding under this Act for the levy, assessment and collection of IGST before an IGST officer, or before a First Appellate Authority in connection with such levy, assessment or collection of IGST pending on the date on which an application under sub-section (1) of section 15 is made: Provided that where an order is passed by an adjudicating authority and for which the appeal period has not expired shall also be deemed to be a proceeding pending within the meaning of this clause: Provided further that where any appeal has been preferred after expiry of the period specified for filing such appeal under this Act and which has not been admitted, such appeal shall not be deemed to be a proceeding pending within the meaning of this clause: Provided also that where any Court or Appellate Tribunal or the First Appellate Authority refers a case back to the original adjudicating authority or the First Appellate Authority, as the case may be, for a fresh adjudication or decision, such proceeding shall not be deemed to be a proceeding pending within the meaning of this clause; (c) “Designated Officer” means an officer of the IGST appointed in the Settlement Commission to conduct inquiry or investigation for the purpose of this Chapter; (d)"Member" means a Member of the Settlement Commission and includes the National/State Chairman; (e)“Settlement Commission” means the National Goods and Services Tax Settlement Commission constituted under section 12.				
12	**Constitution of National Goods and Services Tax Settlement Commission**				
12	(1) The Central Government shall on the recommendation of the Council constitute a National Goods and Services Tax Settlement Commission for settlement of cases under this Act. (2) The Settlement Commission shall be headed by a National Chairman. (3) The Settlement Commission shall have one bench for one or more states, which shall be called the State Settlement Commission. (4) Every State Settlement Commission shall be headed by a State Chairman. (5) Every State Settlement Commission shall consist of a Chairman and as many Members (Technical –IGST) as may be prescribed, to exercise the powers and discharge the functions conferred on the Settlement Commission by this Act.				

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Section	**Draft Act 14.06.2016**	**Parallel Provision in the Existing Act / Rules**	**Existing Act / Rule**	**Existing Act / Rule No**	**Analysis**
	(6) The National Chairman/State Chairman shall be a person who is or has been a judge of the High Court. (7) The qualifications, eligibility conditions and the manner of selection and appointment of the National Chairman, the State Chairman, and the Members shall be such as may be prescribed on the recommendations of the Council. (8) The National Chairman and the State Chairman shall exercise such powers and discharge such functions as may be prescribed on the recommendations of the Council.				
13	**Jurisdiction and powers of Settlement Commission**				
13	(1) The jurisdiction of the State Settlement Commission constituted under this Act shall extend to the …… (name(s) of States). (2) Each Bench shall be presided over by the State Chairman and shall consist of two other Members. (3) Notwithstanding anything contained in the foregoing provisions of this section, and subject to any rules that may be made in this behalf, when one of the persons constituting a Bench (whether such person is the presiding officer or other Member of the Bench) is unable to discharge his functions owing to absence, illness or any other cause or in the event of the occurrence of any vacancy either in the office of the presiding officer or in the office of one or the other Members of the Bench, the remaining Members may function as the Bench and if the presiding officer of the Bench is not one of the remaining Members, the senior among the remaining Members shall act as the presiding officer of the Bench.		Central Excise Act, 1944	Section 32A	
14	**Decisions to be by majority**				
14	(1) If the Members of a Bench differ in opinion on any point, the point shall be decided according to the opinion of the majority. (2) In a case where the decision is taken by a two member Bench as provided under sub-section (3) of section 13 and Members are equally divided, the matter will be referred to the third Member and the decision will be according to the opinion of the majority.				
15	**Application for settlement of cases**				
15	(1) A taxable person may, in respect of a case or identical cases involving periodical show cause notices relating to him and pending before the adjudicating authority or the First Appellate Authority under the Act, make an application, in such form and in such manner as may be prescribed, containing a full and true disclosure of his tax liability which has not been disclosed before the jurisdictional IGST officer, the manner in which such liability has been derived, the additional amount of tax accepted to be payable by him and such other particulars as may be prescribed, to the Settlement Commission to		Central Excise Act, 1944	Section 32E	A taxable person can make an application for settlement of cases in respect of a case or identical cases involving periodical notices and pending before the adjudicating authority or the First Appellate Authority. An application for settlement cannot be made if the case is pending before Appellate Tribunal or any Court; or if the application is for determination of question in respect of

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Section	**Draft Act 14.06.2016**	**Parallel Provision in the Existing Act / Rules**	**Existing Act / Rule**	**Existing Act / Rule No**	**Analysis**
	have the case(s)settled and any such application shall be disposed of in the manner hereinafter provided: Provided that no such application shall be made unless,- (a) the applicant has furnished the return(s), which he is or was required to furnish under the provisions of this Act; (b) a show cause notice for demand of tax issued by the IGST officer has been received by the applicant or an order confirming the demand of tax has been issued by the IGST officer and the same is pending before the First Appellate Authority; (c) the additional amount of tax accepted by the applicant in his application exceeds five lakh rupees; and (d) the applicant has paid the additional amount of tax accepted by him along with interest due thereon under section 36 of the CGST Act: Provided further that the Settlement Commission, if it is satisfied that the circumstances exist for not filing the return(s) referred to in clause (a) of the first proviso to subsection (1), may, after recording the reasons thereof, allow the applicant to make such application. (2) No application shall be entertained by the Settlement Commission under sub-section (1) in cases which are pending with the Appellate Tribunal or any Court. (3) No application under sub-section (1) shall be made for determination of any question having a bearing on the rate of tax or determination of liability to pay tax on goods and/or services under the Act. (4) Every application made under sub-section (1) shall be accompanied by such fees as may be prescribed. (5) An application made under sub-section (1) shall not be allowed to be withdrawn by the applicant.				rate of tax / determination of liability on any goods and / or services. It is in the similar line of existing provisions of customs, service tax & central excise
16	**Procedure for settlement on receipt of an application under section 15**				
16	(1) On receipt of an application under sub-section (1) of section 15, the Settlement Commission shall, within seven days from the date of receipt of the application, issue a notice to the applicant to explain in writing as to why the application made by him should be allowed to be proceeded with, and after taking into consideration the explanation provided by the applicant, it shall, within a period of forty five days from the date of the notice, by an order, allow the application to be proceeded with, or reject the application as the case may be, and the proceedings before the Settlement Commission shall abate on the date of rejection :		Central Excise Act, 1944	Section 32F	

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Section	**Draft Act 14.06.2016**	**Parallel Provision in the Existing Act / Rules**	**Existing Act / Rule**	**Existing Act / Rule No**	**Analysis**
	Provided that an application shall not be rejected unless an opportunity has been given to the applicant of being heard; Provided further that where no notice has been issued or no order has been passed within the aforesaid period by the Settlement Commission, the application shall be deemed to have been allowed to be proceeded with. (2) A copy of every order under sub-section (1), shall be sent to the applicant and to the jurisdictional IGST officer. (3) Where an application is allowed under sub-section (1), the Settlement Commission shall, within seven days from the date of order under sub-section (1), call for a report along with the relevant records from the jurisdictional IGST officer and such officer shall furnish the report within a period of sixty days of the receipt of communication from the Settlement Commission: Provided that where the jurisdictional IGST officer does not furnish the report within the aforesaid period of sixty days, the Settlement Commission shall proceed further in the matter without the report of the said officer. (4) After examination of the report of the jurisdictional IGST officer received under subsection (3), if the Settlement Commission is of the opinion that any further enquiry or investigation in the matter is necessary, it may, within 15 days of the receipt of the report, direct, for reasons to be recorded in writing, the Designated Officer to make such further enquiry or investigation and furnish a report within a period of ninety days of the receipt of such direction, on the matters covered by the application and any other matter relating to the case : Provided that where the Designated Officer does not furnish the report within the aforesaid period, the Settlement Commission shall proceed to pass an order under subsection (5) without such report. (5) After examination of the records and the report of the jurisdictional IGST officer received under sub-section (3), and the report, if any, of the Designated Officer under sub-section (4), and after giving an opportunity to the applicant and to the jurisdictional IGST officer to be heard, either in person or through an authorised representative, and after examining such further evidence as may be placed before it or obtained by it, the Settlement Commission may pass such order as it thinks fit on the				
	(6) An order under sub-section (5) shall not be passed in respect of an application after twelve months from the last day of the month in which the application was made, failing which the settlement proceedings shall abate, and the adjudicating authority or the First Appellate Authority, as the case may be, before whom the proceeding at the time of making the application was pending, shall dispose of the case in accordance with the provisions of this Act as if no application under section 15 had been made. Provided that the period specified under this sub- section may, for reasons to be recorded in writing, be extended by the Settlement Commission for a further period not exceeding three months. (7) For the purposes of the time limit under section 51 or section 79, as the case may be, of the CGST Act and for the purposes of interest under section 36 of the said Act, in a case referred to in sub-section (1) or sub-section (6), as the case may be, the period commencing on and from the date of the application to the Settlement Commission under section 15 and ending with the date of abatement, shall be excluded. (8) The order passed under sub-section (5) shall provide for the terms of settlement including any demand by way of tax, interest, fine or penalty, the manner in which any sums due under the settlement shall be paid and all other matters to make the settlement effective and in case of rejection contain the reasons therefor: Provided that the amount of settlement ordered by the Settlement Commission shall not be less than the tax liability admitted by the applicant under section 15.				

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Section	**Draft Act 14.06.2016**	**Parallel Provision in the Existing Act / Rules**	**Existing Act / Rule**	**Existing Act / Rule No**	**Analysis**
	(9) Settlement arrived under sub-section (5) shall be void if it is subsequently found by the Settlement Commission that it has been obtained by fraud or misrepresentation of facts. (10) Where any tax, interest, fine and penalty payable in pursuance of an order under sub-section (5) is not paid by the taxpayer within thirty days of receipt of a copy of the order by him, or within such period as extended by the Settlement Commission not exceeding three months, the amount which remains unpaid, shall be recovered along with interest due thereon at the rate prescribed under section 36 of the CGST Act, as the sums due to the Central/ State Government by the jurisdictional IGST officer in accordance with the provisions of section 54 of the CGST Act. (11) Where a settlement becomes void as provided under sub-section (9), the proceedings with respect to the matters covered by the settlement shall be deemed to have been revived from the stage at which the application was allowed to be proceeded with by the Settlement Commission and the jurisdictional IGST officer or the First Appellate Authority, as the case may be, may, notwithstanding anything contained in any other provision of this Act, complete such proceedings before the expiry of two years from the date of the receipt of communication that the settlement became void.				
17	**Power of Settlement Commission to order provisional attachment to protect revenue**				
17	(1) Where during the pendency of any proceeding before it, the Settlement Commission is of the opinion that for the purpose of protecting the interests of revenue it is necessary so to do, it may, by order, attach provisionally any property belonging to the applicant in the manner as may be prescribed. (2) Every provisional attachment made by the Settlement Commission under subsection (1) shall cease to have effect from the date, the sums due to the Central Government / the State Government for which such attachment is made are discharged by the applicant and evidence to that effect is submitted to the Settlement Commission.		Central Excise Act, 1944	Section 32G	
18	**Power of Settlement Commission to reopen completed proceedings**				
18	If the Settlement Commission is of the opinion (the reasons for such opinion to be recorded by it in writing) that, for the proper disposal of the case pending before it, it is necessary or expedient to reopen any proceeding connected with the case but which has been completed under this Act before application for settlement under section 15 was made, it may, with the concurrence of the applicant, reopen such proceeding and pass such order thereon as it thinks fit, as if the case in relation to which the application for settlement had been made by the applicant under that section covered such proceeding also : Provided that no proceeding shall be reopened by the Settlement Commission under this section after the expiry of five years from the date of application.		Central Excise Act, 1944	Section 32H	
19	**Inspection, etc. of reports**				
19	The Settlement Commission shall, on an application made in this behalf, and on payment of the prescribed fee by the applicant, for the purpose of rebutting any evidence brought on record against him in any report made by any IGST Officer or Designated officer, furnish to him a certified copy of any such report or part thereof relevant for the purpose.		Central Excise Act, 1944	Section 32J	
20	**Power of Settlement Commission to grant immunity from prosecution and penalty**				

THE INTEGRATED GOODS AND SERVICES TAX ACT, 2016					
Section	**Draft Act 14.06.2016**	**Parallel Provision in the Existing Act / Rules**	**Existing Act / Rule**	**Existing Act / Rule No**	**Analysis**
20	(1) The Settlement Commission may, if it is satisfied that any person who made the application for settlement under section 15 has co-operated with the Settlement Commission in the proceedings before it and has made a full and true disclosure of his tax liability, grant to such person, subject to such conditions as it may think fit to impose, immunity from prosecution for any offence under this Act and also either wholly		Central Excise Act, 1944	Section 32K	
	or in part from the imposition of any penalty and fine under this Act, with respect to the case covered by the settlement : Provided that no such immunity shall be granted by the Settlement Commission in cases where the proceedings for the prosecution for any such offence have been instituted before the date of receipt of the application under section 15. (2) An immunity granted to a person under sub-section (1) shall stand withdrawn if such person fails to pay any sum specified in the order of the settlement passed under subsection (5) of section 16 within the time specified in such order or within such extended period as permitted by the Settlement Commission or fails to comply with any other condition subject to which the immunity was granted and thereupon the provisions of this Act shall apply as if such immunity had not been granted. (3) An immunity granted to a person under sub-section (1) may, at any time, be withdrawn by the Settlement Commission, if it is satisfied that such person had, in the course of the settlement proceedings, concealed any particular material to the settlement or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the settlement and shall also become liable to the imposition of any penalty under this Act to which such person would have been liable, had no such immunity been granted.				
21	**Power of Settlement Commission to send a case back to the IGST officer**				
21	(1) The Settlement Commission may, if it is of opinion that any person who made an application for settlement under section 15 has not co-operated with the Settlement Commission in the proceedings before it, send the case back to the jurisdictional IGST officer or the First Appellate Authority, as the case may be, who shall thereupon dispose of the case in accordance with the provisions of this Act as if no application under section 15 had been made. (2) For the purpose of sub-section (1), the jurisdictional IGST Officer or the First Appellate Authority, as the case may be, shall be entitled to use all the materials and other information produced by the taxable person before the Settlement Commission or the results of the inquiry held or evidence recorded by the Settlement Commission in the course of the proceedings before it as if such materials, information, inquiry and evidence had been produced before such IGST Officer or the First Appellate Authority, as the case may be, or held or recorded by him in the course of the proceedings before him. (3) For the purposes of the time limit under section 51 or section 79, as the case may be, of the CGST Act and for the purposes of interest under section 36 of the said Act, in a case referred to in sub-section (1), the period commencing on and from the date of the application to the Settlement Commission under section 15 and ending with the date of receipt by the jurisdictional IGST Officer or the First Appellate Authority, as the case may be, of the order of the Settlement Commission sending the case back to the risdictional IGST officer or the First Appellate Authority, as the case may be, shall be excluded.		Central Excise Act, 1944	Section 32L	

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Section	**Draft Act 14.06.2016**	**Parallel Provision in the Existing Act / Rules**	**Existing Act / Rule**	**Existing Act / Rule No**	**Analysis**
22	**Order of settlement to be conclusive**				
22	Every order of settlement passed under sub-section (5) of section 16 shall be conclusive as to the matters stated therein and no matter covered by such order shall, save as otherwise provided in this Chapter, be reopened in any proceeding under this Act or under any other law for the time being in force.		Central Excise Act, 1944	Section 32M	
23	**Bar on subsequent application for settlement in certain cases**				
23	(1) Where- (i) after the passing of an order of settlement under sub- section (5) of section 16, in relation to a case, such person is convicted of any offence under this Act in relation to that case; or (ii) the case of such person is sent back to the jurisdictional IGST Officer or the First Appellate Authority, as the case may be, by the Settlement Commission under section 21; then, he shall not be entitled to apply for settlement under section 15 in relation to any other matter. (2) No person shall be allowed to avail of the facility of settlement under this Chapter more than twice.		Central Excise Act, 1944	Section 32O	
24	**Rectification of mistakes by Settlement Commission**				
24	The Settlement Commission may amend any order passed by it under section 16 so as to rectify any mistake apparent from the record, if such mistake is noticed by the Settlement Commission on its own accord, or is brought to its notice by the jurisdictional IGST officer or the applicant within a period of three months from the date of the order: Provided that no rectification, which has the effect of enhancing the liability of the applicant, shall be made under this section, unless the Settlement Commission has given notice to the applicant and the jurisdictional IGST officer of its intention to do so and has allowed the applicant and the jurisdictional IGST officer a reasonable opportunity of being heard.				
25	**Powers of Settlement Commission**				
25	(1) The Settlement Commission shall, for the purpose of exercising its powers regarding discovery and inspection, enforcing the attendance of any person and examining him on oath, issuing commissions and compelling production of books of account and other records, have all the powers of a civil court under the Code of Civil Procedure, 1908 (5 of 1908). (2) The Settlement Commission shall be deemed to be a civil court for the purposes of section 195, but not for the purposes of Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974), and every proceeding before the Settlement Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196, of the Indian Penal Code (45 of 1860).		Central Excise Act, 1944	Section 32I	
26	**Procedure of Settlement Commission**				
26	The Settlement Commission shall, subject to the provisions of this Chapter, have power to regulate its own procedure in all matters arising out of the exercise of its powers under the Act.		Central Excise Act, 1944	Section 32I	
27	**Application of certain provisions of the CGST Act, 2016**				

THE INTEGRATED GOODS AND SERVICES TAX ACT, 2016					
Section	**Draft Act 14.06.2016**	**Parallel Provision in the Existing Act / Rules**	**Existing Act / Rule**	**Existing Act / Rule No**	**Analysis**
27	The provisions relating to registration, valuation, time of supply of goods, time of supply of services, change in rate of tax in respect of supply of services, exemption from payment of tax, input tax credit and utilization thereof, accounts and records, payment, return, audit, assessment, adjudication, demands, refunds, interest, recovery of tax, offences and penalties, inspection, search and seizure, prosecution and power to arrest, appeals, review, advance ruling and compounding shall apply, so far as may be, in relation to the levy of tax under this Act as they apply in relation to levy of tax under the CGST Act, 2016.				Most of the provisions are stipulated in the said section are applicable in accordance with corresponding provisions of CGST Law.
28	**Power to make rules**				
28	(1) The Central Government may, on the recommendation of the Council, by notification, make rules for carrying out the purposes of this Act. (2) In particular and without prejudice to the generality of the foregoing power, such rules may (i) provide for settlement of cases in accordance with Chapter VIIA of this Act; (ii) provide for all or any of the matters which under any provision of this Act are required to be prescribed or to be provided for by rules.				Central Govt. is empowered to make the rules only when it is recommended by GST Council.
29	**Interest on delayed payment of tax**				
29	(1) Every person liable to pay tax in accordance with the provisions of this Act or rules made there under, who fails to pay the tax or any part thereof to the account of the Central Government within the period prescribed, shall, on his own, for the period for which the tax or any part thereof remains unpaid, pay interest at such rate as may be notified, on the recommendation of the Council, by the Central Government. (2) The interest under sub-section (1) shall be calculated from the first day such tax was due to be paid. (3) In case a taxable person makes an undue or excess claim of input tax credit under sub-section (10) of section 29 of the CGST Act, he shall be liable to pay interest on such undue or excess claim at the prescribed rate for the period computed in the manner prescribed.				Provisions of CGST is also applicable for payment of interest on delayed payment of tax
30	**Tax wrongfully collected and deposited with the Central or a State Government**				
30	A taxable person who has paid IGST on a transaction considered by him to be an interstate supply, but which is subsequently held to be an intra-state supply, shall, upon payment of CGST and SGST in the appropriate State, be allowed to take the amount of IGST so paid as refund subject to the provisions of section 38 of the CGST Act, 2016 and such other conditions as may be prescribed.				Provisions of CGST is also applicable for refund of any tax, penalty & interest in accordance with Section 38 of CGST Act.
CHAPTER– X TRANSITIONAL PROVISIONS	**Import of services or inter-state supply of goods and/or services made on or after the appointed day**				

THE INTEGRATED GOODS AND SERVICES TAX ACT, 2016					
Section	**Draft Act 14.06.2016**	**Parallel Provision in the Existing Act / Rules**	**Existing Act / Rule**	**Existing Act / Rule No**	**Analysis**
31	Notwithstanding anything contained in section 12 and 13 of the CGST Act, import of services or inter-state supply of goods and/or services made after the appointed day shall be liable to tax under the provisions of this Act regardless of whether the transactions for such import of services or inter-state supply had been initiated before the appointed day: Provided that if the tax on such import or inter-state supply had been paid in full under the earlier law, no tax shall be payable on such import or inter-state supply under this Act: Provided further that if the tax on such import of services had been paid in part under the earlier law, balance amount of tax shall be payable on such import or inter-state supply under this Act. Explanation.- For the purpose of this section, a transaction shall be deemed to have been initiated before the appointed day if either the invoice relating to such supply or payment, either in full or in part, has been received or made before the appointed day.				Even if transactions of import of services or inter-state supplies of goods or services have been initiated on the appointed day but provided after appointed day are liable for payment of IGST. Initiation means invoice is issued prior to appointed day or payment is received prior to appointed day. However, if full tax has been already paid in accordance with earlier law on such transactions, in such case no IGST will be payable. Further, if partial tax has been already paid in accordance with earlier law then IGST will be payable on the balance amount. The care needs to be taken while importation of goods. if goods are landed in India for which Bill of Entry is filed but not assessed prior to appointed day then additional duties leviable under the earlier law i.e. CVD and SAD will be payable but any goods for which Bill of entry is filed but not assessed after appointed day, IGST will be payable. Proper clarification needs to be issued.
CHAPTER- XI ADMINISTRATION	**Classes of officers under the Integrated Goods and Services Tax Act, 2016**				
32	(1) There shall be the following classes of officers under the Integrated Goods and Services Tax Act, 2016 namely; (a) Principal Chief Commissioners of IGST or Principal Directors General of IGST, (b) Chief Commissioners of IGST or Directors General of IGST, (c) Principal Commissioners of IGST or Principal Additional Directors General of IGST, (d) Commissioners of IGST or Additional Directors General of IGST, (e) First Appellate Authority (f) Additional Commissioners of IGST or Additional Directors of IGST, (g) Joint Commissioners of IGST or Joint Directors of IGST, (h) Deputy Commissioners of IGST or Deputy Directors of IGST, (i) Assistant Commissioners of IGST or Assistant Directors of IGST, and (j) such other class of officers as may be appointed for the purposes of this Act.				All central excise officers will be deemed to be IGST officers for execution of the said act. However, VAT Officers dealing with CST will not be the officers under IGST
33	**Appointment of officers under the Integrated Goods and Services Tax Act, 2016**				

THE INTEGRATED GOODS AND SERVICES TAX ACT, 2016					
Section	**Draft Act 14.06.2016**	**Parallel Provision in the Existing Act / Rules**	**Existing Act / Rule**	**Existing Act / Rule No**	**Analysis**
	(1) The Board may appoint such persons as it may think fit to be officers under the Integrated Goods and Services Tax Act, 2016. (2) Without prejudice to the provisions of sub-section (1), the Board may authorize a Principal Chief Commissioner/Chief Commissioner of Central Goods and Services Tax or a Principal Commissioner/Commissioner of Central Goods and Services Tax or an Additional/Joint or Deputy/Assistant Commissioner of Central Goods and Service Tax to appoint officers of Integrated Goods and Services Tax below the rank of Assistant Commissioner of Integrated Goods and Services Tax Act, 2016.				