FAQ’s and MCQ’s on GST

(January, 2018)

The Institute of Chartered Accountants of India
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New Delhi

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Foreword

Indian economy has been witnessing the spurring growth with the paradigm shift from consumer based tax to destination based tax from July 1,2017. Seamless credit, elimination of cascading effect of taxes, removal of multiple indirect taxes, curtailed physical barriers etc. are some of the prominent features of GST felicitating 'One Nation - One Market - One Tax'. Hence, it will benefit all stakeholders i.e. Government, Businessmen and consumers inter-alia by not only increasing the tax revenue but also reducing the cost of goods and services.

Since, our profession commands great credibility, it is imperative for our members to recognize and understand the intricacies, benefits etc. of this major tax reform and cope with rapidly changing environment. Therefore, the Indirect Taxes Committee of ICAI has come out with revised publication titled "FAQ's and MCQ's on GST". This novel initiative of the Committee provides a comprehensive coverage of GST in easy to understand question answer format written in lucid language which would facilitate the reader to easily comprehend the emerging law.

I appreciate CA. Madhukar N. Hiregange, Chairman, CA. Sushil Kumar Goyal, Vice-Chairman and other members of the Indirect Taxes Committee for revising this publication. I am confident that this revised publication would prove to be very useful for our members in understanding the GST law and gaining deep insights for exploring the subject further.

I wish the members a fruitful and enriching experience by perusing this publication.

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Date: 08.01.2018
Place: New Delhi

CA. Nilesh S. Vikamsey
President, ICAI

Preface

GST, a single biggest tax reform in the history of India is a destination based tax pervasively impacting ever sphere of business like supply chain, IT system, accounting, cash flow, credits, product pricing, compliances, legal contact etc. Hassle free implementation of GST calls for endeavors from both the Government and our Countrymen.

ICAI for smooth implementation of GST has always been supporting the Government with its intellectual resources, expertise and efforts. Being a partner in GST Knowledge Dissemination, the Indirect Taxes Committee of ICAI through its various publications on GST, Certificate Course (Virtual and face to face), Workshop, Seminars and Standardized PPTs, e-learning, webcast, suggestions provided at the nascent and every stage law etc. has always endeavored to a part of this major tax reform which can benefit the society. One more step towards this initiative taken by Indirect Taxes Committee of ICAI is revision of its publication named "***FAQ's and MCQ's on GST***". This publication will facilitate our members and stakeholders to understand the GST Laws in a very easy manner in question answer mode.

We would like to express our sincere gratitude and thanks to CA Nilesh Vikamsey, President, ICAI and CA. Naveen Gupta, Vice-President, ICAI for their guidance and encouragement to the initiatives of the Committee. We would like to acknowledge the members of the Committee and specially CA A. Jatin Christopher, CA. Jatin Harjai and CA. Gaurav Gupta. Further, we must also thank the Study Group on GST at Bangalore, Mumbai, Hyderabad, Bhubaneswar, Patna, Pimpri Chinchwad, Kolkata, Indore and Chennai and our Secretariat for their contribution in revising this publication.

We welcome the readers to an intellectual learning spree. Interested members may visit website of the Committee www.idtc.icai.org and join the IDT update facility. We request to share your feedback at idtc@icai.in to enable us to make this publication more accurate, value additive and useful.

Welcome to a professionalized learning experience in Indirect Taxation.

CA. Madhukar Narayan Hiregange
Chairman
Indirect Taxes Committee

CA. Sushil Kumar Goyal
Vice-Chairman
Indirect Taxes Committee

Date: 08.01.2018

Place: New Delhi

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Chapter I
Levy and Collection of Tax

FAQ's

Scope of Supply (Section 7)

Section 7 of the Central Goods and Services Tax Act, 2017 ("the CGST Act, 2017" or "the CGST Act") made applicable to IGST *vide* Section 20 of the Integrated Goods and Services Tax Act, 2017 ("the IGST Act, 2017" or "the IGST Act") and UTGST vide Section 21 of the Union Territory Goods and Services Tax Act, 2017 ("the UTGST Act, 2017" or "the UGST Act")

Q1. What is the scope of the term 'supply' as defined in the CGST Act, 2017?

Ans. As per Section 7(1) of the CGST Act, 2017, Supply includes:

1. all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;
2. import of services for a consideration whether or not in the course or furtherance of business;
3. the activities specified in Schedule I, made or agreed to be made without a consideration; and
4. the activities to be treated as supply of goods or supply of services as referred to in Schedule II.

Q2. Is it required to distinguish whether a particular supply involves supply of goods or services or both?

Ans. Yes, the CGST Act, 2017 specifies certain provisions separately for supply of goods and supply of services *viz.,* Section 12 and Section 13 thereof provides for ascertaining time of supply of goods and time of supply of services respectively; similarly, separate provisions have been specified for ascertaining place of supply of goods and place of supply of services. Further, the rate of tax applicable to supply of goods and supply of services are different. Accordingly, it is important to distinguish whether a particular transaction involves supply of goods or supply of services.

Q3. How to distinguish whether a particular supply involves supply of goods or services or both?

Ans. The Schedule II appended to the CGST Act, 2017 enlists the activities which are to be treated as supply of goods or supply of services. One may refer Schedule II with

reference to Section 7 to classify whether the transaction involves supply of goods or supply of services.

Q4. Whether supply of goods or services without consideration is liable to tax?

Ans. The activities enumerated in Schedule I will qualify as supply even if made without consideration. Accordingly, such supplies in the absence of consideration are liable to tax. To illustrate, following are the activities which will qualify as supply in the absence of consideration and eventually would be liable to tax:

1. Permanent transfer or disposal of business assets where input tax credit has been availed on such assets.

   It is pertinent to mention that *Notification No. 41/2017-Central Tax (Rate) dated 14.11.2017* notified that irrespective of whether permanent transfer of Intellectual Property is a supply of goods or service, the rate applicable will be: -

Description	Rate
Permanent transfer of Intellectual Property other than Information Technology software	attracts GST @ 12%
Permanent transfer of Intellectual Property in respect of Information Technology software	attracts GST @ 18%

2. Supply of goods or services or both between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business:

   Provided that gifts not exceeding fifty thousand rupees in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both.

3. Supply of goods—

   (a) by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal; or

   (b) by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal.

4. Import of services by a taxable person from a related person or from any of his other establishments outside India, in the course or furtherance of business.

Q5. Whether transfer of goods to another branch located outside the State is taxable?

Ans. In terms of Section 25(4) of the CGST Act, 2017, every person who is required to obtain separate registration for every branch located in different state or union territory shall be

treated as distinct persons. Accordingly, the supply of goods (stock transfers) to a branch located outside the State would qualify as supply, liable to tax in terms of clause 2 to Schedule I of the CGST Act, 2017. Further, it is important to note that, supply of goods to a branch / unit located within the same State having separate registration would also be liable to tax since both such units (supplying unit and recipient unit) would qualify as distinct person in terms of Section 25(4).

Q6. Whether gifts given by employer to employee will also qualify as supply?

Ans. In terms of Explanation appended to Section 15 it is clarified that employer and employee will be deemed to be related persons. Accordingly, in terms clause 2 of Schedule I, gift exceeding ₹ 50,000/- by an employer to employee will be a supply, when made in the course or furtherance of business and will be liable to tax. As, in terms of proviso to clause 2 of Schedule I, any gifts for a value not exceeding ₹ 50,000/- in a financial year will not qualify as supply and as such will not be liable to tax.

Further, as per press release dated 10th July, 2017, if services are provided free of charge to all the employees by the employer then the same will not be subjected to GST, provided appropriate GST was paid when procured by the employer. The relevant extract aforesaid press release is as under:

> *"Another issue is the taxation of perquisites. It is pertinent to point out here that the services by an employee to the employer in the course of or in relation to his employment is outside the scope of GST (neither supply of goods or supply of services). It follows therefrom that supply by the employer to the employee in terms of contractual agreement entered into between the employer and the employee, will not be subjected to GST. Further, the input tax credit (ITC) scheme under GST does not allow ITC of membership of a club, health and fitness centre [section 17(5)(b)(ii)]. It follows, therefore, that if such services are provided free of charge to all the employees by the employer then the same will not be subjected to GST, provided appropriate GST was paid when procured by the employer. The same would hold true for free housing to the employees, when the same is provided in terms of the contract between the employer and employee and is part and parcel of the cost-to-company (C2C)."*

Q7. Whether supply of goods by principal to his agent or by agent to his principal is taxable in the absence of consideration?

Ans. In terms of Section 7 read with Schedule I, following would qualify as supply:

1. Supply of goods by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal; or

2. Supply of goods by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal.

Q8. Whether import of services will be liable to tax under GST regime?

Ans. The following import of service will qualify as supply under the CGST Act, 2017:

1. As per Section 7, import of service for a consideration whether or not in the course or furtherance of business is a supply;

2. As per Schedule I, import of service by a taxable person, even if made without consideration, from a related person or from any of his other establishments outside India, in the course or furtherance of business.

Q9. Whether superior kerosene oil [SKO] retained for the manufacture of Linear Alkyl Benzene [LAB] exigible to GST?

Ans. In terms of Circular *No. 12/12/2017-GST dated 26.10.2017*, the LAB manufacturers receive superior Kerosene oil (SKO) from, a refinery, say, Indian Oil Corporation (IOC). They extract n-Paraffin (C9-C13 hydrocarbons) from SKO and return back the remaining of SKO to the refinery. In this context, the issue has arisen as to whether in this transaction GST would be levied on SKO sent by IOC for extracting n-paraffin or only on the n-paraffin quantity extracted by the LAB manufactures. Further, whether the return of remaining Kerosene by LAB manufactures would separately attract GST in such transaction.

In this regard, Department has clarified that GST will be payable by the refinery only on the net quantity of superior kerosene oil (SKO) retained for the manufacture of Linear Alkyl Benzene (LAB). Though, refinery would be liable to pay GST on such returned quantity of SKO, when the same is supplied by it to any other person.

Q10. Whether GST leviable on inter-state transfer of aircraft engines, parts and accessories for use by their own airlines?

Ans. Yes. In terms of Schedule I of the CGST Act, supply of goods or services or both between related persons or between distinct persons as specified in Section 25, when made in the course or furtherance of business, even if, without consideration, attracts GST. Hence, GST will be levied on inter-state transfer of aircraft engines, parts and accessories for use by their own airlines.

Further, *Circular No. 16/16/2017-GST dated 15.11.2017* also clarifies that credit of GST paid on aircraft engines, parts & accessories will be available for discharging GST on inter–state supply of such aircraft engines, parts & accessories by way of inter-state stock transfers between distinct persons as specified in section 25 of the CGST Act, notwithstanding that credit of input tax charged on consumption of such goods is not

allowed for supply of service of transport of passengers by air in economy class at GST rate of 5%.

Q11. Whether supply of books, pamphlets, brochures, envelopes, annual reports, leaflets, cartons, boxes etc., printed with design, logo, name, address or other contents supplied by the recipient of such supplies, would constitute supply of goods or supply of services?

Ans. Printing of books, pamphlets, brochures, annual reports, and the like, where only content is supplied by the publisher or the person who owns the usage rights to the intangible inputs while the physical inputs including paper used for printing belong to the printer, supply of printing [of the content supplied by the recipient of supply] is the principal supply and therefore such supplies would constitute supply of service falling under heading 9989 of the scheme of classification of services.

While, supply of printed envelopes, letter cards, printed boxes, tissues, napkins, wall paper etc. falling under Chapter 48 or 49, printed with design, logo etc. supplied by the recipient of goods but made using physical inputs including paper belonging to the printer, predominant supply is that of goods and the supply of printing of the content [supplied by the recipient of supply] is ancillary to the principal supply of goods and therefore such supplies would constitute supply of goods falling under respective headings of Chapter 48 or 49 of the Customs Tariff.

Q12. Whether supply by artists through galleries is leviable under GST?

Ans. In terms of *Circular No. 22/22/2017-GST dated 21.12.2017*, since art works are sent to the gallery for exhibition does not involve consideration, therefore when the art works are sent to the gallery for exhibition and therefore, the same is not a supply.

It is only when the buyer selects a particular art work displayed at the gallery, that the actual supply takes place and applicable GST would be payable at the time of such supply.

Q13. Whether GST will apply wherein goods are moved within the State or from the State of registration to another State for supply on approval basis?

Ans. In terms of *Circular No 10/10/2017-GST dated 10.10.2017*, the goods which are taken for supply on approval basis can be moved from the place of business of the registered supplier to another place within the same State or to a place outside the State on a delivery challan along with the e-way bill wherever applicable and the invoice may be issued at the time of delivery of goods. For this purpose, the person carrying the goods for such supply can carry the invoice book with him so that he can issue the invoice once the supply is fructified.

Hence, all such supplies, where the supplier carries goods from one State to another and supplies them in a different State, will be inter-state supplies and attract IGST in

terms of Section 5 of IGST Act. And those within the State will be exigible to CGST in terms of Section 9 of the IGST Act

Tax Liability on Composite and Mixed Supplies (Section 8)

Section 8 of the CGST Act, 2017 made applicable to IGST *vide* Section 20 of the IGST Act, 2017 and UTGST vide Section 21 of the UTGST Act, 2017

Q14. What is composite supply?

Ans. In terms of Section 2(30) of CGST Act, 2017, composite supply means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply. The illustration of composite supply appended to Section 2(30) is as follows:

Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply.

Q15. How would the tax liability be determined in case of Composite supply?

Ans. In terms of Section 8 of the CGST Act, 2017, tax liability in case of composite supply should be determined with reference to the principal supply forming part of such composite supply.

Q16. What is Mixed Supply?

Ans. In terms of Section 2(74), mixed supply means two or more individual supplies of goods or services or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply. The illustration of mixed supply appended to Section 2(74) is as follows:

A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drink and fruit juices when supplied for a single price is a mixed supply. Each of these items can be supplied separately and is not dependent on any other. It shall not be a mixed supply if these items are supplied separately.

Q17. How would the tax liability be determined in case of Mixed supply ?

Ans. In terms of Section 8, the tax liability in case of a mixed supply shall be ascertained with reference to that particular supply which attracts highest rate of tax.

Levy and Collection (Section 9)

Q18. What are the taxes that are levied on an intra-State supply?

Ans. In terms of Section 9 of the CGST Act, 2017, intra-State supplies are liable to CGST. In terms of Section 7 of UTGST Act, 2017, intra-State supplies effected by a taxable

person located in Union Territory (within the Union Territory) will be liable to UTGST. Therefore, in case of intra-State supplies in case of State or Union Territory, CGST and SGST or CGST and UTGST will be applicable respectively.

Q19. How to ascertain the taxable value for levy of CGST & SGST/UTGST?

Ans. Section 15 of the CGST Act, 2017 specifies that the value of supply of goods or services or both shall be the transaction value, which is the price actually paid or payable for the said supply of goods or services or both where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply. Further, Section 15 provides for certain inclusions which will form part of the value *viz.,* incidental expenses, commission, interest, penalty etc. In cases where the supplier and recipient are related persons or where the price is not the sole consideration, the provisions and method for ascertaining the value of taxable supply as prescribed in the Central Goods and Services Tax Rules ("the CGST Rules" or "the CGST Rules, 2017") (Rules 27 – 35) shall apply.

Q20. What is the rate of tax is applicable on intra-State supplies?

Ans. The applicable rate of tax on intra-state supply of Services has been majorly provided under *Notification 11/2017- Central Tax (Rate), dated 28.06.2017*and rate on Intra-state supply of goods has been provided under *Notification 01/2017- Central Tax (Rate), dated 28.06.2017* [*with 3 corrigendum dated 30.06.2017,12.07.2017 and 27.07.2017*] respectively as amended from time to time

It is pertinent to mention here that:

- Notification No. 12/2017-Central Tax (Rate), dated. 28-06-2017 exempts intra-state supplies of certain services over certain specified percentage subject to certain conditions [Though till date Rate specified and condition stipulated in notification is NIL]
- Notification No.02/2017- Central Tax (Rate) dated 28.06.2017 exempts intra-state supplies of certain goods from whole of IGST leviable under Section 9 of the CGST Act
- Notification No.03/2017- Central Tax (Rate) dated 28.06.2017 exempts intra-state supplies of goods over certain specified percentage subject to certain conditions
- Notification No.07/2017- Central Tax (Rate) dated 28.06.2017 exempts supplies of goods by CSD to Unit Run Canteens; CSD to authorised customers and Unit Run Canteen to authorised customers, from whole of CGST leviable under Section 9 of CGST Act

- Notification No.26/2017- Central Tax (Rate) dated 21.09.2017 exempts intra-state supply of heavy water and nuclear fuels falling in Chapter 28 of the First Schedule to the Customs Tariff Act, 1975 by the Department of Atomic Energy to the Nuclear Power Corporation of India Ltd from the whole of CGST leviable under section 9 of the CGST Act.
- Notification No.39/2017- Central Tax (Rate) dated 18.10.2017, subject to fulfillment of certain condition, notifies the rate of the Central Tax of 2.5% on intra-State supplies of Food preparations put up in unit containers and intended for free distribution to economically weaker sections of the society under a programme duly approved by the Central Government or any State Government.
- Notification No.40/2017- Central Tax (Rate) dated 23.10.2017 prescribe Central Tax rate of 0.05% on inter-State supply of taxable goods by a registered supplier to a registered recipient for export subject to specified conditions
- Notification No.45/2017- Central Tax (Rate) dated 14.11.2017, effective from 15.11.2017, provide concessional GST rate of 2.5% on scientific and technical equipments supplied to public funded research institutions.
- Notification No.38/2017- Central Tax (Rate) dated 13.10.2017 exempts intra-State supply of goods or services or both received by a registered person from any supplier, who is not registered, from the whole of the central tax leviable thereon under section 9(4) of the CGST Act, 2017 till 31.03.2018. [i.e. exempt payment of tax under section 9(4) of the CGST Act, 2017 till 31.03.2018.]

[NOTE :

- *Notification no. 11/2017 –Central Tax (Rate)dated 28.06.2017* has been amended by *Notification no. 20/2017 –Central Tax (Rate)dated 22.08.2017; Notification no. 24/2017 –Central Tax (Rate)dated 21.09.2017*; *Notification no. 31/2017 –Central Tax (Rate)dated 13.10.2017 and Notification no. 46/2017 – Central Tax (Rate)dated 14.11.2017 (w.e.f. 15.11.2017*)]
- Further, *Notification No.01/2017-Central Tax (Rate)dated 28.06.2017* has been amended by *Notification No.18/2017-Central Tax (Rate)dated 30.06.2017 (w.e.f.-1.07.2017); Notification No.19/2017-Central Tax (Rate)dated 18.08.2017; Notification No.27/2017-Central Tax (Rate)dated 22.09.2017; Notification No.34 / 2017-Central Tax (Rate)dated 13.10.2017; Notification No.41/2017-Central Tax (Rate)dated 14.11.2017 (w.e.f. 15.11.2017)*
- *Notification No.02/2017-Central Tax (Rate)dated 28.06.2017* has been amended by *Notification No.28/2017-Central Tax (Rate)dated 22.09.2017; Notification No.35/2017-Central Tax (Rate)dated 13.10,2017; Notification No.42/2017-Central Tax (Rate)dated 14.11.2017 (w.e.f. 15.11.2017)*

- *Notification No.12/2017-Central Tax (Rate)dated 28.06.2017* has been amended by *Notification No.21/2017-Central Tax (Rate)dated 22.08.2017; Notification No.25/2017-Central Tax (Rate)dated 21.09,2017; Notification No.30/2017-Central Tax (Rate)dated 29.09.2017; Notification No.32/2017-Central Tax (Rate)dated 13.10,2017; Notification No.47/2017-Central Tax (Rate)dated 14.11.2017 (w.e.f. 15.11.2017)*

Q21. Who is responsible to pay taxes?

Ans. Generally, the person effecting taxable supplies is liable to pay taxes. However, following are certain exceptions:

(a) Reverse charge : Section 9(3) of the CGST Act, 2017 inter alia provides that, the Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both.

In this regard, the Central Government vide *Notification 04/2017-Central Tax (Rate), dated 28.06.2017* read with *Notification No 36/2017- Central Tax (Rate) dated 13-10-2017* and *Notification No 43/2017- Central Tax (Rate) dated 14-11-2017* specifies the supply of goods which are liable to CGST under RCM.

Further, *Notification No 13/2017- Central Tax (Rate) dated 28.06.2017* read with *Notification No 22/2017- Central Tax (Rate) dated 22.08.2017* and *Notification No 33/2017- Central Tax (Rate) dated 13.10.2017* specifies the supply of services which are liable to CGST under RCM.

However, in terms of Section 9(4), it is specified that all registered recipient of goods or services or both is liable to pay tax under reverse charge in the event supplier of goods is not registered. However, *Notification No. 38/ 2017- Central Tax (Rate) dated 13.11.17* exempts intra-State supply of goods or services or both, received by registered person from an un-registered dealer from whole of the integrated tax under section 5(4) till 31st March, 2017. [S-9(4)}is deferred till 31.03.2018]

Further, Import of service will be taxable in the hands of the recipient i.e., importer.

(b) E-Commerce : Categories of services as specified under *Notification 17/2017-Central Tax (Rate), dated 28.06.2017* read with *Notification No. 23/2017-Central Tax (Rate) dated 22.08.2017* or such other services as may be notified by the Government on the recommendations of the Council the tax shall be paid by the electronic commerce operator if such services are supplied through it. The services notified till date are as under:

(1) services by way of transportation of passengers by a radio-taxi, motor cab, maxicab and motor cycle;

(2) services by way of providing accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes, except where the person supplying such service through electronic commerce operator is liable for registration under read with section 22(1) of the CGST Act.

(3) services by way of house-keeping, such as plumbing, carpentering etc., except where the person supplying such service through electronic commerce operator is liable for registration under section 22(1) of the CGST Act.

Q22. Whether the tax on intra-State supplies is applicable to every supply?

Ans. No, section 9(1) which is the charging provision for levy and collection of tax on intra-State supplies excludes supply of alcoholic liquor for human consumption. Further, in terms of Section 9(2), tax on supply of petroleum crude, high speed diesel, motor spirit, natural gas and aviation turbine fuel shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council. Accordingly, supply of alcoholic liquor for human consumption is not liable to tax under the CGST Act,2017.

Q23. Whether CGST and SGST/UTGST is applicable on import of goods or services or both?

Ans. In terms of Section 7 of the IGST Act, 2017, import of goods or services or both shall be treated to be a supply in the course of inter-state trade or commerce. Accordingly, tax under the provisions of IGST Act shall apply on import of goods or services or both.

Reverse Charge

Q24. What does the payment of tax under reverse charge mean?

Ans. In terms of Section 2(98), the term reverse charge means the liability to pay tax by the recipient of supply of goods or services or both instead of the supplier of such goods or services or both under section 9(3) or (4) of the CGST Act, 2017 or under section 5 (3) or (4) of the IGST Act, 2017.

Q25. What are the different types of supplies which are liable to tax under reverse charge mechanism?

Ans. As per Section 9 of the CGST Act, 2017 there are two types of supplies which are liable to tax under reverse charge mechanism: -

A. As per section 9(3) specified categories of supply of goods or services or both as notified by Government on recommendations of the Council.

Supply of goods under RCM as per section9(3) are [Table is of *Notification No. 4/2017- Central Tax- Rate dated 28.06.2017* (after amendments)]:

S. No.	Tariff item, sub-heading, heading or Chapter	Description of supply of Goods	Supplier of goods	Recipient of supply
(1)	(2)	(3)	(4)	(5)
1.	0801	Cashew nuts, not shelled or peeled	Agriculturist	Any registered person
2.	1404 90 10	Bidi wrapper leaves (tendu)	Agriculturist	Any registered person
3.	2401	Tobacco leaves	Agriculturist[2]	Any registered person
4.	5004 to 5006-	Silk yarn	Any person who manufactures silk yarn from raw silk or silk worm cocoons for supply of silk yarn	Any registered person
4A	5201	Raw Cotton	Agriculturist[2]	Any registered person
5	-	Supply of lottery.	State Government, Union Territory or any local authority	Lottery distributor or selling agent. Explanation.- For the purposes of this entry, lottery distributor or selling agent has the same meaning as assigned to it in clause (c) of Rule 2 of the Lotteries (Regulation) Rules, 2010, made under provisions of section 11 (1) of the

S. No.	Tariff item, sub-heading, heading or Chapter	Description of supply of Goods	Supplier of goods	Recipient of supply
(1)	(2)	(3)	(4)	(5)
				Lotteries (Regulations) Act, 1998 (17 of 1998).
6	Any Chapter	Used vehicles, seized and confiscated goods, old and used goods, waste and scrap	Central Government, State Government, Union territory or a local authority[1]	Any registered person

1. Inserted vide Notification No. 36/2017- Central Tax- Rate dated 13-10-2017 & 37/2017- Integrated Tax- Rate 13-10-2017

2 Inserted vide Notification No. 43/2017- Central Tax- Rate dated 14-11-2017 & 45/2017- Integrated Tax- Rate dated 14-11-2017

Note : Similar provisions have been incorporated under UTGST Act vide *Notification No. 04/2017-Union Territory Tax (Rate) ,dated 28-06-2017 & under IGST vide Notification No.4/2017-Integrated Tax (Rate) dated 28-06-2017.*

Further, supply of services under RCM pursuant to Section 9(3) are : [Table of *Notification No. 13/2017- Central Tax- Rate dated 28.06.2017* (after amendments)]

Sl. No.	Category of Supply of Services	Supplier of service	Recipient of Service
(1)	(2)	(3)	(4)
1	Supply of Services by a goods transport agency (GTA) [who has not paid central tax at the rate of 6%][1]in respect of transportation of goods by road to- (a) any factory registered	Goods Transport Agency (GTA)	(a) Any factory registered under or governed by the Factories Act, 1948(63 of 1948); or (b) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India; or

	under or governed by the Factories Act, 1948(63 of 1948); or (b) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India; or (c) any co-operative society established by or under any law; or (d) any person registered under the Central Goods and Services Tax Act or the Integrated Goods and Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act; or (e) anybody corporate established, by or under any law; or (f) any partnership firm whether registered or not under any law including association of persons; or (g) any casual taxable person.		(c) any co-operative society established by or under any law; or (d) any person registered under the Central Goods and Services Tax Act or the Integrated Goods and Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act; or (e) any body corporate established, by or under any law; or (f) any partnership firm whether registered or not under any law including association of persons; or (g) any casual taxable person; located in the taxable territory.
2	Services supplied by an individual advocate including a senior advocate by way of	An individual advocate including	Any business entity located in the taxable territory.

	representational services before any court, tribunal or authority, directly or indirectly, to any business entity located in the taxable territory, including where contract for provision of such service has been entered through another advocate or a firm of advocates, or by a firm of advocates, by way of legal services, to a business entity.	a senior advocate or firm of advocates.	
3	Services supplied by an arbitral tribunal to a business entity.	An arbitral tribunal.	Any business entity located in the taxable territory.
4	Services provided by way of sponsorship to anybody corporate or partnership firm.	Any person	Anybody corporate or partnership firm located in the taxable territory.
5	Services supplied by the Central Government, State Government, Union territory or local authority to a business entity excluding, - (1) renting of immovable property, and (2) services specified below- (i) services by the Department of Posts by	Central Government, State Government, Union territory or local authority	Any business entity located in the taxable territory.

	way of speed post, express parcel post, life insurance, and agency services provided to a person other than Central Government, State Government or Union territory or local authority; (ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport; (iii) transport of goods or passengers.		
6	Services supplied by a director of a company or a body corporate to the said company or the body corporate.	A director of a company or a body corporate	The company or a body corporate located in the taxable territory.
7	Services supplied by an insurance agent to any person carrying on insurance business.	An insurance agent	Any person carrying on insurance business, located in the taxable territory.
8	Services supplied by a recovery agent to a banking company or a financial institution or a non- banking financial company.	A recovery agent	A banking company or a financial institution or a non-banking financial company, located in the taxable territory.
9	Supply of services by an author, music composer, photographer, artist or the like by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a)	Author or music composer, photographer, artist, or the like	Publisher, music company, producer or the like, located in the taxable territory.

	of sub-section (1) of section 13 of the Copyright Act, 1957 relating to original literary, dramatic, musical or artistic works to a publisher, music company, producer or the like.		
10	Supply of services by the members of Overseeing Committee to Reserve Bank of India	Members of Overseeing Committee constituted by the Reserve Bank of India	Reserve Bank of India.

Where:

1. Is inserted vide *Notification No. 22/2017-Central Tax (Rate), dated. 22-08-2017*
2. Is inserted *vide Notification No. 33/2017-Central Tax (Rate), dated. 22-08-2017*

Note : Similar provisions have been incorporated under IGST Act vide *Notification No. 13/2017-IGST Tax (Rate), dated. 28-06-2017 & 22/2017-Union Territory Tax (Rate), dated 22-08-2017* and in UTGST Act vide *Notification No. 13/2017-Union Territory Tax (Rate), dated. 28-06-2017 & 22/2017-Union Territory Tax (Rate), dated. 22-08-2017.*

Further, it is of paramount important to state that, the persons who are only engaged in making supplies of taxable goods or services or both, the total tax on which is liable to be paid on reverse charge basis by the recipient of such goods or services or both under section 9(3) of section 9 of the CGST Act as the category of persons exempted from obtaining registration under the CGST Act vide Notification No. 05/2017- Central Tax dated June 19, 2017.

B. As per section 9(4) of the CGST Act, Supply of taxable goods or services or both by an unregistered supplier to a registered person (is under RCM mechanism)

It is pertinent to mention that in terms Notification No.8/2017-Central Tax (Rate) dated 28.06.2017, the supplies made by unregistered suppliers to a registered person was exempted, if the aggregate value of such supplies does not exceed ₹ 5,000/- in a day.

However, the aforesaid limit of ₹ 5000/- has been deleted vide ***Notification No.38/2017-Central Tax (Rate) dated 13.10.2017*** **("NN 38")** apart from the deferment provided till 31.03.2018 of the provisions of section9(4). Therefore now, all **intra-state supplies made by unregistered suppliers to a registered person are exempted till March 31, 2018.**

Moreover, all inter-state and interstates supplies made by unregistered suppliers to a registered person are exempted till March 31, 2018 vide *Notification No. 32/2017 – Integrated Tax (Rate) dated 13.10.2017 ("**NN 32**") read with NN 38.*

Q26. Is it lawful to collect tax from recipient of supply on reverse charge basis?

Ans. Yes, as long as the tax is on the subject of levy, Government is free to collect this tax from any person – either the supplier or the recipient or anyone else. Even a third party can be called upon to deposit the tax provided there is some nexus such as collection of payment for the supply between two other persons.

Q27. Should tax payable on reverse charge basis be reduced from the value of the supply?

Ans. Contractually if tax is not included in the price payable towards the supply, then tax payable on reverse charge basis cannot be reduced from the value of supply that is paid to the supplier. And if included, then due effect to this understanding must flow by making the deduction from the payment.

Q28. What is the effect of reverse charge on input tax credit?

Ans. As regards the recipient who pays tax on reverse charge basis, tax so paid would be available as credit subject to section 17. As regards the supplier whose tax is paid by the recipient, value of such supply will be treated as 'exempt supply' while applying section 17(2) of the CGST Act, 2017 on all the credits availed.

Q29. What is the difference between reverse charge u/s 9(3) and u/s 9(4)?

Ans. Government has notified a list of goods and services along with the type of recipient who is liable to pay tax on those supplies covered under reverse charge as per section 9(3). If the goods or the services are not listed or the recipient is not notified, then reverse charge does not apply. For example, tax in respect of services of advocate availed by a business entity is payable on reverse charge basis. If the recipient is a religious trust which means it is not a business entity, reverse charge is not applicable.

Whereas, every inward supply of a registered person from an unregistered person will be liable to payment of tax on reverse charge basis by such recipient – this is covered under reverse charge as per section 9(4). It is important to note that provisions of section 9(4) are deferred till March 31,2018. *(Notification No.38/2017-Central Tax (Rate) dated 13.10.2017)*

Q30. Does tax liability u/s 9(5) come within reverse charge?

Ans. No, definition of reverse charge given in section 2(98) refers only to section 9(3) and section 9(4). Tax payment by ecommerce operator in case of specified services under section 9(5) would not be a case of reverse charge but a new specie because the ecommerce operator facilitates the supply through the digital network and collects payment from recipient and passes it on to supplier.

Q31. Is reverse charge applicable after supply or on payment of advance?

Ans. Reverse charge is applicable when there is a supply and the time of supply is determined by section 12 or 13 of the CGST Act. Reverse charge is applicable at the time of advance even though actual supply is yet to take place. Rule 52 provides for the issuance of a Payment Voucher in cases where tax is to be paid on reverse charge basis.

Q32. Is reverse charge applicable on awarding contract or issuing Purchase Order (PO)?

Ans. Reverse charge is applicable only when there is a supply. Supply 'agreed to be made' is regarded as a supply only in case of supply under section 7(1)(a) and 7(1)(c). Even though actual supply is yet to take place, in the case of supplies covered by these two provisions, tax would be payable on award of contract or issue of PO because this itself amounts to supply. However, Table 4 of GSTR-2 requires reference to be made to invoice in respect of supplies liable to reverse charge but Rule 52 does not provide for issuance of invoice earlier than the time of payment. As such the absence of machinery provisions to pay tax at the time of contract / PO, it appears that the liability fails.

Q33. How can tax paid be recouped and adjusted in case of return of goods attracting reverse charge?

Ans. There is no provision in section 34 of the CGST Act or Rule 52 of the CGST Rules, 2017 regarding reversal of tax paid. Equity demands that relief be allowed to the recipient who has paid the tax so that the recipient may apply for refund under section 54 of the CGST Act and not issue credit note or revised invoice for which there is no provision. This relief to claim refund will be subject to credit not being availed by the recipient on the tax so paid.

Q34. What are implications if supplier charges GST on the invoice though reverse charge is applicable?

Ans. Recipient is free to reduce the GST charged from the value of invoice and pay only the net amount but liable to discharge the reverse charge obligation separately.

Q35. What are implications to supplier if recipient refuses to pay tax on reverse charge?

Ans. There is no recourse back to the supplier in case of default by recipient to discharge reverse charge liability.

Q36. In case supplier has paid GST, is recipient discharged from the liability to pay tax on reverse charge?

Ans. No, even if supplier has somehow paid tax, reverse charge liability must be discharged by the recipient.

Q37. Is GST wrongly paid by supplier available as Input Tax Credit (ITC) to recipient? [In case of Reverse Charge]

Ans. No, GST wrongly paid by supplier cannot be claimed as Input Tax Credit (ITC) by recipient in case of supply reported in GSTR-1 as "liable under reverse charge". However, the supplier can claim for refund for tax wrongly paid.

Q38. Is GST payable for both the components – CGST and SGST (or UTGST)?

Ans. Yes, GST in India is a dual-tax and the provisions of the CGST Act are mirrored in SGST/UTGST Act.

Q39. Is GST on reverse charge basis payable on inter-State supply also?

Ans. Yes, provisions identical to section 9(3) and 9(4) of the CGST Act are available in section 5(3) and 5(4) of the IGST Act.

Q40. In case Place of supply is in the supplier-State, is GST on reverse charge payable by recipient?

Ans. No, if Place of Supply is not in the State of the recipient, there is no occasion for the State of recipient to accept tax on reverse charge basis. In the absence of a specific provision in law, such supplies remain untaxed.

Q41. Is GST on reverse charge basis payable even if payment to supplier is not made?

Ans. Section 12 and 13 of the CGST Act provide that the time of supply in case of supplies liable to payment of GST on reverse charge basis is on actual payment to supplier. Hence, unless payment is made, reverse charge is not payable.

Q42. Is condition to pay supplier within 180 days applicable to supplies covered by reverse charge?

Ans. This condition is found in proviso to section 16(2) and applies where tax is charged by the supplier. There is no exception created in Rule 37 in respect of reverse charge. Hence, this condition would also apply to suppliers attracting Section 9(3) and 9(4).

Q43. Is reverse charge applicable on supply of goods also or is it only on supply of services?

Ans. Payment of tax on reverse charge is applicable on goods also, you may refer *Notification no. 04/2017- Central Tax (Rate) and Integrated Tax (Rate) dated June 28, 2017.*

Q44. Explain effect of section 23 in relating to reverse charge?

Ans. Persons specified in section 23 are excluded from registration. If such persons are receiving inward supplies liable to tax on reverse charge basis under section 9(3), they will be liable to register by section 24 and comply with other requirements of law. But, if such persons do not attract section 9(3), then they can remain unregistered and therefore not attract section 9(4) too.

Q45. In case supplier eligible to threshold exemption, is reverse charge applicable?

Ans. Supplier may not have paid tax due to threshold benefit, but this does not excuse recipient from liability under section 9(4) which is attracted if 'supplier is not registered' without inquiring into the reasons for such non-registration.

Q46. In case supplier is under composition and no tax appears on invoice, is reverse charge attracted u/s 9(4)?

Ans. Though no tax appears on the invoice, the supplier is nevertheless registered. Hence, section 9(4) is not attracted.

Q47. Is reverse charge applicable if tax-paid supplies are purchased and resold by an unregistered person?

Ans. Yes, reverse charge under section 9(4) is attracted because inquiry into two or three level earlier is not permitted. At the first level if the supplier is unregistered, then section is attracted.

Q48. Is reverse charge u/s 9(4) applicable to all supplies where supplier unregistered or only if the supplier engaged in business of supply without lawfully being registered?

Ans. Press Release issued by Government states that tax under section 9(4) is not payable if the supplier is not in business but the recipient may not be in a position to accurately conduct this inquiry and reach a conclusion that is acceptable by the Government. Caution is advised while extending the interpretation provided in the press release to all other cases.

Q49. How to verify if supplier engaged in business or not engaged in business to decide applicability of reverse charge?

Ans. There is no procedure specified to verify this fact. Relying on GSTIN being disclosed by supplier is not sufficient.

Q50. Since registration is compulsory to supply inter-State, can reverse charge be held as not applicable?

Ans. Section 9(4) and 5(4), respectively do not provide any excuse to rely on supplier's obligation to compulsorily obtain registration under section 24.

Q51. Why is supplier (operating under an ecommerce operator liable u/s 9(5)) not liable for compulsory registration u/s 24?

Ans. Since tax is payable by the ecommerce operator under section 9(5), the supplier no longer has any tax liability and insisting on registration will be of no effect.

Q52. Why is supplier operating under ecommerce operator (not liable u/s 9(5)) not allowed threshold benefit for registration purposes?

Ans. Due to the remote nature of the business undertaken, greater vigil is being exercise by the Government

Q53. Is supplier (operating under an ecommerce operator liable u/s 9(5)) exempt from GST in respect of non-ecommerce supplies also?

Ans. No, in respect of supplies directly by such a supplier, GST registration, tax payment and all other compliances are applicable. However, for purposes of threshold benefit, supplies through ecommerce operator would not be included.

Q54. How can there by an inter-State supply u/s 5(5) when supplies are covered u/s 9(5)?

Ans. An intra-State supply or inter-State supply must be determined based on the location of actual supplier and place of supply. Tax payment under these provisions merely require the ecommerce operator to deposit tax, but the nature of supply will still be determined based on the actual supplier.

Q55. If all the Supplies of a person are under Reverse charge mechanism, can such person not register under the Act although the aggregate turnover is exceeding the prescribed limit?

Ans. It is not necessary for the supplier to take registration since the *Notification No. 05/2017- Central Tax dated 19.06.2017*, provides for the same. For Example: - In case of an independent director providing services, and his only income is from independent directorship (or such other services covered under RCM) to the company, in this case the director won't be required to take registration.

Composition Levy (Section 10)

Q56. What is the threshold limit for opting Composition scheme?

Ans Notwithstanding anything to the contrary contained in the CGST Act but subject to the provisions of sections 9(3) and 9(4), a registered person, whose aggregate turnover in the preceding financial year did not exceed one crore rupees, may opt to pay, in lieu of the tax payable by him.

However, this limit, is rupees seventy-five lakhs in the case of an eligible registered person, registered under section 25 of the CGST Act, in any following States, namely: -

(i) Arunachal Pradesh,

(ii) Assam,

(iii) Manipur,

(iv) Meghalaya,

(v) Mizoram,

(vi) Nagaland,

(vii) Sikkim,

(viii) Tripura,

(ix) Himachal Pradesh

It may be noted that aforesaid limit of ₹ 1 crore/ 75 lakh came from Notification No. 46/2017- Central Tax dated 13.10.2017. Prior to such change the threshold limit were ₹75 and 50 lakh respectively as stated *in Notification No. 8/2017-Central Tax dated 27.06.2017*

Q57. What is the rate of tax applicable to a taxable person opting to pay tax under composition scheme?

Ans. Section 10(1) of the CGST Act, 2017 prescribes, subject to such conditions and restrictions as may be prescribed, that with effect from 1.1.2018, the rate of tax, shall not exceed:

1. Half per cent of the turnover in State or turnover in Union territory in case of a manufacturer;
2. two and a half per cent, of the turnover in State or turnover in Union territory in case of persons engaged in making supplies referred to in clause (b) of paragraph 6 of Schedule II; and
3. half per cent, of the turnover of taxable supplies of goods in State or turnover in Union territory in case of other suppliers

in terms of *Notification No. 8/2017-Central Tax dated 27.06.2017* read with *Notification No. 1/2018- Central Tax dated 1.1.2018.*

It may be noted that before 1.1.2018, the rates as *per Notification No. 8/2017-Central Tax dated 27.06.2017* were:

1. one per cent of the turnover in State or turnover in Union territory in case of a manufacturer;
2. two and a half per cent, of the turnover in State or turnover in Union territory in case of persons engaged in making supplies referred to in clause (b) of

paragraph 6 of Schedule II; and

3. half per cent, of the turnover in State or turnover in Union territory in case of other suppliers

Q58. Can every taxable person opt to pay tax under composition scheme?

Ans. No, the registered person whose aggregate turnover in the preceding financial year does not exceed one crore rupees (subject to seventy-five lakhs rupees in case of specified states as prescribed under *Notification 46/2017-Central Tax, dated 13.10.2017*), may opt to pay tax under composition scheme, subject to satisfaction of the following conditions and restrictions:

1. he is not engaged in the supply of services other than supplies referred to in clause (b) of paragraph 6 of Schedule II (Restaurant Services);
2. he is not engaged in making any supply of goods which are not leviable to tax under this Act (like petrol, diesel, alcohol liquor for human consumption, etc.);
3. he is not engaged in making any inter-State outward supplies of goods;
4. he is not engaged in making any supply of goods through an electronic commerce operator who is required to collect tax at source under section 52; and
5. he is not a manufacturer of such goods as may be notified by the Government on the recommendations of the Council. In this regard, following goods have been notified.

   i) Ice cream and other edible ice, whether containing cocoa

   ii) Pan masala

   iii) All goods, i.e. Tobacco and manufactured tobacco substitutes

   [Notification no. 8/2017- Central Tax dated 27.06.2017]

   (It may be noted, there is no restriction in case the person is engaged in trading of such goods.)
6. he is not entitled to input tax credit
7. He is neither casual taxable persons nor non-resident taxable persons.
8. Composition scheme would become applicable for all the business verticals having separate registrations within the State and all other registrations outside the State which are held by the person with same PAN. (Would be applicable for all transactions under the same PAN)

   To clarify further, if a taxable person has multiple business verticals and if he has

opted for separate registrations for each such vertical, composition scheme would become applicable for all the business verticals and it cannot be applied for select verticals only.

e.g.: If a taxable person has the following businesses separately registered: — Sale of footwear (Registered in Karnataka) — Sale of mobiles (Registered in Karnataka) — Franchisee of McDonalds (Registered in Kerala). In the above scenario, the composition scheme would be applicable for all the 3 units. Taxable person will not be eligible to opt for composition scheme say for sale of footwear and sale of mobiles and opt to pay taxes under the regular scheme for franchisee of McDonalds.

9. the goods held in stock by him on the appointed day have not been purchased in the course of inter-State trade or commerce or imported from a place outside India or received from his branch situated outside the State or from his agent or principal outside the State, where the option is exercised under Rule 3(1) of the CGST Rules;

10. the goods held in stock by him have not been purchased from an unregistered supplier and where purchased, he pays the tax under section 9(4);

11. he shall pay tax under section 9(3) or 9 (4) of the CGST Act on inward supply of goods or services or both;

12. he shall mention the words "composition taxable person, not eligible to collect tax on supplies" at the top of the bill of supply issued by him; and

13. he shall mention the words "composition taxable person" on every notice or signboard displayed at a prominent place at his principal place of business and at every additional place or places of business

Q59. Whether an application/ intimation needs to be made by supplier opting for composition scheme?

Ans Yes, the taxable person should make an application exercising his option to pay tax under Composition scheme. There are three possibilities in which such option can be exercised:

(a) Taxable Person migrating from old registration to GST registration : As per Rule 3(1) of the CGST Rules, in cases involving migration, there is need to exercise Option of composition in Form GST CMP 01 prior to appointed date or within 30 days after the appointed date. In this case, the option to pay tax under composition scheme shall be effective from the appointed date. This date has further been extended to 16th August 2017. Such person would be required to file stock statement under rule 3(4) in Form GST-CMP03 within a period of 90

days (extended from 60 days to 90 days by *Notification No.22/2017 – Central Tax w.e.f.17-08-2017*) from the date on which the option for composition levy is exercised or within such further period as may be extended by the Commissioner in this behalf.

(b) Taxable Person obtaining new registration under GST laws : Such option can be exercised at the time of obtaining registration under section 22 in Part B of Form GST REG-1. In this case, the option to pay tax under composition scheme shall be effective from the effective date of registration. *[Refer Rule 3(2) of CGST Rules]*

(c) Taxable Person paying tax under normal levy in one financial year and wants to opt for composition scheme in next financial year, under the GST regime : Such option can be exercised by filing intimation in Form GST CMP 02 prior to commencement of the year for which the option to pay tax under composition scheme is exercised. In this case, the option to pay tax under composition scheme shall be effective from the beginning of the financial year. In such case, provisions of section 18(4) shall become applicable and person shall be required to file statement containing details of stock and inward supply of goods received from un-registered persons, held in stock, on the date immediately preceding the date from which he opts for composition levy, in Form GST ITC 03 within 60 days from the commencement of the relevant financial year. *[Refer Rule 3(3) of CGST Rules].* Once granted, the eligibility would be valid unless the permission is cancelled or is withdrawn or the person becomes ineligible for the scheme

(d) A new sub-rule (3A) was inserted by *Notification No. 34/2017 Central Tax dtd.15.09.2*017 which had an overriding effect on provisions of sub-rule (1), (2) and (3). As per the said rule, it was provided that, in all cases involving (a), (b) and (c) above, the option of composition scheme can be obtained only from 01-10-2017 by filing application in Form CMP-02 and furnishing stock statements *in* Form GST IT C-03, within 90 days from 01-10-2017.

Since, this was not the intended interpretation of the said amendment, sub-rule 3A was once again amended by *Notification No.45/2017 – Central Tax dtd.13.10.2017.* By making the said amendment, the government clarified that, sub rule 3A was intended to cover those cases, where either at the time of migration or by taking registration under GST if any person who has availed normal scheme wishes to opt for composition scheme, then such person may opt for composition scheme u/s 10 with effect from the first day of the month immediately succeeding the month in which he files an intimation in Form GST CMP-02 on or before 31st March 2018. In this case, such person would be required to furnish stock statements in ITC-03 within 90 days from the day on

which such person commences to pay tax under section 10. It may be noted that, the purpose of rule (3A) is only to enable the persons to opt for composition scheme in the first year of GST implementation, without making them to wait up to the next financial year. This is on account of the fact that, the threshold limit for the purposes of Composition scheme u/s 10 was enhanced twice i.e. once on 27-06- 2017 and then again on 13-10-2017. Hence, Rule 3(3A) would only cover cases, where the application is made prior to 31-03-2018. For all applications made after 31-03-2018, the matter would be governed by Rule 3(3) above.

Summary

Taxable Person	Form to be filed
Migrating from old registration to GST registration	Form GST CMP-01
Obtaining new registration under GST laws	Part B of Form GSTREG-1.
Paying tax under normal levy in one financial year and wants to opt for composition scheme in next financial year, under the GST regime	Form GST CMP-02

Q60. Whether a supplier of services is eligible to pay tax under composition scheme?

Ans. No, a supplier of services is not eligible to opt for composition scheme. However, a supplier supplying composite supply involving supply of service or goods being food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption) is eligible to opt for payment of taxes under composition scheme.

[It may be noted that GST Council in its 23rd Meeting held at Guwahati on 10.11.2017 recommended certain changes in Composition Scheme. In this regard, CBEC Press Release dated 10.11.2017 was issued, which *inter alia* provides that Supply of services by Composition taxpayer up to Rs 5 lakh per annum will be allowed. However, No notification has come in this regard]

Q61. A taxable person having same PAN can opt to pay tax under composition scheme by seeking separate registration for branches?

Ans. No, a registered person shall not be eligible to opt for the composition scheme unless all such registered persons (branches having separate registration under a single PAN) opt to pay tax under composition scheme.

Q62. Whether a taxable person under composition Scheme eligible to claim input tax credit?

Ans. No, a taxable person under composition scheme is not eligible to claim input tax credit.

However, if the taxable person becomes ineligible to remain under composition scheme, the taxable person will become entitled to take input tax in respect of inputs held in

stock (as inputs, contained in semi-finished or finished goods) on the day immediately preceding the date from which he becomes liable to pay tax under Section 9. (*Refer Section 18(1)(c) read with Rule 40 of the CGST Rules*). A statement of stock shall be filed in Form GST ITC-01 within 30 days from the date from which the option is withdrawn or the order cancelling the composition option is passed.

Q63. Can a customer who buys from a taxable person who is under composition scheme claim composition tax as input credit?

Ans. No, the recipient is not eligible to take input tax credit of composition tax paid. Moreover, a taxable person paying taxes under composition scheme is not entitled to collect taxes from the recipient in terms of Section 10(4) of the CGST Act, 2017. Accordingly, there does not arise a question for the recipient to claim input tax credit.

Q64. What is aggregate turnover?

Ans. In terms of Section 2(6) of the CGST Act, 2017, "aggregate turnover" means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, exports of goods or services or both and inter-State supplies of persons having the same Permanent Account Number, to be computed on all India basis but excludes Central tax, State tax, Union territory tax, integrated tax and cess.

Q65. A taxable person can still pay tax under composition scheme even after the turnover in the current financial year exceeds threshold limit?

Ans. In terms of Section 10(3), the option availed for paying tax under composition scheme shall lapse with effect from the day on which his aggregate turnover during a financial year exceeds the threshold limit of composition scheme.

Q66. What are the consequences, if a taxable person violates the conditions prescribed for composition scheme?

Ans. Following are the consequence for non-compliance with the conditions specified for composition scheme:

1. shall be liable to pay additional taxes at the rates applicable to regular taxable person;
2. shall be liable to penalty; and
3. the amount of tax and penalty shall be recovered in terms of Section 73 or 74 of the CGST Act, 2017.

Q67. Is there any option for registered taxable person to withdraw from the composition scheme composition?

Ans. The registered taxable person who intends to withdraw from the composition scheme shall before the date of such withdrawal, file an application in Form GST CMP 04. Where the option of composition scheme is lapsed due to non-compliance of any of the eligibility conditions under Section 10 or rules made thereunder, then taxable person shall file an intimation of withdrawal in the same Form GST CMP 04 within 7 days of the occurrence of event leading to disability under the scheme. An intimation for withdrawal or cancellation of permission in respect of any place of business in a State or UT shall be deemed to be an intimation in respect of all other places of business registered on the same PAN.

Q68. Can the proper officer cancel the registration of supplier who has opted composition scheme?

Ans. Yes. Where the proper officer has reasons to believe that the taxable person was not eligible to the composition scheme, the proper officer may cancel the permission and demand the following:

- Differential tax and interest – viz., tax payable under the other provisions of the Act after deducting the tax paid under composition scheme
- Penalty determined based on the demand provisions under Section 73 or 74.

However, it is essential to issue show cause notice in Form GST CMP 05 and provide an opportunity of being heard to the taxable person before proceeding with the demand.

The proper officer shall within 30 days of receipt of reply, either accept the reply (in Form GST CMP 06) to SCN or deny the option to pay tax under section 10 from the date of option or from the date of event occurring the contravention of section 10 or rules thereunder, by passing an order in Form GST CMP 07

Q69. State the clarifications made vide CGST (Removal of Difficulties Order), 2017 Order No.1/2017 – dtd.13.10.2017Central Tax, in respect of Composition scheme?

Ans. CGST (Removal of Difficulties Order), 2017 Order No.1/2017 – dtd.13.10.2017 Central Tax has provided the following two clarifications in respect of Composition scheme, which are as under:

- if a person supplies goods and/or services referred to in clause (b) of paragraph 6 of Schedule II of the said Act and also supplies any exempt services including services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount, the said person shall not be ineligible for the composition scheme under section 10 subject to the fulfilment of all other conditions specified therein.

- In computing his aggregate turnover in order to determine his eligibility for composition scheme, value of supply of any exempt services including services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount, shall not be taken into account.

Classification of Goods or Services

Q70. Why do we need to determine classification of supply and how?

Ans. Classification of Supply is required to determine the rate of supply-

In order to apply a particular rate of tax, a taxable person need to determine the classification of his supply as to whether supply constitute a supply of goods or services. Once the same is determined, further classification in terms of HSN in case of goods and SAC in terms of service is to be made by the assesse so as to arrive at the rate of tax at which he is required to pay tax. At the outset, it is important to note that HSN for goods are contained in Chapters from 1 to 98 and HSN for Services are contained in Chapter 99. Since Classification of Goods is older and is based on knowledge gathered from precedents on HSN classification, we shall discuss the steps for classification of goods. The steps for determination of proper classification is as under:

1. It is important to note that classification of each product supplied has to made separately if supply of such product is independent. This shall include all by products, scraps etc.
2. Identify the description and nature of the goods being supplied. One must confirm that the product is also similarly or more specifically covered in the Customs Tariff and HSN 2017. The Section, Notes and Chapter Notes to the Schedule to be read.
3. If there is ambiguity, first reference shall be made to the Rules for interpretation of the Customs Tariff, which are:
    - Rule 1: heading are for reference only and do not have statutory force for classification
    - Rule 2(a): reference to an article in an entry includes that article in CKD-SKD condition
    - Rule 2(b): reference to articles in an entry includes mixtures or combination
    - Rule 3(a): where alternate classification available, specific description to be preferred
    - Rule 3(b): rely on the material that gives essential character to the article
    - Rule 3(c): apply that which appears later in the tariff as later-is-better
    - Rule 4: examine the function performed that is found in other akin goods

- Rule 5: cases-packaging are to be classified with the primary article
- Rule 6: when more than one entries are available, compare only if they are at same

Q71. How will you classify supply of goods or services under GST?

Ans. GST law does not contain a commodity classification tariff but notification prescribing the rate of tax itself specifies the approach that is to be followed for purposes of classification, namely:

- in respect of goods, the notification requires reference to be had to the first Schedule to Customs Tariff Act 1975; and
- in respect of services, the notification requires reference to be had to the Annexure which contains the Scheme of Classification

Q72. How will Terracotta idols be classification under GST and at what rate GST will apply?

Ans. Terracotta is clay based, terracotta idols will be eligible for Nil rate under Sl. No.135A of notification 2/2017 dated 28.06.2017.

However, GST may be, leviable on repairs and maintenance done for terracotta idols.

Q73. How will supply of lottery tickets be classified under GST and rate applicable?

Ans. Supply of lottery tickets is a good classified as 'Any Chapter' of the First Schedule to the Customs Tariff Act, 1975 and rate of tax on lottery is 12% and 28% under CGST and IGST respectively.

Q74. How will supply of Cut pieces of Fabrics be classified under GST?

Ans. Mere cutting and packing of fabrics into pieces of different lengths from bundles or thans, will not change the nature of these goods and such pieces of fabrics would continue to be classifiable under the respective heading as the fabric and attract the 5% GST rate.

Further, Fabrics are classifiable under chapters 50 to 55 of the First Schedule to the Customs Tariff Act, 1975 on the basis of their constituent materials and attract a uniform GST rate of 5% with no refund of the unutilized input tax credit.

Power to Grant Exemption from Tax (Section 11)

Q75. Whether Council has powers to grant exemption from payment of taxes?

Ans. No, the power to grant exemption is vested with the Government. In other words, the Government by notification on the recommendations of the Council may grant exemption from tax generally, either absolutely or subject to such conditions as may be notified from the whole or any part of the tax leviable thereon.

Exemption - General FAQ's

Q76. Does exemption from CGST automatically operate as exemption from SGST?

Ans. Yes, notification issued under section 11(1) or 11(2) of the CGST Act will be deemed to be issued under the SGST Act / UTGST Act, reference can be taken from section 11(4) of SGST Act and section 8(4) of UTGST Act.

Q77. Does exemption from IGST automatically operate as exemption from CGST?

Ans. No, there is no such correlated sections in the two Acts.

Q78. Does exemption from IGST automatically operate as exemption from GST on imports?

Ans. GST on import of goods is levied under proviso to section 5(1) of IGST Act which provides that IGST will be levied 'at the point' when customs duties are leviable. Accordingly, to determine the IGST applicable under section 3(7) of Customs Tariff Act, reference must be made to the IGST rate prevailing on the date of levy of such IGST. Hence, any exemption issued under IGST Act will apply to import of goods.

Q79. Is it possible for CGST to be exempted but not SGST or vice versa for any supply?

Ans. No, it is not possible since CGST and SGST laws will operate in a coordinated manner. However, SGST exemption does not automatically exempt the supply under CGST. So, to this extent there can be difference due to changes in SGST law. But the requirement of 'recommendation of GST Council' being incorporated in the SGST / UTGST Acts, for grant of any such exemptions, the required balance would be maintained.

Q80. Exemption applies from date of notification or date of publication of notification?

Ans. Exemption notifications will apply from the date specified in the said notification as the effective date.

Q81. Is exemption applicable for entire HSN code or not?

Ans. Exemption issued will make specific reference to HSN code along with description of the goods to be exempted. Exemption must be jointly read so as to apply to the goods described and falling within the specific HSN code. Other goods that may also be classified in the same HSN but not matching the description will not enjoy the exemption.

Q82. What is the effect of violating condition of exemption?

Ans. In case of violation, exemption may be withdrawn or consequences for violating the conditions may be imposed. It is important to note that deliberate violation of exemption conditions cannot open alternative classifications or GST rate.

Q83. What is the effect of mistaken claim of exemption?

Ans. GST applicable will be recovered with benefit of ITC available only to the limited extent of the time available within section 16(4) when this mistake is realized. There is no estoppel that ITC must be availed because claim of credit is through the return filed under section 39 (section 16(2) refers) and not from the receipt of tax paid supplies

Q84. What is the effect of omitting to avail exemption?

Ans. GST would have been charged, collected and deposited along with claim of ITC. If the exemption was absolute, explanation to section 11 makes it clear that the exemption must be availed. In case of omission to avail exemption, the tax charged and collected being *'in the name of GST'* is liable to be paid to the Government under section 76. More importantly, the ITC availed in error will also be denied.

Q85. What is the difference between exemption and exclusion from GST?

Ans. Exemption is where tax is leviable but exempted from the payment of the tax. Exclusion from GST is stating that GST will not apply either by treating it neither as supply of goods not as services or by excluding it from section 9.

Q86. What is implication of exemption becoming available due to Court interpretation?

Ans. If a *bona fide* belief about availability of exemption is reversed by a Court, then tax charged and collected from customer must be paid and the ITC availed, now discovered to be in error, will also be recoverable. In the interest of equity, the Courts may need to interfere and avoid this double impact.

Q87. What is implication of mistake by taxable person and tax department about exemption?

Ans. When both the taxable person and tax department have made a mistake, the same consequences will flow but equity demands that a suitable remedy be provided

Q88. How to interpret meaning of an article in an exemption notification?

Ans. An article in an exemption notification may be interpreted by reference to the Rules of Interpretation of Customs Tariff if the notification permits. If not, the article must be interpreted based on non-statutory principle emanating from judicial decisions.

Q89. Where do we find exemption for high sea sales?

Ans. There is no exemption that is specifically issued for high sea sales. All import of goods are liable to IGST not under section 5(1) but under the proviso which takes imported goods into the Customs Act for determination of the liability. And 'the point' at which customs duties are levied is when bill of entry for home consumption is filed. In case of high sea sales, such a bill of entry is filed only by the final recipient (high sea buyer).

Q90. Are words used in exemption notification exactly the same as used in schedules to Notification 1/2017?

Ans. No, they are not exactly same. The words used in exemption notification may be understood as 'equal to or less than' (but never 'more than') the words in the schedules to notification.

Q91. Where is the entire scope of an entry provided in detail?

Ans. Scope of an entry is to be found by referring to First Schedule to the Customs Tariff Act in case of goods and Service Classification Scheme in case of services.

Q92. Why GST rate is first notified and then another notification issued granting exemption?

Ans. Rate of GST is required to prescribe the applicable tax and then exemption would be to render the tax inapplicable in certain specific circumstances.

Q93. Does value reduction allowed in the CGST Rules amount to exemption? Whether it affect ITC u/s 17(2)?

Ans. Valuation adjustments prescribed either in the CGST Rules or in any Rate Notification will not affect ITC because ITC adjustment is only possible under section 17(2).

Exemptions on Supply of Goods

Q94. Is supply of exempt goods considered taxable or non-taxable supply?

Ans. Supply of exempt goods is considered non-taxable so that such supplies do not trigger registration, claim for input tax credit and other relevant provisions. But existence of exemption itself indicates that there was a levy of tax, but the exemption granted.

Q95. Petrol is exempt good or non-taxable good?

Ans. Five petroleum products i.e., petroleum crude, high speed diesel, motor spirit, natural gas and aviation turbine fuel are excluded from levy for the time being and as such petrol is non-taxable good.

Q96. Is alcohol (human consumption) an exempt good?

Ans. Yes, alcohol is an exempt good though it is not leviable to tax. It is required to treat all non-leviable goods and leviable-but-non-taxable goods to be classified as exempt goods in order to restrict input tax credit.

Q97. Even within the same HSN code, why are certain goods exempt from GST?

Ans. This is because exemption is sought to be extended only to a small sub-set of goods coming within that HSN heading.

Q98. Exemption to food products states 'fresh or chilled', does is apply if 'frozen'?

Ans. Freezing is a deliberate process of rapid cooling to preserve the product for an unnaturally long duration of time. Exemption that is to be allowed for normal storage duration is identified by attaching such a qualification – fresh or chilled but not frozen.

Q99. What does 'goods of seed quality' mean?

Ans. Seeds are those parts of the plant that can germinate without debris, without infections and give rise to another plant of same species & sold ultimately to farmers. The seeds are often consumed. In order to differentiate between grain that is not suitable for germination or not intended for germination, exemption entries qualify the grain with the words 'of seed quality'.

Q100. Why are exemptions to fruits and vegetables given HSN chapter-wise instead of blanket exemption?

Ans. Since HSN based classification is adopted, exemption must be clearly provided so that even minor differences do not cause distortion in the scope of any exemption. For example, leguminous vegetables may need to be exempted when dried and supplied but other vegetables may need to be exempted when they are fresh or chilled.

Q101. Why are there repetitions of similar nature of articles?

Ans. There are no repetition except where there is a variation in the form in which it is being presented – fresh or dried – and in case where exemption is to be extended only in certain forms

Q102. Why is Rupee note exempted, it is already excluded from definition of goods and services?

Ans. Rupee note is money which is neither good nor service but when the Government Press supplies currency notes to (say) RBI, there is a supply and tax needs to be discharged. Printing of currency is a taxable supply of the paper and ink but not of the currency.

Q103. Are University text books exempted?

Ans. Exemption is granted to printed books and this would cover University books.

Q104. What about articles not listed under exemption entry 148, 'puja samagri'?

Ans. Articles given for consumption or adornment (food or flower) are exempted. But, various articles are also given after oblation to be worn or tied or carried along. These are not exempted due to the nature of the article and the limited extent when it qualifies as supply.

Q105. If Mr X gets his house constructed on a vacant land, whether such construction is eligible for exemption under GST?

Ans. Yes, construction in the instance case, qualifies as original work so exempt by virtue of Sno.11 of exemption Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017

Q106. Whether GST is applicable on warehousing of agricultural produce such as tea (i.e. black tea, white tea etc.), processed coffee beans or powder, pulses (de-husked or split), jaggery, processed spices, processed dry fruits, processed cashew nuts etc.?

Ans.

Notification No. dated 28.06.2017	Serial No.	Notification No. dated 28.06.2017	Serial No.
11/2017-Central Tax (Rate)	24	8/2017-Intergated Tax (Rate)	24
12/2017-Central Tax (Rate)	54	9/2017-Intergated Tax (Rate)	54

Pursuant to aforesaid Notification, the GST rate on loading, unloading packing, storage or warehousing of agricultural produce is Nil.

Further, agricultural produce mean "any produce out of 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, on which either no further processing is done, or such processing is done as is usually done by a cultivator or producer which does not alter its essential characteristics but makes it marketable for primary market"

Since processed products such as tea (i.e. black tea, white tea etc.), processed coffee beans or powder, pulses (dehusked or split), jaggery, processed spices, processed dry fruits, processed cashew nuts etc. fall outside the definition of agricultural produce Therefore, the exemption from GST is not available to their loading, packing, warehousing etc. and thereby they are exigible to GST.

Exemptions on Supply of Services

Q107. Whether GST leviable on General Insurance policies provided by a State Govt. to employees of the State Govt./ Police personnel, employees of Electricity Department or students of colleges/ private schools etc.

(a) where premium is paid by State Govt.and

(b) where premium is paid by employees, students etc.?

Ans. Yes. The Government vide Circular No. 16/16/2017-GST dated 15.11.2017 has clarified that:

- Services provided to the Central Govt., State Govt., Union territory under any insurance scheme for which total premium is paid by the Central Govt., State Govt., Union territory are exempt from GST under Sl. No. 40 of *Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017*/ Sl. No. 41 of N*otification No. 9/2017-Integrated Tax (Rate) dated 28.06.2017*

- Services provided by State Government by way of general insurance (managed by government) to employees of the State government/ Police personnel, employees of Electricity Department or students are exempt vide entry 6 of *Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017*/ Sl. No. 6 of *Notification No. 9/2017-Integrated Tax (Rate) dated 28.06.2017*, which exempts Services by Central Government, State Government, Union territory or local authority to individuals.

Q108. Whether custom milling of paddy by Rice millers for Civil Supplies Corporation is liable to GST or is exempted under *S. No 55* of *Notification 12/2017 - Central Tax (Rate) dated 28.06.2017?*

Ans. *S. No 55* of *Notification 12/2017- Central Tax (Rate) dated 28.06.2017/7/ Sl. No*. 58 of *Notification No. 9/2017-Integrated Tax (Rate) dated 28.06.2017*, exempts carrying out an intermediate production process as job work in relation to 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 or agricultural produce.

Milling of paddy is a process carried out after the process of cultivation is over and paddy has been harvested. Further, processing of paddy into rice is not usually carried out by cultivators but by rice millers. Milling of paddy into rice also changes its essential characteristics. Therefore, milling of paddy into rice cannot be considered as an intermediate production process in relation to cultivation of plants for food, fibre or other similar products or agricultural produce. Thus *not eligible for exemption and thereby GST will be levied.*

Further, in terms of section 2 (68) of the CGST Act, Job work means any treatment or process undertaken by a person on goods belonging to another registered person. And any treatment or process which is applied to another person's goods is a supply of service, as per para 3 of Schedule II of the CGST Act. Moreover, in terms of notification No. 31/2017-CT(R) dated 13.10.2017 [*Notification No. 11/2017-Central Tax (Rate) dated 28.6.17*, S.No. 26 refers], GST rate on services by way of job work in relation to all food and food products falling under Chapters 1 to 22 has been reduced from 18% to 5%. Therefore, it is hereby clarified that milling of paddy into rice on job work basis, is liable to GST at the rate of 5%, on the processing charges (and not on the entire value of rice).

Q109. Is immovable property exempt from GST?

Ans. Yes, but only land and building as per entry 6 in schedule III. Immovable property comprises of various other forms other than just land and buildings and they may not be exempt from GST. They could be taxable as 'services'.

Q110. Is lease of exempt goods treated as supply of exempt services?

Ans. Yes, lease is liable to tax at the same rate at which the goods are liable. Once the goods are exempt, then by the same provision prescribing such a rate of tax for lease would also stand exempted

Q111. What is the scope of exemption to education?

Ans. Entry 13 in the notification exempts 'educational institution' from tax on services provided 'to student, faculty or staff'. As such any income flowing to the institution must bear a direct nexus to the relationship of 'student, faculty or staff' whatever may be the service that is provided. But, if the income is indicated to be otherwise than under this relationship, even though between same persons, exemption will abate. For example, payment towards building fund by a student admittedly is not in pursuance of that relationship because it is not towards tuition or any associated service.

Q112. What is the extent to which 'health care' exempt?

Ans. Health care is exempt to the extent it is not cosmetic in nature. Cosmetic treatment even if conducted in a hospital by a medical doctor would be taxable. Trails and opinions given by medical professionals on specimen or facts provided are taxable as the supply of services by the medical professional is not in respect of a patient or patient's report for diagnosis or treatment.

Q113. Is ITC liable to be reversed due to 1/3rd reduction in taxable value of construction services?

Ans. Any reduction in ITC must arise under section 17 and this 1/3rd reduction in value that is explained in note 2 below the Notification 8/2017-Integrated Tax (Rate) dated June 28, 2017, it is not stated to be an 'exempt supply' for the purposes of section 17. As such, though it appears logical to reverse ITC, there is no machinery provision to require this reversal of ITC.

Q114. Is GST applicable on the interest component of financial leasing arrangements?

Ans. Yes, as there is no exclusion from valuation as provided for special cases in Rule 32.

Q115. How to avail ITC of the GST paid to airline and hotel if GST is charged by travel agent?

Ans. GSTIN of the recipient must be provided to airline or hotel who will issue their invoice and file their GSTR-1 citing this GSTIN and credit will flow to the recipient, subject to section 17. Accordingly, travel agents who issue a consolidated invoice are causing loss of credit of taxes paid to airline or hotel and merely passing on credit of their taxes (5% as tour operator and 0.9%/1.8% on ticketing).

Q116. Is exemption available on one-time payment towards land on long-term lease (allotted by State Industrial Board)?

Ans. No, tax is payable even when consideration for lease is not over the duration of lease. Serial no 41 in exemption *Notification 8/2017-Central Tax (Rate) dated June 28, 2017*

specifically exempts such one-time payments but only to land lease by Government Industrial Boards. As such, all others are liable to GST

Q117. What do you mean by Governmental Authority?

Ans. Governmental Authority means an authority or a board or any other body, -

(i) set up by an Act of Parliament or a State Legislature; or

(ii) established by any Government, with 90 per cent. or more participation by way of equity or control, to carry out any function entrusted to a Municipality under Article 243 W of the Constitution or to a Panchayat under Article 243 G of the Constitution.

Q118. What do you mean by Governmental Entity?

Ans. Government Entity means an authority or a board or any other body including a society, trust, corporation,

(i) set up by an Act of Parliament or State Legislature; or

(ii) established by any Government, with 90% or more participation by way of equity or control, to carry out a function entrusted by the Central Government, State Government, Union Territory or a local authority.

Q119. What difference between transport of goods and Goods Transportation Agency (GTA)?

Ans. Services in relation to transport of goods with issue of consignment note is GTA.

Q120. When GTA is under reverse charge, what is the meaning of ITC not being allowed in the condition?

Ans. GTA is liable to pay tax on forward charge in case the recipient is 'other than body corporate'. The condition applies to such cases where GTA pays tax on forward charge basis. When tax is paid on reverse charge basis, the recipient of GTA service would not be affected by this restriction of credit and can avail.

The GTA has an option to take ITC & go for 12% full credit for his supplies to customers who wish to get credit. Also, credit on Motor vehicles & consumables, Input services can be taken if this option is exercised.

MCQ's

Scope of supply (Section 7)

Q1. What are different types of supplies covered under the scope of Supply?

(a) Supplies made with consideration

(b) Supplies made without consideration

(c) Both of the above

(d) None of the above

Ans. *(c) Both of the above*

Q2. What are the factors differentiating Composite Supply & Mixed Supply?

(a) Nature of bundling i.e. artificial or natural

(b) Existence of Principal Supply

(c) Both of the above

(d) None of the above

Ans. *(c) Both of the above*

Levy and Collection (Section 9)

Q3. What are the taxes levied on an intra-State Supply?

(a) Article 254

(b) Article 245

(c) Article 265

(d) Article 256

Ans. *(c) Article 265*

Q4. What are the taxes levied on an intra-State Supply?

(a) CGST

(b) SGST

(c) CGST and SGST

(d) IGST

Ans. *(c) CGST and SGST*

Q5. What is the maximum rate prescribed under CGST?

(a) 12%

(b) 28%

(c) 20%

(d) 18%

ANS. *(c) 20%*

Q6. Who will notify the rate of tax to be levied under CGST?

(a) Central Government suo moto

(b) State Government suo moto

(c) GST Council suo moto

(d) Central Government as per the recommendations of the GST Council

Ans. *(d) Central Government as per the recommendations of the GST Council*

Q7. Which of the following taxes will be levied on Imports?

(a) CGST

(b) SGST

(c) IGST

(d) CGST and SGST

Ans. *(c) IGST*

Q8. Is there any maximum rate prescribed under UTGST?

(a) 14%

(b) 28%

(c) 20%

(d) 30%

Ans. *(c) 20%*

Reverse Charge

Q9. What are the supplies on which reverse charge mechanism would apply?

(a) Notified categories of goods or services or both

(b) Inward supply of goods or services or both from an unregistered dealer

(c) Both the above

(d) None of the above

Ans. (c) Both the above

Q10. Which of the following services are covered under Reverse Charge Mechanism under Section 9(3) of CGST Act, 2017

i. Legal Consultancy

ii. Goods Transport Agency

iii. Manpower Supply

iv. Rent-a-Cab

(a) i & iii

(b) i & iv

(c) i & ii

(d) All the above

Ans. *(c) i & ii*

Q11. In case of GTA Services, provided to an Individual not registered under GST and not a business entity, liability to pay GST is on

(a) Supplier

(b) Recipient

(c) Both

(d) None of the above

Ans. *(a) Supplier*

Q12. Sponsorship services provided by Mr. A to M/s AB Ltd., liability to pay GST is on:

(a) Mr. A

(b) M/s AB Ltd.

(c) Both

(d) None of the above

Ans. *(b) M/s AB Ltd.*

Q13. In case of renting of land, inside an Industrial estate, by State Government to a manufacturing company, GST is :

(a) Exempted

(b) Applicable under Normal Charge

(c) Applicable under Reverse Charge

(d) None of the above

Ans. *(b) Applicable under Normal Charge*

Q14. Services by an Insurance Agent to Ms. ABC Insurance Co. Ltd., GST is to be paid by:

(a) Insurance Agent

(b) ABC Insurance Co. Ltd.

(c) Both

(d) None of the above

Ans. *(b) ABC Insurance Co. Ltd.*

Q15. Sitting Fees received by director of XYZ Ltd., is liable for GST in the hands of the…….

(a) Director

(b) XYZ Ltd

(c) Both of above

(d) None of the above

Ans. *(b) XYZ Ltd.*

Q16. Services by a Recovery Agent to M/s ZZZ bank Ltd., is liable for GST in the hands of:

(a) M/s ZZZ bank Ltd.

(b) Recovery Agent

(c) Both the above

(d) None of the above

Ans. *(a) M/s ZZZ bank Ltd.*

Q17. Silk yarn procured by M/s ABC Silks Ltd. from a Trader, GST is payable by:

(a) Trader

(b) M/s ABC Silks Ltd

(c) Both the above

(d) None of the above

Ans. *(b) M/s ABC Silks Ltd*

Q18. Lottery procured from State Government by a lottery distributor, GST is payable by:

(a) Lottery Distributor

(b) State Government

(c) Both the above

(d) None of the above

Ans. *(a) Lottery Distributor*

Q19. Reverse charge u/s 9(3) of the CGST Act is applicable on:-

(a) Only on Notified Services

(b) Only on Notified Goods

(c) Notified Goods & Services

(d) None of the above

Ans. *(c) Notified Goods & Services*

Q20. If Tobacco leaves procured from an Agriculturist by a registered person, then: -

(a) Reverse charge is applicable

(b) Normal charge is applicable

(c) Joint charge is applicable

(d) None of the above

Ans. *(a) Reverse charge is applicable*

Q21. M/s. PQR Ltd. has availed rent-a-cab service from M/s ABC Travels (Proprietor) service then which one of the following is true:-

(a) Reverse charge is applicable as this is a notified service.

(b) Reverse charge is applicable if ABC Travels is not registered.

(c) Joint charge is applicable

(d) None of the above

Ans. *(a) Reverse charge is applicable if ABC Travels is not registered.*

Q22. Reverse Charge is applicable:

(a) Only on supplies

(b) Only on advances

(c) On both supplies and advances

(d) None of the above

Ans. *(c) On both supplies and advances*

Q23. Reverse Charge is applicable:

(a) Only on intra state supplies

(b) Only on inter-state supplies

(c) Both intra and interstate supplies

(d) None of the above

Ans. *(c) Both intra and inter-state supplies*

Q24. Banking services provided by Department of post :

(a) Taxable & Reverse Charge Mechanism is applicable

(b) Taxable & Normal Charge is applicable

(c) Exempt from GST

(d) Nil rated

Ans. *(c) Exempt from GST*

Q25. If a supplier is under the threshold for registration and provides the proof for the same, does the recipient still have to comply with Reverse Charge Provisions?

(a) Yes

(b) No

Ans. *(a) Yes*

Q26. If a supplier is under the Composition scheme, does RCM still apply to the recipient

(a) Yes

(b) No

Ans. *(b) No*

Q27. If all supplies made by a supplier are covered under RCM, should they still register under the Act if the threshold exceeds the prescribed limit

(a) Yes

(b) No - Notification No. 05/2017- Central Tax

Ans. *(b) No - Notification No. 05/2017- Central Tax*

Q28. When can credit for tax paid under Reverse Charge Mechanism be taken?

(a) Same month

(b) Next month

(c) Any of the two months

Ans. *(a) Same month*

Composition levy (Sections 10)

Q29. Which of the following persons can opt for composition scheme?

(a) Person making any supply of goods which are not leviable to tax under this Act;

(b) Person making any inter-State outward supplies of goods;

(c) Person effecting supply of goods through an e-commerce operator liable to collect tax at source

(d) None of the above

Ans. *(d) None of the above*

Q30. What is the threshold limit of turnover in the preceding financial year for opting to pay tax under composition scheme?

(a) ₹ 20 lacs

(b) ₹ 10 lacs

(c) ₹ 10 lacs

(d) ₹ 1 crore

Ans. *(d) ₹1 crore*

Q31. What is the rate applicable under CGST to a registered person being a manufacturer opting to pay taxes under composition scheme?

(a) 2.5%

(b) 1%

(c) 0.5%

(d) No composition for manufacturer

Ans. *(b) 0.5%*

Q32. What is the rate applicable under CGST to a registered person being a hotelier (providing accommodation also) opting to pay taxes under composition scheme?

(a) 1%

(b) 0.5%

(c) 2.5%

(d) Not eligible for composition scheme thus liable to pay normal tax

Ans. *(d) Not eligible for composition scheme thus liable to pay normal tax - Composition scheme is available to restaurant only. Even composition scheme is not extended to any other service provider*

Q33. Mr. Richard, a trader in Delhi has opted for composition scheme of taxation under GST. Determine the % of total GST payable by him under composition scheme:

(a) 0.5% CGST & 0.5% SGST

(b) 2.5% CGST & 2.5% UTGST

(c) 5% IGST

(d) 5% UTGST

Ans. *(a) 0.5% CGST & 0.5% SGST*

Q34. Can a registered person opt for composition scheme only for one out of his 3 business verticals having same Permanent Account Number?

(a) Yes

(b) No

(c) Yes, subject to prior approval of the Central Government

(d) Yes, subject to prior approval of the concerned State Government

Ans. *(b) No*

Q35. Can Composition scheme be availed if the registered person effects interstate supplies?

(a) Yes

(b) No

(c) Yes, subject to prior approval of the Central Government

(d) Yes, subject to prior approval of the concerned State Government

Ans. *(b) No*

Q36. Can a registered person under Composition Scheme claim input tax credit?

(a) Yes

(b) No

(c) Input tax credit on inward supply of goods only can be claimed

(d) Input tax credit on inward supply of services only can be claimed

Ans. *(b) No*

Q37. Can a registered person opting for composition scheme collect tax on his outward supplies?

(a) Yes

(b) No

(c) Yes, if the amount of tax is prominently indicated in the invoice issued by him

(d) Yes, only on such goods as may be notified by the Central Government

Ans. *(b) No*

Q38. Which of the following will be excluded from the computation of 'aggregate turnover'?

(a) Value of Taxable supplies

(b) Value of Exempt Supplies

(c) Non-taxable supplies

(d) Value of inward supplies on which tax is paid on reverse charge basis *[after considering NN38 and NN 32]*

Ans. *(d)* *Value of inward supplies on which tax is paid on reverse charge basis [after considering NN38 and NN 32]*

Q39. What will happen if the turnover of a registered person opting to pay taxes under composition scheme during the year 2017-18 crosses threshold limit?

(a) He can continue under composition scheme till the end of the financial year

(b) He will be liable to pay tax at normal rates of GST on the entire turnover for the financial year 2017-18

(c) He will cease to remain under the composition scheme with immediate effect

(d) He will cease to remain under the composition scheme from the quarter following the quarter in which the aggregate turnover exceeds threshold limit

Ans. *(c)* *He will cease to remain under the composition scheme with immediate effect.*

Exemption

Q40. Which one of the following is true?

(a) Entire income of any trust is exempted from GST

(b) Entire income of a registered trust is exempted from GST

(c) Incomes from specified/defined charitable activities of a trust are exempted from GST

(d) Incomes from specified/defined charitable activities of a registered trust are exempted from GST

Ans. *(d)* *Incomes from specified/defined charitable activities of a registered trust are exempted from GST*

Q41. Select the correct statement?

(a) Transfer of a going concern wholly is exempted from GST

(b) Transfer of a going concern partly is exempted from GST

(c) Transfer of going concern wholly or party is exempted from GST

(d) None of the above

Ans. *(c)* *Transfer of going concern wholly or party is exempted from GST*

Q42. Service by whom, by way of any activity in relation to any function entrusted to a municipality under Article 243 W of the Constitution, is exempted?

(a) Central Government or State Government or Union territory or Local authority

(b) Governmental authority

(c) Both (a) and (b)

(d) Only a municipality under Article 243 W of the Constitution

Ans. *(c) Both (a) and (b)*

Q43. Which is a wrong statement?

(a) All services of Department of Post are exempted

(b) All services by State/Central Governments/local authorities in relation to an aircraft or a vessel in a Port or an Airport are exempted

(c) All services by State/Central Governments/local authorities in relation to transport of passengers are exempted

(d) All the above mentioned

Ans. *(d) All the above mentioned*

Q44. Services to a single residential unit is, exempted if:

(a) It is pure labour service only

(b) It is works contract only

(c) It is a part of residential complex only

(d) It is on ground floor without further super structure

Ans. *(a) It is pure labour service only*

Q45. Which exemption option is right from the following?

(a) For letting out any immovable property

(b) For letting out any residential property for use as residence

(c) For letting out any residential property irrespective of its use

(d) For none of the above

Ans. *(b) For letting out any residential property for use as residence*

Q46. Services by a hotel, inn, guest house, club or campsite are exempted for residential / lodging purposes -

(a) If the declared tariff for a unit of accommodation is below ₹ 10,000

(b) If the declared tariff for a unit of accommodation is below ₹ 1,000

(c) If the declared tariff for a unit of accommodation is exactly ₹ 1,000

(d) If the declared tariff for a unit of accommodation is above ₹ 1,000

Ans. *(b) If the declared tariff for a unit of accommodation is below ₹ 1,000*

Q47. Transportation of passengers exempted if -

(a) It is by air conditioned stage carriage

(b) It is by air conditioned contract carriage

(c) It is by non-air conditioned stage carriage for tourism, charter or hire

(d) None of the above

Ans. *(d) None of the above*

Q48. Transportation of passengers is exempted -

(a) In an air conditioned railway coach

(b) In a vessel for public tourism purpose between places in India

(c) In a metered cab/auto rickshaw / e rickshaw

(d) In all the above mentioned

Ans. *(c) In a metered cab/auto rickshaw / e rickshaw*

Q49. Transportation of goods is not exempted if it is -

(a) by a goods transport agency / courier agency

(b) by inland waterways

(c) by an aircraft from a place outside India upto the customs station of clearance in India

(d) by all the above mentioned

Ans. *(a) by a goods transport agency / courier agency*

Q50. Transportation of agricultural produces, milk, salt and food grain including flour, pulses and rice, 'relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap', newspaper or magazines registered with the Registrar of Newspapers - is exempted –

(a) If it is by a goods transport agency

(b) If it is by a rail - within India

(c) If it is by a vessel - within India

(d) If it is by all of the above

Ans. *(d) If it is by all of the above*

Q51. Which of the following is exempted –

(a) Services by way of loading, unloading, packing, storage or warehousing of rice

(b) Services by way of loading and unloading of jute

(c) Services by way of packing and storage or warehousing of rubber

(d) None of the above

Ans. *(a) Services by way of loading, unloading, packing, storage or warehousing of rice*

Q52. Core services of which organization is not exempted -

(a) Services provided by the Insurance Regulatory and Development Authority of India to insurers

(b) Services provided by the Securities and Exchange Board of India set up under the Securities and Exchange Board of India Act, 1992 (15 of 1992) by way of protecting the interests of investors

(c) Services by Port Trusts

(d) Services by the Reserve Bank of India

Ans. *(c) Services by Port Trusts*

Q53. If the aggregate turnover of in FY 2016-17 of M/s ABCD Enterprises, Kanchipuram, Tamil Nadu, India was Rs 18 lakh, exemption is available for the following services rendered to ABCD Enterprises -

(a) Arbitral Tribunal services

(b) Legal services by firm of advocates

(c) Legal services by senior advocate

(d) All of the above

Ans. *(d) All of the above*

Q54. Which of the following is exempted?

(a) All kinds of long term (30 or more years) leases of industrial plots

(b) Long term (30 or more years) leases of industrial plots or plots for development of infrastructure for financial business by State Government Industrial Development Corporations or Undertakings to industrial units

(c) Short term (up to 30 years) leases of industrial plots by State Government Industrial Development Corporations or Undertakings to industrial units

(d) All kinds of short term (up to 30 years) lease of industrial plots

Ans. *(b) Long term (30 or more years) leases of industrial plots or plots for development* of infrastructure for financial business *by State Government Industrial Development Corporations or Undertakings to industrial units*

Q55. One of the following is exempted from GST -

(a) Any business exhibition

(b) A business exhibition in India

(c) A business exhibition outside India

(d) None of the above

Ans. *(c) A business exhibition outside India*

Q56. Which of the following is not exempted -

(a) Health care service to human beings by authorized medical practitioners / para medics

(b) Health care services to Animals/Birds

(c) Slaughtering of animals

(d) Rearing horses

Ans. *(a) Rearing horses*

Q57. Services by educational institution is not exempted if the services are to -

(a) Any common man

(b) Its own students, faculty / staff

(c) Both a & b

(d) None of the above

Ans. *(b) Its own students, faculty / staff*

Q58. Services by a Non Profit entity (Registered or Unregistered) are exempted -

(a) If they are to its own members provided the contribution received is up to ₹ 5,000 per month from a member

(b) If they are to its own members, provided the contribution received is up to ₹ 5,000 per month from a member towards sourcing goods/services from any third person for common use of members

(c) If they are to its own members, provided the contribution is less than ₹ 5,000 per month from a member towards sourcing goods/services from any third person for common use of members

(d) If they are to its own members, provided the contribution is up to ₹ 5,000 per month per member for common use specified members

Ans. *(b) If they are to its own members, provided the contribution received is up to ₹ 5,000 per month from a member towards sourcing goods/services from any third person for common use of members*

Q59. Which of the following are exempted services?

(a) Services by an artist by way of a performance in folk or classical art forms of music/ dance / theatre with consideration therefor not exceeding ₹ 1 lakh

(b) Services by an artist by way of a performance in folk or classical art forms of music/ dance with consideration therefor not exceeding ₹ 1.5 lakh

(c) Services by an artist by way of a performance in folk or classical art forms of music/ dance / theatre with consideration therefor not exceeding ₹ 1.5 lakh

(d) Services by an artist as a brand ambassador by way of a performance in folk or classical art forms of music/ dance / theatre with consideration therefor not exceeding ₹ 1.5 lakh

Ans. *(c) Services by an artist by way of a performance in folk or classical art forms of music/ dance / theatre with consideration therefor not exceeding ₹ 1.5 lakh*

Q60. Whether Service by way of access to a road or a bridge on payment of annuity is exempt ?

(a) True

(b) False

Ans. *(a) True [With effect from 13.10.2017]*

Chapter II
Time and Value of Supply

FAQ's

Time of supply of goods (Section 12)

Section 12 of the CGST Act, 2017 made applicable to IGST *vide* Section 20 of the IGST Act, 2017 and UTGST *vide* Section 21 of the UTGST Act, 2017

Q 1. How are the provisions relating to 'time of supply' relevant under GST Law?

Ans. The provisions relating to time of supply of goods / services are relevant in ascertaining the time to remit the taxes on a particular transaction involving supply of goods / services under the GST Law. The CGST Act, 2017 provides separate provisions for time of supply of goods and services *viz.,* Section 12 for time of supply of goods and Section 13 for time of supply of services.

Q 2. What will be the time of supply of goods, in case of forward charge?

Ans. In terms of Section 12 of the CGST Act, 2017, the time of supply of goods shall be the earliest of the following:

(a) Date of issue of invoice or the last date on which he is required, under section 31(1), to issue the invoice with respect to the supply (i.e., Due date of issue of invoice); or

(b) Date on which the supplier receives the payment with respect to the supply i.e. Date on which payment is entered in books of accounts of the supplier; or Date on which payment is credited to the bank account, whichever is earlier.

However, *vide Notification No.- 66/2017-Central Tax dated 15.11.2017*,the registered person who did not opt for the composition levy under section 10 shall pay the central tax on the outward supply of goods at the time of supply as specified in section 12(2)(a) i.e. the date of issue of invoice by the supplier or Due date of issue of invoice. Therefore, no GST is payable on advances received against supply of goods.

It is pertinent to mention here that earlier vide Notification No.40/2017- Central Tax dated 13.10.2017, the benefit was granted to only small assesses. i.e., registered persons whose aggregate turnover in the preceding financial year did not exceed ₹ 1.50 crore or the registered person whose aggregate turnover in the year in which such person has obtained registration is likely to be less than ₹ 1.50 crore and who did not opt for the composition levy under section 10 of the said Act as the class of persons who shall pay the central tax on the outward supply of goods at the time of supply as specified in section 12(2)(a) of the CGST Act.

Q 3. What will be the time of supply of goods, generally in case of registered supplier?

Ans. Generally, in case of registered supplier in terms of Section 12 of the CGST Act, 2017, the time of supply of goods shall be the earliest of the following:

(a) Date of issue of invoice; or

(b) Due date of issue of invoice

Q 4. What would be the 'due date of issuance of invoice' with reference to the provisions relating to time of supply of goods?

Ans. Section 31(1) of the CGST Act, 2017 prescribes the time at which the tax invoice should be issued by a registered taxable person supplying goods. Accordingly, the due date for issuance of invoice would be as follows:

(a) *Supply involves movement of goods* – It is provided that the tax invoice should be issued before or at the time of removal of goods for supply to the recipient. As such, it is inferred that the date of removal of goods shall be the 'due date of issuance of invoice', unless invoice is actually issued before such date.

(b) *Any other case* – before or at the time of delivery of goods or making goods available to the recipient. As such, it is inferred that the date on which goods are delivered to the recipient or the date on which goods are made available to the recipient is the 'due date of issuance of invoice' , unless invoice is actually issued before such date.

Proviso to Section 31(1) of the CGST Act, 2017 also empowers the Government by way of notification, to specify the categories of goods or supplies in respect of which a tax invoice shall be issued, within such time and in such manner as may be prescribed.

However, in case of 'Continuous Supply of Goods' or 'Sale of Goods on Approval basis', Sub. Section. (4) & (7) of Sec. 31 prescribes specified time frame to issue Tax Invoice.

Q 5. What will be the date of payment to ascertain the time of supply of goods, in case of tax payer under composition scheme?

Ans. In terms of the Explanation 2 appended to Section 12, the date of payment shall be the earliest of the following dates:

(a) Date on which payment is entered in books of accounts of the supplier; or

(b) Date on which payment is credited to the bank account.

Q 6. What will be the time of supply where multiple invoices are issued for a single consignment involving supply of goods?

Ans. The time of supply of goods shall be the date of issuance of invoice; or due date for issuance of invoice whichever is earlier, in relation to the respective invoice in case of

the registered person who did not opt for the composition levy under section 10. However, in any other case, the time of supply of goods shall be the date of issuance of invoice; or due date for issuance of invoice or receipt of payment by the supplier, whichever is earlier, in relation to the respective invoice

Q 7. What will be the time of supply where tax is liable to be paid on goods under reverse charge mechanism?

Ans. In case of tax liable to be paid on goods under reverse charge mechanism, the time of supply shall be the earliest of the following:

(a) Date of receipt of goods by the recipient; or

(b) Date on which the payment is entered in the books of accounts of the recipient; or

(c) Date on which payment is debited in the bank account of the recipient; or

(d) Date immediately following 30 days from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier.

Where the time of supply cannot be ascertained as above, the date of entry in the books of accounts of the recipient shall be the time of supply of goods.

To illustrate, Mr. A being registered taxable person procures goods (waste & scrap) in auction from CTD of Govt. of Maharashtra. The chronology of events are as follows:

Date of receipt of goods by Mr. A	December 24, 2017	Time of supply shall be December 21, 2017
Date on which the payment is entered in the books of accounts of Mr. A	December 21, 2017	
Date on which payment is debited in the bank account of Mr. A	December 22, 2017	

In the event, the above details are not available and the date of entry relating to purchase of goods in the books of Mr. A is December 30, 2017, the time of supply of goods will be December 30, 2017.

Q 8. What will be the time of supply in case of supply of vouchers?

Ans. In terms of Section 12(4) of the CGST Act, 2017, time of supply of vouchers shall be the earliest of the following:

(a) date of issue of voucher, if the supply is identifiable at that point; or

(b) date of redemption of voucher, in all other cases.

Q 9. State whether, Composite supply will attract the provisions pertaining to time of supply of goods or services?

Ans. In terms of Section 2(30) of the CGST Act, 2017 'composite supply' is defined to mean a supply made by a taxable person to a recipient comprising two or more taxable supplies of goods or services, or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply. The illustration appended to the definition of 'composite supply' reads as follows:

> *Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is the principal supply.*

Section 8(a) provides that the composite supply whether involves supply of goods or services shall be decided based on the principal supply forming part of 'composite supply'. In other words, if the composite supply involves supply of services as principal supply, such composite supply would qualify as supply of services and accordingly the provisions relating to time of supply of services would be applicable. Alternatively, if composite supply involves supply of goods as principal supply, such composite supply would qualify as supply of goods and accordingly, the provisions relating to time of supply of goods would be applicable.

Q 10. What would be the time of supply where composite supply involves supply of goods as principal supply?

Ans. The general provisions relating to time of supply of goods will be applicable where composite supply involves goods as principal supply. Accordingly, the time of supply of such composite supply shall be the earliest of the following:

(a) Date of issue of invoice; or

(b) Due date of issue of invoice

Q 11. What will be the time of supply in case of continuous supply of goods?

Ans. In terms of Section 2(32) of the CGST Act, 2017, '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 and includes supply of such goods as the Government may, subject to such conditions, as it may, by notification, specify.

Due date for issuance of invoice in terms of Section 31(4) involving successive statement of accounts (SSOA) or successive payments shall be:

- Before/ at the time of issue of each SSOA or

- Before/ at the time of receipt such successive payment

Accordingly, in terms of Section 12 read Section 31(4), the time of continuous supply of goods, in case of other than supplier under composition tax payer, shall be the earliest of the following:

(a) Date of issue of invoice; or

(b) Due date of issue of invoice; or

Further, the time of continuous supply of goods, in case of supplier under composition scheme, shall be the earliest of the following:

(a) Date of issue of invoice; or

(b) Due date of issue of invoice; or

(c) Date on which payment is entered in books of accounts of the supplier; or

(d) Date on which payment is credited to the bank account.

Q 12. What will be the Time of supply in case of supply of goods through e-commerce entities?

Ans. The CGST Act, 2017 does not provide separate provisions for ascertaining time of supply of goods through/by e-commerce entities. Accordingly, the same provisions as to time of supply of goods (supplier other than the one who has opted for composition levy) discussed above will be applicable whether a supplier makes supply through e-commerce entity or the e-commerce entity himself makes the supply.

Q 13. What will be the Time of supply in case of addition in value by way of interest, late fee or penalty?

Ans. In terms of Section 12(6) of the CGST Act, 2017, the date on which the supplier receives interest, penalty or late fee which forms part of value will be the time of supply.

Time of supply of services (Section 13)

Section 13 of the CGST Act, 2017 made applicable to IGST *vide* Section 20 of the IGST Act, 2017 and UTGST *vide* Section 21 of the UTGST Act, 2017

Q 14. How to ascertain the time of supply of services?

Ans. In terms of Section 13 of the CGST Act, 2017 read with Section 31(2) thereof and Rule 47 of the CGST Rules, 2017, if the invoice is issued before supply of service or within a period of 30 days from the date of supply of service, the time of supply of services shall be the earliest of the following:

(a) Date of issue of invoice; or

(b) Date when the payment entry in relation to supply of services is recorded in books of accounts of the supplier; or

(c) Date on which the payment is credited to supplier's bank account.

Illustration:

Date of invoice	January 31, 2018	Time of supply of services shall be January 10, 2018
Date of supply of service	January 7, 2018	
Payment received by way of cheque and the entry for receipt of payment is recorded in books of accounts	January 10, 2018	
Amount credited to bank account of supplier	January 12, 2018	

However, if the invoice is not issued within a period of 30 days from the date of supply of service, in terms of aforesaid provisions i.e., Section 13 of the CGST Act, 2017 read with Section 31(2) thereof and Rule 47 of the CGST Rules, 2017, the time of supply of service shall be the earliest of the following:

(a) Date of provision of service; or

(b) Date when the payment entry in relation to supply of services is recorded in books of accounts of the supplier; or

(c) Date on which the payment is credited to supplier's bank account.

Illustration:

Date of invoice	January 31, 2018	Time of supply of services shall be December 7, 2017
Date of supply of service	December 7, 2017	
Payment received by way of cheque and the entry for receipt of payment is recorded in books of accounts	January 10, 2018	
Amount credited to bank account of supplier	January 12, 2018	

In a case where neither of the aforesaid provisions apply, the date on which the recipient shows the receipt of services in his books of account shall be the time of supply of the services.

Q 15. What would generally be the date of payment for ascertaining time of supply of services?

Ans. The 'date of payment' referred in provisions relating to time of supply of services shall be the earliest of the following:

(a) date when the payment entry in relation to supply of services is recorded in books of accounts of the supplier; or

(b) date on which the payment is credited to supplier's bank account.

Q 16. What is time of supply of service with respect to receipt of amount in excess of the invoice amount. E.g.: Invoice is issued for ₹ 5,000 on December 22, 2017 by the supplier. Subsequently, the recipient pays scenario 1: ₹ 5,500/- and scenario 2: ₹ 8,000/-Moreover, services are provided within the time stipulated under section 31(2))as services are provide on January 10,2018;Date on which payment is entered in books of accounts of the supplier on December 30 and Date on which payment is credited to the bank account is December 28,2017 ?

Ans. In terms of the proviso to Section 13(2) of the CGST Act, 2017, the time of supply of service with respect to the amount received in excess up to ₹ 1,000/- of the amount indicated in tax invoice, shall at the option of the supplier, be the date of issue of invoice, in respect of such excess amount. Thus, if the supplier opts for this method, the time of supply will be the date when the supplier raises invoice in respect of the excess amount.

Where the excess amount is received exceeds ₹ 1,000/-, the time of supply of goods shall be the earliest of the date of invoice or date of receipt i.e., earliest of the following:

(a) Date of issue of invoice by the supplier, if the invoice is issued within the period prescribed u/s 31(2) or the date of receipt of payment, whichever is earlier; or

(b) Date of provision of service, if the invoice is not issued within the period prescribed u/s 31(2) or the date of receipt of payment, whichever is earlier; or

(c) 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 clause (b) do not apply:

Accordingly, the time of supply in each of the scenarios given in the example would be as follows:

Scenario 1: The time of supply of service for ₹ 5,000 shall be December 22, 2017 and with respect to remaining amount of ₹ 500/- received in excess shall be, at the option of the supplier be the date of receipt of payment i.e. December 28, 2017 or the date of invoice whenever raised by the supplier in respect of the excess amount.

Scenario 2: The time of supply of service for ₹ 5,000 shall be December 22, 2017 and with respect to remaining amount of ₹3000/- received in excess shall be December 28, 2017 which is explained as follows:

Date on which payment is entered in books of accounts of the supplier	December 30, 2017	Time of supply shall be December 28, 2017
Date on which payment is credited to the bank account	December 28, 2017	
Date of provision of service	January 10,2018	

Q 17. Whether the advance received prior to provision of service is liable to tax under GST Law?

Ans. In terms of Section 13 of the CGST Act, 2017, the criteria to decide time of supply of services includes the date on which payment is received by the supplier. Accordingly, the service provider should remit the applicable taxes on such advances in the month in which the money is received in advance even otherwise the services are not supplied / provided.

Subsequently, when the invoice is issued with respect to the advance payments received earlier, the same shall be declared in the returns pertaining to the month in which the invoice is issued, by giving reference of the 'Transaction ID' generated at the time of remitting taxes on the advance payments (in the earlier tax periods).

Q 18. What would be the time of supply of services taxable under reverse charge mechanism?

Ans. In terms of Section 13(3) of the CGST Act, 2017, the time of supply of services for remittance of tax under reverse charge mechanism shall be the earliest of the following:

(a) Date of payment recorded in the books of accounts of the recipient;

(b) Date of debit in bank account of the recipient;

(c) 60 days from the date of issue of invoice or any other document in lieu thereof by the supplier; or

If it is not possible to determine the time of supply under the aforesaid clauses, the time of supply shall be the date of entry in the books of account of the recipient of supply.

In case of associated enterprises, where the supplier of service is located outside India, the time of supply shall be the date of entry in the books of account of the recipient of supply or the date of payment, whichever is earlier.

Q 19. Whether the date of completion of service would be relevant for determining time of supply?

Ans. Yes, if the Invoice is not issued within 30 days of supply of service. Refer answer above to Q. 14.

Q 20. Time of supply of services under reverse charge mechanism where the supplier of service is associated enterprises?

Ans. In case of associated enterprises located within India, the time of supply in terms of Section 13(3) shall be the earliest of the following:

(a) Date of payment as per books of accounts of the recipient; or

(b) Date on which payment is debited in the bank account of the recipient; or

(c) Sixty days from the date of issuing invoice or any other document, by whatever name called, in lieu thereof by the supplier; or

If it is not possible to determine the time of supply under the aforesaid clauses, the time of supply shall be the date of entry in the books of account of the recipient of supply. Thus, the same provisions as applicable to a supplier who is not associated enterprise will apply for services provided by associated enterprises located in India.

Where associated enterprises is located outside India, the time of supply shall be the earliest of the following dates:

(a) Date of entry in the books of accounts of the recipient; or

(b) Date of payment.

Particulars	Non-associated enterprises	Associated Enterprises
Date on which payment is entered in books of accounts	January 14, 2018	January 14, 2018
Date on which payment is debited to bank account	January 17, 2018	January 17, 2018
Date of issuance of invoice	January 10, 2018	January 10, 2018
Sixty days from the date of issuing invoice	March 11, 2017	March 11, 2017
Date of entry in the books of accounts of the recipient	January 10, 2018	January 10, 2018
Time of supply	January 14, 2018	January 10, 2018

Q 21. What does associated enterprises referred to in Section 13(3) of the CGST Act, 2017 mean?

Ans. In terms of Section 2(12), the 'associated enterprises' shall have the meaning assigned to it in Section 92A of the Income Tax Act, 1961.

Q 22. What would be the 'due date of issuance of invoice' with reference to the provisions relating to time of supply of services?

Ans. A registered taxable person supplying services, in terms of Section 31(2) of the CGST Act, 2017, shall issue the tax invoice before or after the provision of service but within a period prescribed in this behalf. Accordingly, the last date within which the invoice should be issued will be the 'due date of issuance of invoice'.

As per Rule 47 of the CGST Rules, 2017 the time limit for issuing a tax invoice is 30 days from the date of provision of service. In case of Insurer, Banking Company,

Financial Institution including NBFC's the said time limit is 45 days from the date of supply of services.

Q 23. What would be the time of supply in case of works contract?

Ans. In terms of entry (a) to clause 6 of schedule II, the works contract in relation to immovable property under the GST regime should be treated as supply of service. Accordingly, the same provisions as applicable to determine time of supply of services discussed above will apply to works contracts.

Q 24. What would be the time of supply where composite supply involves supply of services as principal supply?

Ans. The same provisions relating to time of supply of services discussed above are applicable where composite supply involves services as principal supply.

Q 25. Time of supply in case of mixed supplies?

Ans. In terms of Section 2(74) of the CGST Act, 2017 'mixed supply' means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply. The illustration appended to the definition of 'mixed supply' reads as follows:

A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drink and fruit juices when supplied for a single price is a mixed supply. Each of these items can be supplied separately and is not dependent on any other. It shall not be a mixed supply if these items are supplied separately.

Section 8(b) provides that the mixed supply whether involves supply of goods or services shall be ascertained on the basis of a particular supply forming part of the mixed supply which attracts highest rate of tax. In other words, the mixed supply, if involves supply of any service liable to tax at the higher rate than any goods covered therein, such mixed supply would qualify as supply of services and accordingly the provisions relating to time of supply of services would be applicable. Alternatively, the mixed supply, if involves supply of any goods liable to tax at the higher rate than services covered therein, such mixed supply would qualify as supply of goods and accordingly the provisions relating to time of supply of goods would be applicable.

E.g.: During an exhibition, the package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drink and fruit juices are supplied by the organizer of exhibition. This would qualify as mixed supply since exhibition of services and other goods are supplied in conjunction. The rate of tax applicable (presumed) to each of the goods and services: (Review Illustration)

Exhibition services	18%
Dry fruits and fruit juices	5%
Canned foods, sweets, chocolates, cakes and aerated drink	12%
Nature of supply (highest rate)	Supply of services-18%

Q 26. Time of supply in case of continuous supply of services?

Ans. 'Continuous supply of services' in terms of Section 2(33) of the CGST Act, 2017 means 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 Government may, subject to such conditions, as it may, by notification, specify.

In terms of provisions of Section 31(5) –

(a) Where the due date of payment is ascertainable from the contract, the invoice shall be issued on or before the due date of payment.

(b) Where the due date for payment is not ascertainable from the contract, the invoice shall be issued before or at the time when the supplier of service receives the payment.

(c) Where the payment is linked to the completion of an event, the invoice shall be issued on or before the date of completion of that event.

The time of supply will be the date by which the invoice is actually issued or is required to be issued under the above provisions (a) and (c) or the date of receipt of payment (earlier of entry in books of account / credit in bank account), whichever is earliest.

Q 27. Time of supply where services are supplied online?

Ans. The CGST Act, 2017 does not provide separate provisions for ascertaining the time of supply of service where such services are supplied online and hence the same provisions for services as discussed above will apply for services supplied online.

Q 28. Time of supply of services in case of import of services?

Ans. The CGST Act, 2017 does not provide separate provisions for ascertaining the time of supply in case of import of services. Accordingly, in terms of section 13(3) the same provisions as discussed in answer to Q.18 applicable for services liable to payment of tax by reverse charge shall be applicable to determine the time of supply of services in case of import of services which are also liable to payment of tax by reverse charge mechanism.

Q 29. Time of supply in case of addition in value by way of interest, late fee or penalty?

Ans. In terms of Section 13(6) of the CGST Act, 2017 the date on which the supplier receives interest, penalty or late fee which forms part of value will be the time of supply.

Change in Rate of Tax in respect of supply of goods or services (Section 14)

Section 14 of the CGST Act, 2017 made applicable to IGST *vide* Section 20 of the IGST Act, 2017 and UTGST *vide* Section 21 of the UTGST Act, 2017

Q 30. How do we determine the rate of tax in case of supply of goods where supplier has not opted for composition levy, when there is change in the tax rates?

Ans. In case of supply of goods where supplier has not opted for composition levy and there is change in the tax rates, three important events need to be considered are – Date of raising invoice, Due date of issue of invoice and completion of supply.

Where in terms of Section 31(1) of the CGST Act, the due date of issue of invoice is removal of goods', where the supply involves movement of goods and delivery of goods in any other case. Further as per section 2(96) of the CGST Act, "*removal'' in relation to goods, means—*

(a) despatch 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;

If any of the two events occur before the change in rate of tax, then the old rate will apply else the new rate will apply.

Q 31. How do we determine the rate of tax in case of supply of services (Both regular or composition tax payer) or supply of goods where supplier has opted for composition levy, when there is change in the tax rates?

Ans. In case of supply of services (Both regular or composition tax payer) or supply of goods where supplier has opted for composition levy and there is change in the tax rates, three important events need to be considered – Date of raising invoice, receipt of payment and completion of supply. If any of the two events occur before the change in rate of tax, then the old rate will apply else the new rate will apply.

Illustration – Rate of GST on Supply of service made on or after January 1, 2018 increased from say 18% to 20% then the tax to be applied on supplies will be as under

Before – Event occurred before January 1, 2018

After – Event occurred on or after January 1, 2018

Supply Provided	Invoice issued	Payment received	GST Rate
Before	After	After	20%
Before	Before	After	18%
Before	After	Before	18%
After	Before	After	20%
After	Before	Before	18%
After	After	Before	20%

Q 31. I have received the payment, but I have not deposited the cheque in the bank account. What is the date of receipt of payment?

Ans. The date of receipt of payment is date of entry in the books of the supplier or date of credit in his bank account, whichever is earlier.

Q 32. What is the rate of GST to be charged on advances received before the change in rate of tax if the supply is completed after the change in rate of tax?

Ans. If the invoices is also raised before the change in rate of tax then the old rate will be applicable even though the supply is complete after the change in rate of tax. Else, the new rate will be applicable.

Q 33. If 95% of the work is complete before the change in rate of tax but invoice can be raised only after completion of supply, then what is the rate of tax to be applied?

Ans. Assuming the supply is completed after the change in rate of tax, new rate will apply.

Q 34. In case of Construction Contracts, builders remit taxes on receipt of payment or completion of slabs as provided in the contract. What will the impact due to change in the tax rates?

Ans. For payments received before the change in rate of tax, if invoices are also raised before the change in rate of tax, old rate will be applicable. Else the new rate will be applicable.

For slab completion before the change in rate of tax, if invoices are also raised before the change in rate of tax, old rate will be applicable. Else the new rate will be applicable.

Q 35. How do we compute GST liability on supplies which are liable to tax under reverse charge?

Ans. Separate provisions had been provided under the erstwhile service tax laws to determine the service tax payable on reverse charge mechanism which is linked to date

of payment to the service provider unless the payment is made within 3 months of the date of invoice. However, such provisions are not there in the CGST Act, 2017. Accordingly, general provisions relating to change in rate of tax shall be applicable in determining the appropriate rate of tax.

Q 36. Will I be required to pay GST at the new GST rate on Debtors outstanding as on the date of change in the rate of tax?

Ans. If the supply was complete for such outstanding balances and the invoice is also issued before change in rate of tax, then old rate will be applicable. Else the new rate will be applicable.

Q 37. I have raised the invoice with old rate of tax but now I am required to remit the taxes based on new rate of tax. Can I recover the additional tax payable from my customer?

Ans. Yes, you can raise a supplementary invoice / debit note to recover the additional tax from the customer.

Q 38. Will the customer be able to take credit of additional taxes referred at Q8?

Ans. If the customer is entitled to claim the credit of tax mentioned in the original invoice, the input tax credit of additional taxes can be availed which is subject to conditions specified in this regard.

Value of taxable supply (Section 15)

Section 15 of the CGST Act, 2017 made applicable to IGST *vide* Section 20 of the IGST Act, 2017 and UTGST *vide* Section 21 of the UTGST Act, 2017

Q 39. Is there any specific valuation mechanism provided for composite supplies and mixed supplies?

Ans. No, section 15 and the rules prescribed under this Section are common for supply of goods and supply of services. The provisions of valuation and the rules would apply to composite supplies and mixed supplies equally.

Q 40. Are the valuation provisions similar for both inter-State and intra-State supplies?

Ans. Yes, Section 15 is common for all supplies.

Q 41. Will the Section 15 read with Chapter IV of the CGST Rules, 2017 apply to IGST payable on import of goods?

Ans. No. As per Proviso to Sec. 5(1) of IGST Act, Customs Law will be applicable for valuation of imported goods.

Q 42. Will the Customs Valuation apply to IGST payable on import of services?

Ans. No. Customs Law is applicable only for valuation of imported goods. Section 15 read with Chapter IV of the CGST Rules, 2017 will apply for valuation of import of services.

Q 43. Is contract price not sufficient to determine valuation of supply?

Ans. Contract price (adjusted to the specific inclusion and exclusions provided in sub. Sec. (2) & (3) of Sec. 15) can be referred to as 'transaction value' and that is the basis for computing tax. However, the transaction will not be accepted as the value of supply where the supply is between related persons (including different registrations of the same PAN and principal-agent supplies), or where the consideration payable is not wholly in money.

Q 44. Is reference to the CGST Rules required in all cases?

Ans. No. Reference to the CGST Rules, 2017 is required only when the supply is between related persons (including different registrations of the same PAN and principal-agent supplies), or where the consideration payable is not wholly in money. However, in specific cases where the categories of goods and services are notified in this regard (such as money-changing), the CGST Rules,2017 must be referred to, irrespective of the fact that the supplier and recipient are unrelated, and price is the sole consideration.

Q 45. What is to be done if there are certain factors affecting price but same cannot be quantified?

Ans. Where transaction value is partly, or not wholly in money, the same cannot be accepted. The value of supply should be determined under the CGST Rules, 2017.

Q 46. Can the value of supplies be a deemed value?

Ans. Section 15(5) of the CGST Act, 2017 empowers the Government to prescribe the value of certain supplies which may or may not be linked to the transaction value.

Q 47. When will the recipient and supplier be treated as related?

Ans. The relationship will be examined based on the explanation appended to Section 15 of the CGST Act, 2017 which defines the term "related persons". Accordingly, the following persons shall be deemed to "related persons" for the purpose of GST, if:

- such persons are officers or directors of one another's businesses;
- such persons are legally recognized partners in business;
- such persons are employer and employee;
- any person directly or indirectly owns, controls or holds twenty-five per cent. or more of the outstanding voting stock or shares of both of them;
- one of them directly or indirectly controls the other;
- both of them are directly or indirectly controlled by a third person;
- together they directly or indirectly control a third person; or
- they are members of the same family;

Further, persons who are associated in the business of one another where one is the sole agent/ sole distributor/ sole concessionaire of the other, shall be deemed to be related.

Q 48. If related persons transact at arm's length price, can the valuation still be questioned?

Ans. The law mandates a reference to the CGST Rules where the supply is between related persons. However, since the supply is at "arm's length price", the fact that the price assigned to the transaction is an 'open market value' should be established.

Q 49. What is the meaning of the term "Price is not the sole consideration"?

Ans. Under the GST law, consideration can be in "money or otherwise", and includes the monetary value of an act or forbearance, in relation to a supply. Consideration may also flow from any person other than the recipient. In cases, where the money received in respect of the supply is not the sole consideration, the "price is not the sole consideration". E.g. Buyer of capital goods discharges the loan of seller, goods purchased on exchange offer, etc.

Q 50. Can any additions be made to the contracted price when 'Transaction Value' is acceptable?

Ans. Yes. Section 15 of the CGST Act, 2017 provides for inclusions to the transaction value (on which GST will be payable). The below are broadly, the inclusions prescribed:

(a) any taxes, duties, cess, fees and charges levied under any law for the time being in force other than the CGST Act, 2017, the SGST Act, 2017, UTGST Act, 2017 and the Goods and Services Tax (Compensation to States) Act, 2017, if charged separately by the supplier;

(b) any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient, but not included in the price;

(c) incidental expenses, including commission and packing, charged by the supplier to the recipient, and any amount charged for anything done by the supplier in respect of the supply until delivery of goods or supply of services;

(d) interest or late fee or penalty for delayed payment of any consideration for any supply; and

(e) subsidies directly linked to the price excluding subsidies provided by the Government.

Q 51. Will the flight tickets booked by client for travel of Chartered Accountants to facilitate an outstation audit be liable to GST, even if the engagement contract provides that any travel expenses incurred by the supplier in this behalf will be reimbursable to the chartered accountants?

Ans. The law provides that expenses incurred by the recipient in relation to supplies made by supplier of goods / services is to be included in the transaction value, only where such

expenses were to be borne by the supplier. However, in the instant case, it cannot be said that the suppliers are liable to incur the cost of booking of flight tickets or that the cost was incurred by the recipient on behalf of the supplier. Hence, the value of flight tickets booked are not required to be included by the Chartered Accountants in their invoice, for computation of transaction value of audit service.

Q 52. Are transport charges for supply, paid by the supplier required to be included in the transaction value?

Ans. All the expenses incurred by the supplier, in relation to the supply, are required to be included in the transaction value to the extent they are charged for. Even if the contract is for delivery of goods ex-factory, and the supplier incurs the cost of transportation on behalf of the recipient for delivery of goods to the recipient, the cost should be included in the transaction value, if the supplier charges the recipient for the same. However, if the contract price is for delivery of goods at the location of the recipient, then the transportation charges incurred by the supplier would not be required to be added to the transaction value, as the cost is contained in the said value.

Q 53. Will discounts given to customers be allowed as deduction from transaction value?

Ans. Yes, the following two types of discounts would be excluded from transaction value:

- *Discount at the time of Sale* – Allowed as a deduction, provided if the discount is recorded on the face of invoice.
- *Post-supply Discount* – If such discount is based on the arrangement entered into before or at the time of supply, AND where the same can be linked to relevant invoices, then the same is allowed as a discount on the condition that the recipient reverses the input tax credit related to such discount availed earlier.

Q 54. Quantity discounts are not recorded on the face of the invoice. Can the Quantity discounts be claimed as deduction while computing GST?

Ans. Quantity Discounts are allowed based on the volume / value of purchases made by the customer for a particular period. The discount is allowed at the end of a particular period based on the pre-agreed rates entered into between the supplier and the recipient. Such discounts will be eligible for exclusions by way of credit notes, only where the supplier is in a position to link the discount to each and every invoice, and the recipient reverses the credit to the extent of such discount.

Q 55. Can the transaction value be questioned, if supplier and recipient's relationship come into existence after entering into a contract/arrangement to supply goods or services?

Ans. The laws assume that the relationship between the contracting parties prima facie influence the price at which the transaction is being carried out. Since the relationship did not exist on the date the prices were finalized (i.e., entering into the contract), the

transaction value should be accepted in case of supplies effected prior to the forming of such relationship. However, for supplies effected after the two persons become 'related persons' for the purpose of the GST law, the transaction value cannot be accepted and reference must be made to the CGST Rules.

Q 56. Will GST be applicable on any interest charged for payment after the credit period?

Ans. Interest, Penalty or Late fee charged from the customer for delayed payment of any supply shall not be separate stand-alone supply rather it shall be included in the value of original supply. However, the law provides that the GST liability on such values can be paid only on receiving such additional amounts.

Q 57. In certain cases, the selling price of the final product is less since subsidy is received from Government. Are subsidies received from Government required to be included in the transaction value?

Ans. Subsidies received by the supplier, from Central / State Governments are not required to be included in the transaction value of supplies effected by him, even if the subsidies are directly linked to the supplies made by him.

Q 58. Are subsidies received from Private Enterprises on procurement of eco-friendly capital goods required to be included in the transaction value?

Ans. Subsidies directly linked to the price of the supply are to be included in the transaction value, where such subsidies are not provided by the Central/ State Governments. Where it can be established that the price of the supply is not directly linked to the subsidy given on capital goods, the same is not required to be included.

Q 59. Will the out-of-pocket expenses charged by professionals to claim reimbursement of expenses incurred by them for rendering services to their clients be included in the transaction value?

Ans. Yes. Any expenses incurred by the supplier relating to supply until the services are delivered, and which are charged to the recipient, will have to be included in the transaction value.

Q 60. Will the Customs duty paid by Customs House Agent on behalf of the client also be required to be included in the transaction value?

Ans. Under the Service tax law, the aforementioned expenses were treated as reimbursements as 'pure agent' and are hence was not liable to service tax. Similar treatment exists in case of pure agents under the GST law as well. In terms of Rule 33 of the CGST Rules, the expenditure/ costs incurred by the supplier acting as a pure agent of the recipient, on fulfilment of prescribed conditions, be excluded from the value of supply.

Q 61. What will be the value of supply of goods or services if the consideration is not wholly in money?

Ans. Value of supply of goods or services if the consideration is not wholly in money shall be determined in the following sequential order:

(a) open market value of such supply;

(b) sum total of consideration in money and any such further amount in money as is equivalent to the consideration not in money, if such amount is known at the time of supply;

(c) value of supply of goods or services or both of like kind and quality;

(d) sum total of consideration in money and such further amount in money that is equivalent to consideration not in money as determined as per Rule 30 or Rule 31 in that order.

Q 62. What will be the value of supply of goods or services or both between distinct [section 25 (4) and (5)] or related persons, other than through an agent?

Ans. The value of the supply between distinct persons or related persons, other than through an agent, shall be determined in the following sequential order:

(a) open market value of such supply;

(a) value of supply of goods or services of like kind and quality

(b) value as per Rule 30 or rule 31, in that order

Further, where the goods are intended for further supply as such by the recipient, the value shall, at the option of the supplier, be an amount equivalent to 90 % of the price charged for the supply of goods of like kind and quality by the recipient to his customer not being a related person.

Furthermore, that where the recipient is eligible for full input tax credit, the value declared in the invoice shall be deemed to be the open market value of the goods or services.

Q 63. What will be the value of supply of goods between the principal and his agent when supply of goods is made or received through agent?

Ans. The value of supply of goods between the principal and his agent shall be:

(a) open market value of the goods being supplied, or

90% of the price charged for the supply of goods of like kind and quality by the recipient to his unrelated customer

[Supplier has the option to choose either of the two methods]

(b) Where value of a supply is not determinable under clause (a), the same shall be determined as per Rule 30 or Rule 31 in that order

Q 64. State the supplies with value, where value has to determined which Rule 32 of the CGST Rules at option of supplier?

Ans. Value in respect of supplies specified below shall, at the option of the supplier, be determined in the manner provided in Rule 32 of the CGST Rules:

- supply of services in relation to the purchase or sale of foreign currency, including money changing- the value of supply will be:
  - (a) option a – difference between buying-selling rate and the reference rate published by RBI. Where reference rate is not available, 1% of gross Indian Rupee value of the transaction. And where the conversion is not into Indian Rupees, then 1% of the lesser of the Indian Rupee equivalent of each currency exchanged
  - (b) option b – 1% of gross amount upto ₹1 lac, 1/2% after ₹1 lac upto `10 lacs and 1/10% after `10 lacs. This option (b) once exercised cannot be withdrawn during the financial year
- supply of services in relation to booking of tickets for travel by air provided by an air travel agent- the value of supply will be 5% of basic domestic fare or 10% of basic international fare.
- supply of services in relation to life insurance business-the value of supply will be gross premium reduced by investment allocation, in the case of single premium policy will be 10% of premium and in all other cases will be 5% of first year's premium and 12.5% for other year's premia.
- supply of goods of person dealing in second-hand goods- the value of supply will be difference between purchase price and selling price, if no ITC has been availed
- supply of a voucher, the value will be the redemption value of the voucher
- supply of services between distinct persons, that are notified by Government and where no input tax credit is availed will be NIL

Q 65. What will be the value of supply of person dealing in second-hand goods?

Ans. In terms of Rule 32 (5) of the CGST Rules, where a taxable supply is provided by a person dealing in buying and selling of second hand goods i.e., used goods as such or after such minor processing which does not change the nature of the goods and where no input tax credit has been availed on the purchase of such goods, the value of supply shall be the difference between the selling price and the purchase price and where the value of such supply is negative, it shall be ignored

Further, purchase value of goods repossessed from a defaulting borrower, who is not registered, for the purpose of recovery of a loan or debt shall be deemed to be the purchase price of such goods by the defaulting borrower reduced by five percentage points for every quarter or part thereof, between the date of purchase and the date of disposal by the person

quarter or part thereof, between the date of purchase and the date of disposal by the person making such repossession.

It is imperative to state that this rule does not apply only to 'supply of second-hand goods' but to supply of services of person dealing in second-hand goods.

It is pertinent to mention here that Government vide Notification No. 10/ 2017-Central Tax (Rate) dated 28.08.2017 and Notification No. 04/ 2017-Compensation cess (Rate) dated 20.07.2017, exempts Intra-State supplies of second hand goods, by an unregistered supplier to a registered person, dealing in buying and selling of second hand goods and who pays the central tax and compensation cess on the value of outward supply of such second hand goods as determined under Rule 32(5) of the CGST Rules.

Q 66. Whether all expenses incurred by supplier are excluded from the value of supply?

Ans. No, In terms Rule 33 of the CGST Rules, the expenditure or costs incurred by a supplier as a pure agent of the recipient of supply shall be excluded from the value of supply, if all the following conditions are satisfied:

(i) the supplier acts as a pure agent of the recipient of the supply, when he makes the payment to the third party on authorisation by such recipient;

(ii) the payment made by the pure agent on behalf of the recipient of supply has been separately indicated in the invoice issued by the pure agent to the recipient of service; and

(iii) the supplies procured by the pure agent from the third party as a pure agent of the recipient of supply are in addition to the services he supplies on his own account.

Q 67. Define Pure agent?

Ans. In terms of explanation to Rule 33 of the CGST Rules, pure agent means a person who -

(a) enters into a contractual agreement with the recipient of supply to act as his pure agent to incur expenditure or costs in the course of supply of goods or services or both;

(b) neither intends to hold nor holds any title to the goods or services or both so procured or supplied as pure agent of the recipient of supply;

(c) does not use for his own interest such goods or services so procured; and

(d) receives only the actual amount incurred to procure such goods or services in addition to the amount received for supply he provides on his own account.

Q 68. Which exchange rate needs to be considered for determining the value of supply in case if transaction is undertaken in foreign currency?

Ans. In terms of Rule 34 of the CGST Rules, rate of exchange for determination of value of taxable goods shall be the applicable rate of exchange as notified by the Board under section 14 of the Customs Act, 1962 for the date of time of supply of such goods. And rate

of exchange for determination of value of taxable services shall be the applicable rate of exchange determined as per the generally accepted accounting principles for the date of time of supply of such services

Q 69. How will you calculate the tax amount, if the he value of supply is inclusive of GST?

Ans. Where the value of supply is inclusive of GST i. e., integrated tax or, as the case may be, Central tax, State tax, Union territory tax, the tax amount shall be determined as :

Tax amount = (Value inclusive of taxes × tax rate in % of IGST or, as the case may be, CGST, SGST or UTGST) ÷ (100 + sum of tax rates, as applicable, in %)

MCQ's

Time of supply of goods (Section 12)

Q 1. What is time of supply of goods, in case of forward charge?

(a) Date of issue of invoice

(b) Due date of issue of invoice

(c) Date of receipt of consideration by the supplier

(d) Earlier of (a) & (b)

Ans. *(d) Earlier of (a) & (b)*

Q 2. What is time of supply of goods, in case of supplier opting for composition levy under Section 10 of the CGST Act, 2017?

(a) Date of issue of invoice

(b) Date of receipt of consideration by the supplier

(c) Latter of (a) & (b)

(d) Earlier of (a) & (b)

Ans. *(d) Earlier of (a) & (b)*

Q 3. What is time of supply of goods liable to tax under reverse charge mechanism?

(a) Date of receipt of goods

(b) Date on which the payment is made

(c) Date immediately following 30 days from the date of issue of invoice by the supplier

(d) Earlier of (a) or (b) or (c)

Ans. *(d) Earlier of (a) or (b) or (c)*

Q 4. What is the time of supply of vouchers when the supply with respect to the voucher is identifiable?

(a) Date of issue of voucher

(b) Date of redemption of voucher

(c) Earlier of (a) & (b)

(d) (a) & (b) whichever is later

Ans. *(a) Date of issue of voucher*

Q 5. What is the time of supply of vouchers when the supply with respect to the voucher is not identifiable?

(a) Date of issue of voucher

(b) Date of redemption of voucher

(c) Earlier of (a) & (b)

(d) (a) & (b) whichever is later

Ans. *(b) Date of redemption of voucher*

Q 6. What is date of receipt of payment?

(a) Date of entry in the books

(b) Date of payment credited into bank account

(c) Earlier of (a) and (b)

(d) Date of filing of return

Ans. *(c) Earlier of (a) and (b)*

Q 7. Mr. A, who has opted for composition levy, supplies goods worth ₹ 24,300 to Mr. B and issues an invoice dated 25.12.2017 for ₹ 24,300. and Mr. B pays ₹ 25,000 on 1.01.2018 against such supply of goods. The excess ₹ 700 (being less than ₹ 1,000) is adjusted in the next invoice for supply of goods issued on 5.01.2018. Identify the time of supply and value of supply:

(a) ₹ 25,000 – 1.01.2018

(b) For ₹ 24,300 – 25.12.2017 and for ₹ 700 – 1.01.2018

(c) For ₹ 24,300 – 25.12.2017 and for ₹ 700 – 5.01.2018.

(d) (b) or (c) at the option of supplier, *who has opted for composition levy*

Ans. *(d) ((b) or (c) at the option of the supplier, who has opted for composition levy under section 12 of the CGST Act,2017*

Time of supply of services (Section 13)

Q 8. What is the time of supply of service if the invoice is issued within 30 days from the date of provision of service?

(a) Date of issue of invoice

(b) Date on which the supplier receives payment

(c) Date of provision of service

(d) Earlier of (a) & (b)

Ans. *(d) Earlier of (a) & (b)*

Q 9. What is the time of supply of service for the supply of taxable services up to ₹1000 in excess of the amount indicated in the taxable invoice?

(a) At the option of the supplier – Invoice date or Date of receipt of consideration

(b) Date of issue of invoice

(c) Date of receipt of consideration.

(d) Date of entry in books of account

Ans. *(a) At the option of the supplier – Invoice date or Date of receipt of consideration*

Q 10. How is the date of receipt of consideration by the supplier determined?

(a) Date on which the receipt of payment is entered in the books of account

(b) Date on which the receipt of payment is credited in the bank account

(c) Earlier of (a) & (b)

(d) (a) & (b) whichever is later

Ans. *(c) Earlier of (a) & (b)*

Q 11. What is the time of supply of service in case of reverse charge mechanism?

(a) Date of payment as entered in the books of account of the recipient

(b) Date immediately following 60 days from the date of issue of invoice

(c) Date of invoice

(d) Earlier of (a) & (b)

Ans. *(d) Earlier of (a) & (b)*

Q 12. What is the time of supply of service in case an associated enterprise receives services from the service provider located outside India?

(a) Date of entry in the books of account of associated enterprise(recipient)

(b) Date of payment

(c) Earlier of (a) & (b)

(d) Date of entry in the books of the supplier of service

Ans. *(c) Earlier of (a) & (b)*

Q 13. What is the time of supply of vouchers when the supply with respect to the voucher is identifiable?

(a) Date of issue of voucher

(b) Date of redemption of voucher

(c) Earlier of (a) & (b)

(d) (a) & (b) whichever is later

Ans. *(a) Date of issue of voucher*

Q 14. What is the time of supply of vouchers when the supply with respect to the voucher is not identifiable?

(a) Date of issue of voucher

(b) Date of redemption of voucher

(c) Earlier of (a) & (b)

(d) (a) & (b) whichever is later

Ans. *(b) Date of redemption of voucher*

Q 15. Value of services rendered is ₹ 1,00,000/. Date of issue of invoice is 5th August 2017. Advance Received is ₹ 25,000/- on 20th July 2017. Balance amount received on 7th August 2017. What is the time of supply for ₹ 1,00,000/-

(a) 5th August 2017 for ₹ 1,00,000/-

(b) 20th July 2017 for ₹ 1,00,000/-

(c) 20th July 2017- ₹ 25,000/- and 5th August 2017 for ₹ 75,000/-

(d) 20th July 2017- ₹ 25,000/- and 7th August 2017 for ₹ 75,000/-

Ans. *(c) 20th July 2017- ₹25,000/- and 5th August 2017 for ₹75,000/-*

Change in rate of tax in respect of supply of goods or services (Section 14)

Q 15. There was increase in tax rate from 20% to 24% w.e.f.1.02.2018. Which of the following rate is applicable when services are provided after change in rate of tax in February 2018, but invoice issued and payment received, both in January, 2018

(a) 20% as it is lower of the two

(b) 24% as it is higher of the two

(c) 20% as invoice and payment were received prior to rate change

(d) 24% as the supply was completed after rate change

Ans. *(c) 20% as invoice and payment were received prior to rate change*

Q 16. There was increase in tax rate from 20% to 24% w.e.f. 1.02.2018. Which of the following rate is applicable when services provided, and invoice raised after change in rate of tax in February,2018, but payment received in January, 2018

(a) 20% as it is lower of the two

(b) 24% as it is higher of the two

(c) 20% as payment (being one of the factors) was prior to rate change

(d) 24% as invoice was issued in the period during which supply is completed

Ans. *(d) 24% as invoice was issued in the period during which supply is completed*

Q 17. There was increase in tax rate from 20% to 24% w.e.f. 1.2.2018. Which of the following rate is applicable if the supplier has opted for composition levy and invoice was issued after change in rate of tax in February,2018 but payment received and goods supplied in January,2018

(a) 20% as it is lower of the two

(b) 24% as it is higher of the two

(c) 20% as payment was received in the period during which the supply was effected

(d) 24% as invoice being one of the factors was issued after rate change

Ans. *(c) 20% as payment was received in the period during which the supply was effected*

Q 18. There was increase in tax rate from 20% to 24% w.e.f.1.2.2018. Which of the following rate is applicable if the supplier has not opted for composition levy say Sita Manufacturers, Delhi supplies goods to Aakash Electronics, Dehradun. Further, Goods were removed from its factory in Delhi on 31.01.2018; invoice is issued on 31.01.2018 and payment is received on 4.02.2018.

(a) 20% as it is lower of the two

(b) 24% as it is higher of the two

(c) 20% as date of invoice and dispatch of goods from factory, has happened before change of rate

(d) 24% as both, payment and completion of supply, has happened after change of rate

Ans. *(c) 20% as date of invoice and dispatch of goods from factory, has happened before change of rate*

Q 19. There was decrease in tax rate from 24% to 20% w.e.f. 1.02.2018. Which of the following rate is applicable if the supplier has not opted for composition levy say Sita Manufacturers, Delhi supplies goods to Aakash Electronics, Dehradun. Further, Goods were removed from its factory in Delhi on 31.01.2018; delivered at Aakash Electronics, Dehradun on 2.02.2018; invoice is issued on 31.01.2018 and payment is received on 4.02.2018.

(a) 20% as it is lower of the two

(b) 24% as date of invoice and dispatch of goods from factory, has happened before change of rate

(c) 20% as both, payment and completion of supply, has happened after change of rate

Ans. *(b) 24% as date of invoice and dispatch of goods from factory, has happened before change of rate*

Value of taxable supply (Section 15)

Q 20. The value of supply of goods and services shall be the

(a) Transaction value

(b) MRP

(c) Market Value

(d) None of above

Ans. *(a) Transaction value*

Q 21. The value of supply should include

(a) Any non-GST taxes, duties, cesses, fees charged by supplier separately

(b) Interest, late fee or penalty for delayed payment of any consideration for any supply of goods or services

(c) Subsidies directly linked to the price except subsidies provided by the Central and State Government

(d) All of the above

Ans. *(d) All of the above*

Q 22. When can the transaction value be rejected for computation of value of supply

(a) When the buyer and seller are related and price is not the sole consideration

(b) When the buyer and seller are related or price is not the sole consideration

(c) It can never be rejected

(d) When the goods are sold at very low margins

Ans. *(b) When the buyer and seller are related or price is not the sole consideration*

Q 23. What deductions are allowed from the transaction value

(a) Discounts offered to customers, subject to conditions

(b) Packing Charges, subject to conditions

(c) Amount paid by customer on behalf of the supplier, subject to conditions

(d) Freight charges incurred by the supplier for CIF terms of supply, subject to conditions

Ans. *(a) Discounts offered to customers, subject to conditions*

Q 24. If the goods are supplied to related persons then how should the taxable person ascertain the value of supplies?

(a) Seek the help of the GST officer

(b) Use the arm's length price as required under the Income Tax law

(c) Identify the prices at which goods are sold by the unrelated person to his customer

(d) As per Rule 28 of the CGST Rules

Ans. *(d) As per Rule 28 of the CGST Rules*

Q 25. Rule 30 of the CGST Rules inter alia provides value of supply of goods or services or both based on cost shall be ……% of cost of production or manufacture or the cost of acquisition of such goods or the cost of provision of such services

(a) 100

(b) 10

(c) 110

(d) 120

Ans. *(c) 110*

Q 26. As per Rule 31 of the CGST Rules, residual method for determination of value of supply of goods or services or both will apply when:

(a) Value of supply cannot be determined under Rules 27 to 30

(b) Value of supply determined is more than the open market value of goods

(c) Value of supply determined is more than the Value of supply of like kind and quality

(d) All of the above

Ans. *(a) Value of supply cannot be determined under Rules 27 to 30*

Q 27. In the case of supply of services, the supplier may opt for Rule 31 ignoring Rule 30 of the CGST Rules?

(a) True

(b) False

Ans. *(a) True*

Q 28. In terms of Rule 32(7) of the CGST Rules, the value of taxable services provided by such class of service providers as may be notified by the Government, on the recommendations of the Council, as referred to in paragraph 2 of Schedule I of the CGST Act between distinct persons as referred to in section 25, where ITC is available, shall be deemed to be ……..

(a) ₹ 10,000/-

(b) Arm's length price as required under the Income Tax law

(c) NIL

(d) As per the contract between the supplier and recipient

Ans. *(c) NIL*

Q 29. Mr. Santa located in Nashik purchases 10,000 Hero ink pens worth ₹4,00,000 from Lekhana Wholesalers located in Mumbai. Mr. Mohan's wife is an employee in Lekhana Wholesalers. The price of each Hero pen in the open market is ₹52. The supplier additionally charges ₹5,000 for delivering the goods to the recipient's place of business. The value of such supply will be :

(a) ₹ 5,20,000

(b) ₹ 5,25,000

(c) ₹ 4,00,000

(d) ₹ 4,05,000

Ans. *(d) ₹4,05,000*

Q 30. What will be the value of supply if Giriyas *supply* Sony television set *for ₹ 85000 along with the exchange of an old TV and if the price of the* Sony television set *without exchange is ₹ 1,00,000, the open market value of the* Sony television set *is:*

(a) ₹ 85,000

(b) ₹ 1,00,000

(c) ₹ 15,000

(d) ₹ 1,15,000

Ans. *(b) ₹1,00,000*

Chapter III
Input Tax Credit (ITC)

FAQ's

Eligibility and Conditions for taking Input Tax Credit (Section 16)

Section 16 of the CGST Act, 2017 made applicable to IGST *vide* Section 20 of the IGST Act, 2017 and UTGST *vide* Section 21 of the UTGST Act, 2017

Q 1. Whether capital goods can be considered as inputs?

Ans. No, *'Inputs'* are defined under Section 2(59) of the CGST Act to mean any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business.

'Capital goods' are defined under Section 2(19) of the CGST Act, mean goods, the value of which is capitalized in the books of account of the person claiming the input tax credit and which are used or intended to be used in the course or furtherance of business.

Q 2. What is Input Tax credit?

Ans. Input tax credit means the credit of "input tax" in terms of section 2(63).

Further, "Input tax" in terms of section 2(62) in relation to a registered person, means the Central tax, State tax, Integrated tax or Union territory tax charged on any supply of goods or services or both made to him and includes :

- integrated goods and service tax charged on import of goods
- tax payable on reverse charge basis under IGST Act/SGST Act/CGST Act/UTGST Act.
- but excludes tax paid under composition levy.

Q 3. What are the conditions to be fulfilled for entitlement of input tax credit?

Ans. A registered person will be entitled to claim input tax credit only upon fulfillment of the following conditions:

- He is in possession of tax invoice/ debit note issued by a registered supplier or any other tax paying documents;
- He has received the goods and /or services or both;
- The tax charged on such supply is paid to the Government by the supplier (by way of cash or by utilizing input tax credit)
- He has furnished a valid return.

Q 4. Whether Input tax credit on Inputs and Capital Goods is allowed in one installment?

Ans. Yes. Input tax credit will be available in full with respect to inputs and capital goods, subject to fulfillment of the prescribed conditions under Section 16(2) of the CGST Act. Even in the case of supply of goods in lots/ instalments, the credit would be available in full on the receipt of the last lot/ installment.

The existing concept of partial credit on purchase of capital goods under the CENVAT Credit Rules, 2004 (i.e. 50% in the year of receipt and 50% in subsequent years) has been done away with.

Q 5. One of the conditions to claim credit is that the receiver is in possession of tax invoice or debit note or any other tax paying documents. What are the tax paying documents?

Ans. The tax paying documents have been prescribed under Rule 36 of the CGST Rules. The ITC shall be availed by a registered person [including the Input Service Distributor (ISD)] on the basis of any of the following documents:

- An invoice issued by supplier of goods or services or both;
- An invoice raised by the recipient in case of inward supplies from unregistered persons or reverse charge mechanism supplies, subject to payment of tax;
- A debit note issued by a supplier of goods or services or both;
- A bill of entry or any similar document prescribed under the Customs Act, 1962 or Rules made thereunder for the assessment of integrated tax on imports;
- An Input Service Distributor (ISD) Invoice or ISD Credit Note or any other document issued by an Input Service Distributor for distribution of credit.

Q 6. What is the time limit within which the recipient of supply is liable to pay the value of supply with taxes to the supplier of services/goods to avail the input tax credit?

Ans. In terms of second proviso to Section 16(2) of the CGST Act, the time limit prescribed is one hundred and eighty days (180 days) from the date of issue of invoice by the supplier of services/goods. If the recipient fails to pay the value of supply (with tax) within 180 days, such input tax credit would be payable by the recipient along with applicable interest.

The above time limit is not applicable to supplies that are liable to tax under reverse charge mechanism.

Q 7. In case the amount is paid partly to the supplier of service, whether full taxes can be adjusted first? If no, then whether it has to be calculated proportionately?

Ans. No, there is no provision under the GST law to allocate part payment of the invoice towards the taxes first so that the input tax credit can be allowed. Second proviso to

Section 16(2) of the CGST Act clearly provides that the entire value of supply (with tax) is to be paid within 180 days from the date of issue of invoice. Therefore, as long as the entire payment is made within 180 days, the recipient would be entitled to claim the credit in full.

Assuming that only part payment is made within 180 days, availing of proportionate credit based on such part payment is not provided for under the CGST Act. However, Rule 37 of the CGST Rules, provides for availability of the amount of input tax credit availed of proportionate to such amount paid to the supplier.

Q 8. One of the conditions to claim credit is that the receiver has received the goods. Is there any provision for deemed receipt of goods in case of transfer of document of title before or during the movement of goods?

Ans. Yes. Explanation to Section 16(2)(b) of the CGST Act provides for deemed receipt of goods where the goods are delivered by the supplier to the recipient or any other person on the direction of the recipient, whether acting as agent or otherwise, before or during movement of goods.

Q 9. Whether the registered person can avail the benefits of input tax credit and depreciation on the tax component of capital goods and plant and machinery?

Ans. No, Section 16(3) provides that input tax credit will not be allowed on the tax component of cost of capital goods/ plant and machinery, if the depreciation on the said tax component is claimed under the provision of Income Tax Act, 1961 by the taxable person. Therefore, the registered person has an option to either claim depreciation (under the Income Tax Act, 1961) or claim credit under the GST law, on the said tax component.

For example:

Cost of Asset= ₹ 1,000/-

Tax = ₹ 100/-

Total = ₹ 1,100/-

If depreciation is charged on ₹ 1,000/-, then credit will be available under the GST law and if depreciation is charged on ₹ 1,100/- then credit will not be available.

Q 10. What is the maximum time limit to claim the Input tax credit?

Ans. In terms of Section 16(4) of the CGST Act, a registered person is not entitled to claim input tax credit in respect of any supply of goods or services after the earlier of following two events:

(a) Due Date of filing of the return under Section 39 of the Act for the month of September following the end of financial year to which such invoice or invoice relating to such debit note pertains, i.e. 20th October;

(b) Furnishing of the annual return. In terms of Section 44, the due date of filing annual return is 31st December following the end of the financial year.

However, in cases of credit in special circumstances like new registration, voluntary registration, etc. the credit will not be available after the expiry of one year from the date of issue of tax invoice.

Apportionment of credit and blocked credits (Section 17)

Section 17 of the CGST Act, 2017 made applicable to IGST *vide* Section 20 of the IGST Act, 2017 and UTGST *vide* Section 21 of the UTGST Act, 2017

Q 11. If certain goods/ services are used partly for business and partly for non-business purposes, will the credits be allowed in full or proportionately?

Ans. The credit on goods/ services used partly for business and partly for non-business purposes will be allowed proportionately to the extent it is attributable for business purposes. The manner of calculation of such credit is provided in Rule 42(1) of the CGST Rules, 2017.

Q 12. Credit attributable to exempt supplies is not available to a registered person. What are the supplies that are included in exempt supplies?

Ans. 'Exempt Supplies' for this purpose means all supplies other than taxable and zero-rated supplies and specifically include the following:

- Supplies liable to tax under reverse charge mechanism;
- Transactions in securities;
- Sale of land;
- Sale of building.

Q 13. Will compliance of the provisions of Section 17(2) regarding restriction of credits relatable to exempt supplies be mandatory to a Banking Company/ Financial Institution engaged in accepting deposits or extending loans or?

Ans. No, a Banking Company/ Financial Institution engaged in supplying services by way of accepting deposits, extending loans or advances has the following options:

- Comply with the provisions of Section 17(2) regarding restriction of credits relatable to exempt supplies in the manner prescribed; or
- Avail 50% of the eligible input tax credit every month on inputs, capital goods and input services and the remaining 50% shall not be available.

The option exercised cannot be withdrawn in the same year. The restriction of 50% will not apply to the tax paid on supplies made by one registered person to another registered person having the same PAN.

Q 14. Whether the above option can be withdrawn in between the financial year?

Ans. No. The option once exercised by the Banking Company/ Financial Institution cannot be withdrawn during the remaining part of the financial year.

Q 15. Whether input tax credit will be available on taxable goods which are given by way of gift or free samples under the sales promotion?

Ans. No. Section 17(5) (h) specifically restricts input tax credit on goods disposed of by way of gift or free samples.

Q 16. Whether input tax credit is allowed on inputs which become waste and is sold as scrap?

Ans. In the process of manufacture, if some inputs become waste and are sold as scrap, credit shall not be denied. Further, output tax shall be payable on sale of such waste/scrap. However, Section 17(5) (h) specifically restricts input tax credit on goods lost, stolen, destroyed, written off or disposed by way of gift or free samples. Therefore, if the goods have been destroyed in full, input tax credit will not be available.

Q 17. Whether Input destroyed/pilfered, and shortage also is covered?

Ans. Yes. Section 17(5)(h) specifically restricts input tax credit on goods lost, stolen, destroyed, written off or disposed by way of gift or free samples. Therefore, input tax paid on goods which are destroyed/pilfered, and shortage will not be eligible.

Q 18. Whether Input tax credit is available in respect of Input tax paid on use of mobile phones/laptops/as given to employees?

Ans. Yes. The mobile phones/ laptops would be covered under the definition of 'inputs' as they are used in the course/ furtherance of business and hence, the input tax paid on such goods will be available as input tax credit.

Q 19. Whether input tax paid on Motor vehicle and other conveyances which is used for courier agency, outdoor catering, pandal and shamiana and tour operator is eligible?

Ans. The restriction of input tax credit on motor vehicles and conveyances provided under Section 17(5)(a) is on such motor vehicles/ conveyances except when they are used for further supply of vehicles/ conveyances, transportation of passengers, imparting training or for transportation of goods only. Therefore, input tax credit will be available when it is used by courier agency, outdoor catering, pandal and shamiana and tour operator as it covers use of vehicles for transportation of goods/ transportation of passengers.

Q 20. Whether tax paid on repair and maintenance of Motor Vehicles used for the purpose of business is eligible for ITC?

Ans. Yes. Restriction placed under Section 17(5) of the CGST Act, 2017 is for Motor Vehicles and conveyance per se. There is no restriction for its repair and maintenance.

Q 21. Whether benefit of input tax credit would be available if the company procures health insurance services for benefit of its employees. Procurement of such services is mandatory under Factories Act?

Ans. Yes. Section 17(5)(b)(iii) of the CGST Act provides that tax paid w.r.t rent a cab services, life health insurance services will be eligible as input tax credit where the Government notifies that such services are obligatory for an employer to provide to its employees under any law for the time being in force.

Q 22. What are the conditions to avail the input tax credit on Rent a cab, life Insurance, Health Insurance?

Ans. Tax paid w.r.t rent a cab services, life/ health insurance services will be eligible as input tax credit subject to the following conditions:

- If the Government notifies that such services are obligatory for an employer to provide to its employees under any law for the time being in force, or
- Such services are used by a registered person for making an outward taxable supply of the same category of goods or services or both or as part of a taxable composite or mixed supply.

Q 23. Whether taxes paid on change of interiors of service apartment is eligible for input tax credit?

Ans. Input tax credit is not available on goods or services received by a taxable person for construction of an immovable property on his own account other than plant and machinery even when used in course or furtherance of business. The word "construction" includes reconstruction, renovation, additions or alterations or repairs to the extent of capitalization to the said immovable property. If the cost of interiors is capitalized towards the cost of immovable property, then it forms part of the cost of immovable property (Service apartment) and accordingly taxes paid on change of interiors of service apartment will not be eligible as input tax credit.

Q 24. What do you mean by 'Plant and Machinery'?

Ans. The expression "plant and machinery" has been defined in Explanation to Section 17 for the purpose of Chapter V or VI of the CGST Act. It means apparatus, equipment, and machinery fixed to earth by foundation or structural support that are used for making outward supply of goods or services or both and includes such foundation and structural supports but excludes—

(i) land, building or any other civil structures;

(ii) Telecommunication towers; and

(iii) Pipelines laid outside the factory premises.

Availability of Credit in special circumstances (Section 18)

Section 18 of the CGST Act, 2017 made applicable to IGST *vide* Section 20 of the IGST Act, 2017 and UTGST *vide* Section 21 of the UTGST Act, 2017

Q 25. Whether input tax credit can be availed on input services and capital goods (lying in stock) when there is application for new registration or during voluntary registration under section 18?

Ans. No. In case of new registrations and voluntary registrations, input tax credit can be availed only on the stock held (inputs, semi-finished goods or finished goods) preceding the day when he is liable to pay tax or preceding to the date of grant of voluntary registration. Therefore, Input service and capital goods lying in stock shall not be eligible for ITC.

Q 26. What is the difference between the availment of credit in case of Compulsory Registration and Voluntary Registration?

Ans. In case of compulsory registration, the input tax credit can be availed on the stocks held immediately preceding the date from which he becomes liable to pay tax (date of grant of registration may be later) and in case of voluntary registration, the input tax credit can be availed on the stocks held immediately preceding the date of grant of registration.

Q 27. In case of change of scheme from composition scheme to Regular scheme whether input tax credit on capital goods is eligible.

Ans. Yes. In such a scenario, the registered person will be entitled to claim input tax credit on the stock held (inputs, semi-finished goods or finished goods) and on the capital goods preceding the day when he is liable to pay tax under the regular scheme. The credit of capital goods shall stand reduced by five percentage points for every quarter or part thereof from the date of the issue of the invoice for such goods.

Q 28. When an exempt supply becomes taxable supply then in such case credit on inputs and capital goods exclusively used for such exempted supply is eligible? What about input tax credit pertaining to capital goods used for both taxable and exempt supply?

Ans. In terms of Section 18(1) (d) of the Act, where an exempt supply made by a person becomes taxable supply, such a person will be entitled to claim credit of tax paid on stock held (inputs, semi-finished goods or finished goods) relatable to exempt supply and on the capital goods exclusively used for exempt supply preceding the day when the supply becomes taxable. The credit of capital goods shall, however, stand reduced by 5 percentage points for every quarter or part thereof from the date of the issue of the invoice for such goods. . However, tax paid on capital goods used for both, taxable and exempt supply will not be eligible as input tax credit.

Q 29. When there is change in the constitution of registered taxable person without specific provision of transfer of liabilities is it possible to transfer unutilized input tax credit?

Ans. No, In terms of Section 18(3) of the CGST Act, transfer of unutilized input tax credit is permissible only when there is change in constitution of the business with the specific provision of transfer of liabilities.

Q 30. Where a supplier transfers a running business as a whole either due to sale, merger, amalgamation of such business, whether the portion of the un-utilized input tax credit by the supplier can be claimed immediately by the recipient?

Ans. There is no specific provision under the Act prohibiting transfer of such unutilized credit. Rather, Section 18(3) specifically provides that when there is a change in constitution of a registered person on account of sale, merger, or amalgamation of business with specific provision of transfer of liabilities, the registered taxable person shall be allowed to transfer the input tax credit which remains unutilized, provide registered person furnish the details of sale, merger, de-merger, amalgamation, lease or transfer of business, in FORM GST ITC-02, electronically on the common portal along with a request for transfer of unutilized input tax credit lying in his electronic credit ledger to the transferee. Therefore, if the recipient is registered under the Act, he should be eligible to claim such unutilized credits. In a situation, where the recipient is not registered under the Act, he may have to make a fresh application for registration and claim such unutilized credits after making an intimation to the department.

Q 31. In case of switchover from taxable to exempt transactions or from Regular to composition whether input tax credit is fully restricted?

Ans Yes, In terms of Section 18(4) of the CGST Act, an amount equal to the credit of tax paid on stock held (inputs, semi-finished goods or finished goods) and capital goods (reduced by percentage points) on the day preceding the date of opting for composition/ effecting exempt supplies will have to be paid. The same can be paid by utilization of credit/ cash payments.

Q 32. Whether Input tax credit availed on capital goods is to be reversed in case of supply of such capital goods?

Ans. Yes, in terms of Section 18(6) of CGST Act, in case of supply of capital goods or plant and machinery on which input tax credit has been taken, the registered person will have to pay an amount equal to:

- Input tax credit taken on the said capital goods/ plant and machinery reduced by the percentage points specified; or
- the tax on the transaction value of such goods

whichever is higher.

Q 33. Whether Input tax credit availed on refractory bricks, moulds and dies, jigs and fixtures are to be reversed in case of supply of such goods?

Ans. Yes. In terms of proviso to Section 18(6) of CGST Act, in case of supply of such goods as scrap, the registered person is required to pay the tax on the transaction value of such goods. Thus, in this case, unlike section 18(6), no comparison is required to be made between ITC taken on the capital goods/plant and machinery reduced by the specified percentage points and the tax on the transaction value of such goods.

Taking input tax credit in respect of inputs and capital goods sent for job work (Section 19)

Section 19 of the CGST Act, 2017 made applicable to IGST *vide* Section 20 of the IGST Act, 2017 and UTGST *vide* Section 21 of the UTGST Act, 2017

Q 34. What is the time limit beyond which the inputs/capital goods sent for job work shall be treated as supply?

Ans. The time limit prescribed for return of goods sent to job work under the exemption route is 1 year of being sent out (for inputs) and 3 years of being sent out (for capital goods). Therefore, if the inputs/ capital goods are returned to the principal after 1 year/ 3 years (as applicable), then such return of goods to the principal after the said period would be treated as 'supply'. This time limit is not applicable to moulds and dies, jigs, fixtures, and tools.

Q 35. Whether the principal is entitled to take input tax credit even when the principal has not received the goods and directly sent to job worker by the vendor?

Ans. Yes. Section 19(2) and Section 19 (5) allows the principal to take input tax credit of goods not received by him, if the goods are sent directly to the job workers premises by the vendor.

Q 36. Whether time limit of one year or three years in case of goods sent for job work is applicable to moulds and dies, jigs and fixtures or tools sent out to job worker.

Ans. No, the time limit of one year and three years is not applicable to return of moulds and dies, jigs, fixtures, and tools by the job worker to the principal. [Section 19(7)]

Manner of distribution of credit by the Input service distributor (Section 20)

Section 20 of the CGST Act, 2017 made applicable to IGST *vide* Section 20 of the IGST Act, 2017 and UTGST *vide* Section 21 of the UTGST Act, 2017

Q 37. Whether the distributor and the recipient situated in different states can have same PAN or different PAN number?

Ans. It is mandatory that the Input Service Distributor and the recipient of credit are persons having the same PAN, whether or not they are located in the same State.

Q 38. What is the manner in which Input Service Distributor should distribute the credit where distributor and recipient are located in different states?

Ans. The Input Service Distributor is permitted to distribute the credit as follows:

- Central tax as central tax or integrated tax; and
- Integrated tax as integrated tax or central tax, and
- State tax as State tax or integrated tax [Rule 39(1)(f)]

Q 39. Whether CGST can be distributed as SGST and whether SGST can be distributed as CGST within the states and between the states?

Ans. No. Section 20(1) does not permit distribution of CGST as SGST and *vice versa.* This flows from the fundamentals of the GST law wherein the credit of CGST cannot be utilized against SGST and *vice versa*.

Q 40. What are the conditions applicable to Input service distributor to distribute the credit?

Ans. In terms of Section 20(2) of CGST Act, an Input Service Distributor can distribute the credit subject to the following conditions:

- The credit should be distributed to recipient against a document containing such details as given in Rule 54(1) of the CGST Rules, 2017;
- The amount of credit distributed shall not exceed the amount of credit available for distribution;
- The credit of tax paid on input service attributable to a recipient of credit shall be distributed only to that recipient;
- If credit is attributable to more than one recipient, then it shall be distributed among such recipient(s) to whom the input service is attributable on *pro rata basis* of the turnover in a State of such recipient during the relevant period, to the aggregate of the turnover of all such recipients to whom such input service Is attributable.
- If credit is attributable to all recipients, the above method of allocation on *pro rata* may be applied with reference to all recipients.

Manner of Recovery of Credit distributed in excess (Section 21)

Section 21 of the CGST Act, 2017 made applicable to IGST *vide* Section 20 of the IGST Act, 2017 and UTGST *vide* Section 21 of the UTGST Act, 2017

Q 41. Whether recovery provisions can be initiated in case of wrong distribution of credit?

Ans. Yes. In terms of Section 21 of the Act, the recovery provisions can be initiated if the Input Service Distributor distributes credit in contravention of the law resulting in excess distribution of credit to one/ more recipients of credit. Such credit can be recovered from the recipients along with applicable interest.and the provisions of section 73 or section 74,

as the case may be, shall, mutatis mutandis, apply for determination of amount to be recovered.

Chapter V -Input Tax Credit of the CGST Rules, 2017

Q 42. What are the documents for claim of Input Tax Credit by a registered person?

Ans. In terms of Rule 36(1) the ITC shall be availed by a registered person [including the Input Service Distributor (ISD)] on the basis of any of the following documents:

(a) An invoice issued by supplier of goods or services or both in accordance with provisions of section 31 of the CGST Act.;

(b) An Invoice raised by the recipient in case of inward supplies from unregistered suppliers or reverse charge mechanism supplies, in accordance with provisions of section 31(3)(f) of the CGST Act, subject to payment of tax;

(c) A debit note issued by a supplier of goods or services or both in accordance with provisions of section 34 of the CGST Act;

(d) A bill of entry or any similar document prescribed under the Customs Act, 1962 or Rules made thereunder for the assessment of Integrated Tax on imports;

(e) An ISD Invoice or ISD Credit Note or any other document issued by an Input Service Distributor for distribution of credit in accordance with Rule 54(1) of CGST Rules, 2017.

Q 43. What are the conditions prescribed to avail the Input Tax Credit in relation to documents?

Ans. In terms of Rule 36(2), Input tax credit can be availed by a registered person only if:

- All the applicable particulars prescribed in the Chapter VI *[which contain Rule 46 to Rule 55]* of the CGST Rules,2017 are contained in the document; and
- The relevant information contained in the document is furnished in FORM GSTR-2 (Details of inward supply) by the recipient.

Further, in terms of Rule 36(3), Input tax credit cannot be availed on the tax paid in pursuance of any order where the demand has been confirmed on account of any fraud, willful misstatement or suppression of facts.

Q 44. Whether Input Tax credit should be reversed in case of non-payment of consideration to supplier as per Rule 37 of the CGST Rules, 2017?

Ans. Yes, where the value of the supply along with the tax, has not been paid to the supplier within 180 days from the date of issue of invoice, the input tax credit availed by the recipient will be added to the output tax liability of the recipient. The recipient will have

to furnish the details of the supply in Form GSTR-2 for the month immediately following the period of 180 days from the invoice date and will be liable to pay interest from the date of availment of credit till the date of addition to the output tax liability.

Q 45. What is the option available to a Banking Company/ Financial Institution (including non-banking financial company) who choose to not opt for proportionate reversal of credits relating to exempt supplies?

Ans. A Banking Company/ Financial Institution engaged in supplying services by way of accepting deposits, extending loans or advances has the following options:

- Option 1: Comply with the provisions of Section 17(2) regarding restriction of credits relatable to exempt supplies in the manner prescribed; or
- Option 2: Avail 50% of the eligible input tax credit every month on inputs, capital goods and input services.

A Banking Company/ Financial Institution choosing Option 2 has to follow the following procedure in accordance with Rule 38 of the CGST Rules, 2017:

- The credit of tax paid on inputs and input services used for non-business purposes and those that are not eligible in terms of Section 17(5) should not be availed
- The credit of tax paid on supplies by another person having the same PAN can be availed in full
- 50% of the remaining credit will be admissible and should be claimed in Form GSTR-2
- The eligible credit (as mentioned above) will be credited to the Electronic Credit Ledger

Q 46. Whether ITC available for distribution can be distributed in subsequent months?

Ans. No. In terms of Rule 39(1) (a) of the CGST Rules, 2017, the ITC available for distribution by an ISD should be distributed to the recipients in the same month itself and the details should be furnished in Form GSTR-6.

Q 47. Can the ISD distribute the credit as a consolidated amount to a recipient?

Ans. No, in terms of Rule 39(1) (b) of the CGST Rules, 2017, the ISD is required to distribute the eligible and in-eligible credit separately to a recipient. Further, the integrated tax, central tax and state tax should also be distributed separately.

Q 48. How is the determination of the eligible amount to be distributed calculated?

Ans. In terms of the Rule 39(1) (d) of the CGST Rules, 2017, the eligible amount to be distributed in relation to a recipient is to be calculated in the following way:

$$C_1 = (t_1/T) \times C$$

Where

C_1 = Amount distributed to a recipient

C = Amount of credit to be distributed

t_1 = Turnover of the recipient during the relevant period

T = Aggregate of the turnover of all the recipients during the relevant period

Q 49. How will the integrated tax, central tax and state tax be distributed?

Ans. In terms of Rule 39(1) (f) of the CGST Rules, 2017, the distribution is to be made by an ISD as follows :

(a) Integrated tax as integrated tax.

(b) Central tax as central tax (if the recipient and ISD are located in the same State) and as integrated tax (if the recipient and ISD are not located in the same State).

(c) State tax as state tax (if the recipient and ISD are located in the same State) and as integrated tax (if the recipient and ISD are not located in the same State).

(d) In case of distribution of central/ state tax as integrated tax, it should be ensured that the amount distributed equals the amount of credit of central and state tax put together.

Q 50. What are the documents to be issued by an ISD?

Ans. In terms of Rule 39(1)(g) of the CGST Rules, 2017, an ISD is required to issue an ISD invoice as prescribed in Rule 54(1) indicating that the invoice is issued only for distribution.

Similarly, in terms of Rule 39(1)(h) of the CGST Rules, 2017, an ISD is required to issue a credit note as prescribed in Rule 54(1) for reduction of credit (if already distributed).

Q 51. How will the input credit already distributed reversed on issuance of an ISD credit note?

Ans. In terms of Rule 39(1) (j) of the CGST Rules, 2017, the credit reduced by issuance of an ISD credit note will be apportioned to each recipient in the same ratio in which the credit of the original invoice was distributed.

Q 52. How any ITC required to be reduced on account of issuance of a credit note to the ISD by the supplier shall be dealt with?

Ans. In terms of Rule 39(1) (j) of the CGST Rules, 2017 any ITC required to be reduced on account of issuance of a credit note to the ISD by the supplier shall be

- reduced from the amount to be distributed in the month in which the credit note is included in the return in FORM GSTR-6; and
- Added to the output tax liability of the recipient and where the amount so apportioned is in the negative by virtue of the amount of credit to be distributed is less than the amount to be adjusted.

Q 53. What are the conditions for claim of credit w.r.t. inputs/ capital goods lying in stock in case new registration, voluntary registration, change of the scheme from Composition to Regular scheme?

Ans. The conditions prescribed under Rule 40 of the CGST Rules, 2017 are as under:

(a) The credit on capital goods can be claimed after reduction of 5 percentage points per quarter from the tax paid on such capital goods from the date of invoice or such other documents on which the capital goods were received by the taxable person

(b) The registered person shall within a period of 30 days from the date of his becoming eligible to avail the input tax credit under section 18(1) or within such further period as may be extended by the Commissioner by a notification in this behalf, shall make a declaration, electronically, on the common portal in FORM GST ITC-01 to the effect that he is eligible to avail the input tax credit as aforesaid. It is pertinent to mention that time limit for making a declaration, in FORM GST ITC-01, by the registered persons, who have become eligible during the months of July 2017, August 2017, September 2017, October 2017 and November 2017 has been extended till the 31.01.2018.[*Refer Notification No. 67/2017 – Central Tax dated 21.12.2017*]

The declaration shall clearly specify the details relating to the inputs held in stock or inputs contained in semi-finished or finished goods held in stock, or as the case may be, capital goods–

(i) on the day immediately preceding the date from which he becomes liable to pay tax under the provisions of the Act, in the case of a claim under section 18(1)(a);

(ii) on the day immediately preceding the date of the grant of registration, in the case of a claim under section 18(1)(b);

(iii) on the day immediately preceding the date from which he becomes liable to pay tax under section 9, in the case of a claim under section 18(1)(c);

(iv) on the day immediately preceding the date from which the supplies made by the registered person becomes taxable, in the case of a claim under section 18(1)(d);

(c) The details furnished should be certified by a practicing Chartered/ Cost Accountant if the aggregate value of claim of credit on account of Central Tax, State Tax, Union territory Tax and Integrated Tax exceeds Rs. 2 Lakh.

(d) The credit details furnished will be matched and verified with the corresponding details furnished by the supplier in FORM GSTR-1 or Form GSTR-4 on the common portal.

Q 54. How will transfer of credit on account of sale, merger, amalgamation etc. be effected?

Ans. In terms of Rule 41(1) of the CGST Rules, 2017, the registered person is required to furnish the details of sale, merger, amalgamation, de-merger, lease, transfer of business in Form GSTR ITC-02 electronically with a request to transfer the unutilized credit to the transferee.

Q 55. How will transfer of credit on account of de-merger be apportioned?

Ans. In terms of proviso to Rule 41(1) of the CGST Rules, 2017, in case of demerger, the credit will be apportioned in the ratio of the value of assets of the new units as specified in the demerger scheme.

Q 56. What are the conditions for transfer of credit on account of sale, merger, amalgamation, de-merger, lease, transfer of business?

Ans. The conditions prescribed under Rule 41 of the CGST Rules, 2017 are:

(a) The details of the sale, merger, amalgamation, de-merger, lease, transfer of business should be furnished in Form GSTR ITC-02.

(b) A certificate issued by a practicing Chartered/ Cost Accountant should be furnished certifying that the sale, merger, amalgamation, de-merger, lease, transfer of business has been done along with a provision for transfer of liabilities.

(c) Upon acceptance of the details by the transferee, the credit specified in Form GSTR ITC-02 will be credited to the electronic credit ledger.

(d) The inputs and capital goods so transferred are to be accounted in the transferee's books.

Q 57. How to determine the credit attributable to exempt supplies in cases where the inputs/ input services are used for effecting exempt supplies in addition to taxable supplies?

Ans. The credit attributable to exempt supplies in such cases are determined as under in terms of Rule 42 of the CGST Rules, 2017:

$$D_1 = (E/F) \times C_2$$

Where

D_1 = Credit attributable to exempt supplies

E = aggregate value of exempt supplies (all supplies other than taxable and zero rated supplies)

F = total turnover of the person in the tax period

C_2 = Common Credit i.e. Total input tax in a period reduced by:

- Tax attributable exclusively for non-business purpose
- Tax attributable exclusively for exempt supplies
- Ineligible credits as per Section 17(5)
- Tax attributable exclusively for taxable supplies (including zero rated supplies)

Q 58. How to determine the credit attributable to non-business purposes in cases where the common inputs/ input services are used for non-business purposes and business purposes?

Ans. In terms of Rule 42(j) of the CGST Rules, 2017, the credit attributable to non-business purpose (D_2) will be equal to 5% of C_2 [Common Credit]' (Refer Answer to Q56)

Q 59. How to determine the net eligible credit in cases where the common inputs/ input services are used for non-business purposes and for effecting exempt supplies?

Ans. The eligible credit in such cases are determined as under in terms of Rule 42 (k) of the CGST Rules, 2017:

Net eligible credit [C_3] = $C_2 – (D_1 + D_2)$

D_1 = Credit attributable to exempt supplies

D_2 = Credit attributable to non-business purposes (5% of C_2 i.e. Common Credit))

Q 60. Should the apportionment towards exempt supplies/ non-business purposed be done only on a monthly basis?

Ans. No. The recipient is required to do the apportionment on an annual basis also before the due date of filing the return of the September month of the following year. The differentials will be liable to be paid with interest (if the annual disallowance is higher) and will be eligible as credit (if the annual disallowance is lesser).

Q 61. How to determine the credit attributable to exempt supplies in cases where the capital goods are used for effecting exempt supplies in addition to taxable supplies?

Ans. The credits are determined in terms of Rule 43 of the CGST Rules, 2017 are as under:

(a) Input tax in respect of capital goods used or intended to be used exclusively for non-business purposes or used or intended to be used exclusively for effecting exempt supplies shall be indicated in FORM GSTR-2 and shall not be credited to his electronic credit ledger

(b) Input tax in respect of capital goods used or intended to be used exclusively for effecting taxable supplies including zero-rated supplies shall be indicated in FORM GSTR-2 and shall be credited to the electronic credit ledger

(c) Out of the total input tax credit on capital goods, the amount of input tax credit in (a) and (b) shall be deducted from total input tax credit and shall be credited to the electronic credit ledger and the useful life of such good shall be taken as five years.

(d) The common input tax credit attributable to exempt supplies shall be calculated as a ratio of the aggregate value of exempt supplies to the total turnover of the person in the tax period.

(e) In case if the turnover details are not available then the values for the preceding tax period shall be taken for calculation.

Q 62. How to determine the reversals of credit in case of special circumstances i.e. change of the scheme from Regular to Composition scheme, supplies becoming exempt which were earlier taxable and cancellation of registration?

Ans. In terms of Rule 44(1) (a) of the CGST Rules, 2017, the reversal of input tax credit relating to inputs lying in stock will be calculated proportionately on the basis of corresponding invoices on which credit had been availed. Further, in terms of Rule 44(1)(b) of the CGST Rules, 2017, for capital goods, the input tax credit relating to the remaining residual life in months shall be computed on pro-rata basis, taking the useful life as five years.(Part of the month shall be ignored while calculation)

Further , the amount in terms of Rule 44(1) of the CGST Rules shall be determined separately for input tax credit of ₹Central/State/Union Territory Tax [Rule 44(2)]

Furthermore, the amount in terms of Rule 44(1) of the CGST Rules shall form part of output tax liability of registered person and details of the amount shall be furnished in Form GST ITC-03, where such amount relates to any event specified in section 18(4) [i.e. change of the scheme from Regular to Composition scheme, supplies becoming exempt which were earlier taxable] and in Form GSTR-10, where such amount relates to the cancellation of registration (Section29(5)) [Rule 44 (4)]

Q 63. How to determine the reversals of credit in case of such special circumstances if the tax invoices are not available?

Ans. In terms of Rule 44(3) of the CGST Rules, 2017 if the invoices relating to inputs in stock are not available, the prevailing market price of goods on the effective date of occurrence of the events i.e. change of the scheme from Regular to Composition scheme, supplies becoming exempt which were earlier taxable and cancellation of registration, should be considered for estimation.

Q 64. State the manner of reversal of credit of Additional duty of Customs in respect of Gold dore bar?

Ans. In terms of Rule 44A of the CGST Rules inserted *vide* Notification No. 22/2017 – Central Tax dated 17.08.2017, the credit of Central tax in the electronic credit ledger

taken in terms of the provisions of section 140 relating to the CENVAT Credit carried forward which had accrued on account of payment of the additional duty of customs levied under section 3(1) the Customs Tariff Act, 1975, paid at the time of importation of gold dore bar, on the stock of gold dore bar held on the 1.07.2017 or contained in gold or gold jewellery held in stock on the 01.07.2017 made out of such imported gold dore bar, shall be restricted to one-sixth of such credit and five-sixth of such credit shall be debited from the electronic credit ledger at the time of supply of such gold dore bar or the gold or the gold jewellery made therefrom.

Q 65. What are the conditions prescribed in respect of inputs/ capital goods sent for job work?

Ans. The conditions prescribed in respect of inputs/ capital goods sent for job work are set out in Rule 45 of the CGST Rules, 2017 ass under:

(a) The inputs, semi-finished goods or capital goods are to be sent to the job worker under the cover of a challan issued by the principal including cases where the inputs, semi-finished goods or capital goods are sent directly to job worker;

(b) The challan issued by the principal should contain the details as specified in Rule 55 of the CGST Rules, 2017

(c) The details of challan in respect of goods dispatched to/ received from a job worker or sent from one job worker to another during a quarter shall be included in Form GST ITC-04 furnished for that period on or before the 25th day of the month succeeding the said quarter or within such further period as may be extended by the Commissioner by a notification in this behalf. It is pertinent to mention that date of filing Form GST ITC–04 for the quarter July to September,2017 has been extended till 31.12.2017 *vide Notification No. 63/2017 – Central Tax dated 15.11.2017.*

(d) If the inputs/ capital goods are not returned within the 1 year/ 3 years, respectively, it shall be deemed that such inputs or capital goods had been supplied by the principal to the job worker on the day when the said inputs or capital goods were sent out and the said supply shall be declared in Form GSTR-1. Further, the principal shall be liable to pay the tax along with applicable interest.

Q 66. For the purpose of determining exempt supply under Section 17(3), how should the value of land and building be determined?

Ans. In terms of Explanation 2(a) to Chapter V of the CGST Rules, 2017, the value of land and building adopted for the purpose of paying stamp duty should be considered.

Q 67. For the purpose of determining exempt supply under Section 17(3), how should the value of security be determined?

Ans. In terms of Explanation 2(b) to Chapter V of the CGST Rules, 2017, the value of security should be considered as 1% of the sale value of such security.

MCQ's

Q 1. Whether definition of Inputs includes capital goods.

(a) Yes

(b) No

(c) Certain capital goods only

(d) None of the above

Ans. *(a) No*

Q 2. Is it mandatory to capitalize the capital goods in books of Accounts?

(a) Yes

(b) No

(c) Optional

(d) None of the above

Ans. *(a) Yes*

Q 3. Whether credit on capital goods can be taken immediately on receipt of the goods?

(a) Yes

(b) No

(c) After usage of such capital goods

(d) After capitalizing in books of Accounts

Ans. *(a) Yes*

Q 4. The term "used in the course or furtherance of business" means?

(a) It should be directly co-related to output supply

(b) It is planned to use in the course of business

(c) It is used in the course of business

(d) It is used in the course of business for making outward supply

Ans. *(c) It is used in the course of business*

Q 5. Under section 16(2) of CGST Act how many conditions are to be fulfilled for the entitlement of credit?

(a) All the conditions

(b) Any two conditions

(c) Conditions not specified

(d) None of the above

Ans. *(a) All the conditions*

Q 6. Whether credit on inputs should be availed based on receipt of documents or receipt of goods

(a) Receipt of goods

(b) Receipt of Documents

(c) Both

(d) Either receipt of documents or Receipt of goods

Ans. *(c) Both*

Q 7. In case supplier has deposited the taxes but the receiver has not received the documents, is receiver entitled to avail credit?

(a) Yes, it will be auto populated in recipient monthly returns

(b) No as one of the conditions of 16(2) is not fulfilled

(c) Yes, if the receiver can prove later that documents are received subsequently

(d) None of the above

Ans. *(b) No as one of the conditions of 16(2) is not fulfilled*

Q 8. Input tax credit on capital goods and Inputs can be availed in one installment or in multiple installments?

(a) In thirty-six installments

(b) In twelve installments

(c) In one installment

(d) In six installments

Ans. *(c) In one installment*

Q 9. The tax paying documents in section 16(2) is

(a) Bill of entry, Invoice raised on RCM supplies, etc.

(b) Acknowledged copy of tax paid to department

(c) Supply invoice by the recipient

(d) Any of the above

Ans. *(a) Bill of entry, Invoice raised on RCM supplies, etc.*

Q 10. The time limit to pay the value of supply with taxes to avail the input tax credit?

(a) Three months

(b) Six Months

(c) One hundred and eighty days

(d) Till the date of filing of Annual Return

Ans. *(c) One hundred and eighty days*

Q 11. What is the time limit for taking input tax credit by a registered taxable person?

(a) No time limit

(b) 1 year from the date of invoice

(c) Due date of furnishing of the return under section 39 for the month of September following the end of financial year to which such invoice or invoice relating to such debit note pertains

(d) Due date of furnishing of the return under section 39 for the month of September following the end of financial year to which such invoice or invoice relating to such debit note pertains or furnishing of the relevant annual return, whichever is earlier.

Ans (d) Due date of furnishing of the return under section 39 for the month of September following the end of financial year to which such invoice or invoice relating to such debit note pertains or furnishing of the relevant annual return, whichever is earlier.

Q 12. Can the recipient avail the Input tax credit for the part payment of the amount to the supplier within one hundred and eighty days?

(a) Yes, on full tax amount and partly value amount

(b) No, he can't until full amount is paid to supplier

(c) Yes, but proportionately to the extent of value and tax paid

(d) Not applicable is eligible to claim refund in respect of exports of goods le

Ans. *(c) Yes, but proportionately to the extent of value and tax paid*

Q 13. Whether credit can be availed without actual receipt of goods where goods are transferred through transfer of document of title before or during the movement of goods?

(a) Yes

(b) No

(c) Yes, in specific instances

(d) Can be availed only after transfer of document of title after movement of goods

Ans. *(c) Yes, in specific instances*

Q 14. Whether depreciation on tax component of capital goods and Plant and Machinery and whether input tax credit is Permissible?

(a) Yes

(b) No

(c) Input tax credit is eligible if depreciation on tax component is not availed

(d) None of the above

Ans. *(c) Input tax credit is eligible if depreciation on tax component is not availed*

Q 15. What is the maximum time limit to claim the Input tax credit?

(a) Till the date of filing annual return

(b) Due date of September month which is following the financial year

(c) Earliest of (a) or (b)

(d) Later of (a) or (b)

Ans. *(c) Earliest of (a) or (b)*

Q 16. Proportionate credit for capital goods is allowed

(a) For business and non-business purpose

(b) For business or non- business purpose

(c) Both of the above

(d) None of the above

Ans. *(a) For business and non-business purpose*

Q 17. Exempt supplies under Section 17 (apportionment of credit) includes

(a) Only exempted supplies

(b) Reverse charge supplies and sale of land

(c) Exempted supplies, reverse charge supplies, Transaction in securities, sale of land, sale of building

(d) None of the above

Ans. *(c) Exempted supplies, reverse charge supplies, Transaction in securities, sale of land, sale of building*

Q 18. Banking company or Financial Institution have an option of claiming:

(a) Eligible Credit or 50% credit

(b) Only 50% Credit

(c) Only Eligible credit

(d) Eligible credit and 50% credit

Ans. *(a) Eligible Credit or 50% credit*

Q 19. Can Banking Company or Financial Institution withdraw the option of availing actual credit or 50% credit anytime in the financial year?

(a) Yes

(b) No

(c) Yes, with permission of Authorized officer

(d) Not applicable

Ans. *(b) No*

Q 20. Any input tax paid on purchase of goods or services by an assessee for employees is eligible?

(a) No

(b) Yes

(c) Yes, on the services notified which are obligatory for an employer to provide to its employees under any law for the time being in force

(d) Not applicable

Ans. *(c) Yes, on the services notified which are obligatory for an employer to provide to its employees under any law for the time being in force*

Q 21. A supplier of goods or services pays tax under section 74,129 and 130 (fraud, willful misstatement etc.). Receiver of goods can avail its credit:

(a) Yes

(b) No

(c) Yes, after receipt of goods or services

(d) Yes, after receipt of invoice for goods or services

Ans. *(b) No*

Q 22. An assessee obtains new registration, voluntary registration, change of scheme from composition to regular scheme and from exempted goods/ services to taxable goods/services. It can avail credit on inputs lying in stock. What is the time limit for taking said credit?

(a) 1 year from the date of invoice

(b) 3 years from the date of invoice

(c) 5 years from the date of invoice

(d) None of the above

Ans. *(a) 1 year from the date of invoice*

Q 23. Credit on Input services or capital goods held in stock can be availed in case of new Registration/Voluntary Registration

(a) Yes

(b) No

(c) Yes, on Input services only

(d) Yes, on capital goods only

Ans. *(b) No*

Q 24. In case of Compulsory registration, input tax credit can be availed on

(a) on stocks held on the day immediately preceding the date from which he becomes liable to pay tax under the provisions of this Act, provided application for registration is filed within 30 days from the due date

(b) on stocks held on the day immediately preceding the date of grant of registration under the provisions of this Act.

(c) on stocks held on the day immediately preceding the date of application of registration under the provisions of this Act.

(d) None of the above

Ans. *(a) on stocks held on the day immediately preceding the date from which he becomes liable to pay tax under the provisions of this Act, provided application for registration is filed within 30 days from the due date*

Q 25. In case of Voluntary registration input tax credit can be availed

(a) on stocks held on the day immediately preceding the date from which he becomes liable to pay tax under the provisions of this Act

(b) on stocks held on the day immediately preceding the date of grant of registration under the provisions of this Act.

(c) on stocks held on the day immediately preceding the date of application of registration under the provisions of this Act.

(d) None of the above

Ans. *(b) on stocks held on the day immediately preceding the date of grant of registration under the provisions of this Act.*

Q 26. Eligibility of credit on capital goods in case of change of scheme from Composition scheme to Regular scheme

(a) Eligible during application for Regular scheme

(b) Not eligible

(c) Yes, immediately before the date from which he becomes liable to pay tax under the Regular scheme

(d) None of the above

Ans. *(c) Yes, immediately before the date from which he becomes liable to pay tax under the Regular scheme*

Q 27. Can the unutilized input tax credit be transferred in case of change in constitution of business?

(a) Not possible

(b) No, it will be exhausted

(c) Yes, it will be transferred only if there is provision for transfer of liabilities

(d) It will be transferred only if it is shown in books of Accounts of transferor

Ans. *(c) Yes, it will be transferred only if there is provision for transfer of liabilities*

Q 28. Is Input tax fully restricted in case of switchover from taxable to exempt supplies

(a) Yes

(b) No

(c) Proportionately restricted

(d) Not restricted

Ans. *(a) Yes*

Q 29. Is Input tax to be paid in case of switchover from taxable to exempt supplies

(a) Yes, equivalent to the credit in respect of inputs held in stock (including semi-finished and finished) and on capital goods held in stock

(b) No

(c) Yes, full credit

(d) No should be debited to electronic credit ledger

Ans. *(a) Yes, equivalent to the credit in respect of inputs held in stock (including semi-finished and finished) and on capital goods held in stock*

Q 30. Is Input tax to be reversed in case of supply of capital goods

(a) Yes fully

(b) No

(c) Yes, to extent of credit taken as reduced by prescribed percentage or tax on transaction value whichever is higher

(d) Yes, to the extent of transaction value of such goods

Ans. *(c) Yes, to extent of credit taken as reduced by prescribed percentage or tax on transaction value whichever is higher*

Q 31. The time limit beyond which if goods are not returned, the inputs sent for job work shall be treated as supply

(a) One year

(b) Five years

(c) Six months

(d) Seven years

Ans. *(a) One year*

Q 32. The time limit beyond which if goods are not returned, the capital goods sent for job work shall be treated as supply

(a) One year

(b) Five years

(c) Three Years

(d) Seven years

Ans. *(c) Three Years*

Q 33. Principal entitled for input tax credit on inputs sent for job work

(a) If goods sent are returned within one year

(b) If goods sent are returned within three years

(c) If goods sent are returned within six months

(d) If goods sent are returned within nine months

Ans. *(a) If goods sent are returned within one year*

Q 34. Principal entitled for input tax credit on capital goods if sent for job work

(a) If goods sent are returned within one year

(b) If goods sent are returned within three years

(c) If goods sent are returned within six months

(d) If goods sent are returned within nine months

Ans. *(b) If goods sent are returned within three years*

Q 35. Is the principal entitled for credit of goods though he has not received the goods and has been sent to job worker directly by vendor?

(a) Yes

(b) No

(c) Yes, vendor should be located in same place

(d) None of the above

Ans. *(a) Yes*

Q 36. In case of ISD whether distributor and recipient should have same PAN

(a) Yes

(b) No

(c) Yes, if in same state and different in other state

(d) None of the above

Ans. *(a) Yes*

Q 37. Can the credit distributed by an ISD exceed the amount available for distribution?

(a) Yes

(b) No

(c) Partly correct

(d) None of the above

Ans. (b) No

Q 38. If credit applicable to more than one recipient, then it shall be distributed

(a) Equally

(b) On Pro rata basis to the aggregate turnover of such recipients

(c) Proportionately

(d) As per Adhoc Ratio

Ans. *(b) On Pro rata basis to the aggregate turnover of such recipients*

Q 39. The credit attributable to a particular recipient shall be distributed to

(a) Only to that recipient

(b) To all the recipients

(c) To few recipients

(d) None of the recipients

Ans. *(a) Only to that recipient*

Q 40. A person is entitled to take credit of input tax as self-assessed in the return and credited to Electronic credit ledger on

(a) Final basis

(b) Provisional basis

(c) Partly Provisional and partly final basis

(d) None of the above

Ans. *(b) Provisional basis*

Q 41. Provisional Input tax credit can be utilized against

(a) Any Tax liability

(b) Self-Assessed Output Tax liability

(c) Interest and Penalty

(d) Fine

Ans. *(b) Self Assessed Output Tax liability*

Q 42. Matching of Input Tax credit on inward supply by recipient is undertaken with

(a) Monthly return filed by the supplier

(b) Outward supply filed by the supplier

(c) Invoices maintained by the supplier

(d) None of the above

Ans. *(b) Outward supply filed by the supplier*

Q 43. Is it mandatory that the tax on the supply has to be paid by the supplier so that the recipient can claim credit?

(a) No

(b) Yes

(c) Optional

(d) Not Applicable

Ans. *(b) Yes*

Q 44. If there is Mis-match of supplier's outward supply and recipient's claim for Input Tax credit on the same transaction

(a) It shall be added as output tax liability in the hands of receiver.

(b) It shall be reduced as output tax liability in the hands of receiver

(c) It shall be increased as input tax credit in the hands of receiver

(d) It shall be deceased as input tax credit in the hands of supplier

Ans. *(a) It shall be added as output tax liability in the hands of receiver.*

Q 45. Input Tax credit as credited in Electronic Credit ledger can be utilized for

(a) Payment of Interest

(b) Payment of penalty

(c) Payment of Fine

(d) Payment of Taxes

Ans (d) Payment of Taxes

Chapter IV
Registration

FAQ's

Registration (Section 22 to 30)

Section 22 to 30 of the CGST Act, 2017 made applicable to IGST *vide* Section 20 of the IGST Act, 2017 and UTGST *vide* Section 21 of the UTGST Act, 2017

Q 1. Who are the persons liable to take a Registration under the GST Law? \What is the threshold limit for registration in case of GST

Ans. Every supplier whose aggregate turnover exceeds ₹ 20 Lacs (10 Lacs for special category States) in a financial year is liable to get himself registered in a State from where he makes taxable supplies. However, certain categories of persons mentioned in Section 24 of GST Law are liable to be registered irrespective of this threshold.

Further, following persons shall not be liable to register as per section 23: -

(a) An agriculturist, to the extent of supply of produce out of cultivation of land.

(b) Any person engaged exclusively in the business of supplying goods and/ services that are not liable to tax or wholly exempt from tax under the CGST Act or under IGST Act

(c) The Government may, on the recommendations of the Council, by notification,specify the category of persons who may be exempted from obtaining registration under this Act

In this regard the Central Government has issued following Notifications:

- *Notification No. 07/2017-Integrated Tax, dated 14-09-2017* which provided that the job workers engaged in making inter-State supply of services to a registered person are exempted from obtaining registration
- *Notification No. 10/2017 – Integrated Tax dated 13-10-2017* has exempted the persons making inter-State supplies of taxable services from obtaining compulsory registration under section 24 of CGST Act, 2017 in case of Inter State Supply of Services]
- *Notification No. 32/2017-Central Tax, dated 15-09-2017 & Notification No. 8/2017 – Integrated Tax, dated 14-09-2017*, the casual taxable persons as well as the persons making inter-State taxable supplies of handicraft goods

as the category of persons exempted from obtaining registration if the aggregate value of such supplies, to be computed on all India basis, does not exceed an amount of ₹ 20 lakhs in a financial year (₹ 10 lakhs for Special Category States other than J&K).

- *Notification No. 65/2017 – Central Tax dated 15.11.2017*,exempt suppliers of services through an e-commerce platform from obtaining compulsory registration

Q 2. What is aggregate turnover?

Ans. As per section 2 (6) of the GST Law, aggregate turnover means the aggregate value of all taxable supplies, exempt supplies, export of goods or services or both and inter-State supplies of persons having the same PAN, to be computed on all India basis and excludes CGST/SGST, IGST, UTGST and cess.

Aggregate turnover does not include value of inward supplies on which tax is payable on reverse charge basis.

Q 3. If a person is operating in different States, with the same PAN number, can he operate with a single Registration?

Ans. No. Every person will have to get registered separately for each of the State from where he makes taxable supply if he is liable for registration in terms of section 22(1) of the CGST Act.

Q 4. If a person is registered under earlier law, whether he needs to be registered under GST law compulsorily?

Ans. Yes. As per section 22 (2) of the CGST Act, every person who, on the day immediately preceding the appointed day, is registered or holds a license under an earlier law, shall be liable to be registered under this Act with effect from the appointed day.

Q 5. What is the time limit for taking registration under GST Law?

Ans. Every Person who is liable to be registered under Section 22 or Section 24 shall apply within 30 days from the date on which he becomes liable to registration in such manner and subject to such conditions as may be prescribed.

Further, a casual taxable person or a non-resident taxable person shall apply for registration at least 5 days prior to the commencement of business.

Furthermore, every person who makes a supply from the territorial waters of India shall obtain registration in the coastal State or Union territory where the nearest point of the appropriate baseline is located.

Q 6. Whether a person having multiple business verticals in a State or Union territory can obtain different registrations for each of such vertical?

Ans. Yes. As per proviso to Section 25(2) of the CGST Act, a person having multiple business verticals in a State or Union territory, may obtain a separate registration for each business vertical, subject to such conditions as may be prescribed.

Q 7. Can the taxable supply made by the job-worker on behalf of his principal be considered for computing his aggregate turnover?

Ans. As per the second explanation to the section 22, value of taxable supply (completion of job work) made by the registered job-worker on behalf of his principal shall not be added to the aggregate turnover of the registered Job worker.

Q 8. Is there a provision for a person to get himself voluntarily registered though he may not be liable to pay GST?

Ans. Yes. In terms of section 25(3) of the CGST Act, a person, though not liable to be registered under Section 22 or Section 24, may get himself registered voluntarily, and all provisions of this Act, as are applicable to a registered taxable person, shall apply to such person.

Q 9. Is possession of a Permanent Account Number (PAN) mandatory for obtaining a Registration?

Ans. Yes. Every person should have a Permanent Account Number issued under the Income Tax Act, 1961 in order to be eligible for grant of registration under Section 25 of the CGST Act.

Provided that a person required to deduct tax under section 51 may have, in lieu of aPermanent Account Number, a Tax Deduction and Collection Account Number issued under the said Act in order to be eligible for grant of registration.

However, as per section 25(7) the CGST Act, PAN is not mandatory for a non-resident taxable person for obtaining registration.

Q 10. Whether the Department through the proper officer, can *suo-moto* proceed with registration of a Person under the Act?

Ans. Yes. In terms of sub-section (8) of Section 25, where a person who is liable to be registered under the CGST Act fails to obtain registration, the proper officer may, without prejudice to any action which may be taken under the CGST Act, or under any other law for the time being in force, proceed to register such person in the manner as may be prescribed.

Q 11. Whether the proper Officer can reject an Application for Registration?

Ans. Yes. The Proper officer can reject the Application for registration in Form GST REG 05, if after filling the Application of registration in Form GST REG 01 the proper officer issued notice in Form GST REG 03 for further clarification and no response or no satisfactory response is given by the applicant.

Q 12. Whether the Registration granted to any person is permanent?

Ans. Yes, the registration once granted to any person is permanent except for non-resident taxable person and casual taxable person unless surrendered, cancelled, suspended.

Q 13. Is it necessary for the foreign embassy's to get registration under GST Law?

Ans. All UN bodies, Consulate or Embassy of foreign countries and any other class of persons, so notified, would be required to obtain a Unique Identification Number (UIN) from the GST portal. This UIN will be needed for claiming refund of taxes paid by them on the notified supply of goods or services or both received by them.

It is apt to state here that, every person required to be granted a UIN in accordance with Section25(9) of the CGST Act may submit an application electronically in FORM GST REG-13, duly signed or verified through electronic verification code, in the manner specified in Rule 8.The proper officer may, upon submission of an application in FORM GST REG-13 or after filling up the said form or after receiving a recommendation from the Ministry of External Affairs, Government of India, assign a UIN to the said person and issue a certificate in FORM GST REG-06 within a period of 3 working days from the date of the submission of the application. *[Rule 17]*

Section 25 *interalia* provides that UINshall be granted or rejected after due verification and within the time prescribed.UIN so granted shall be applicable to the territory of India.UIN shall be deemed to have been granted after the period prescribed (under section 25(10) of the CGST Act) if no deficiency has been communicated to the applicant within that period. Moreover, grant of UIN under the CGST Act / SGST Act shall be deemed to be a grant of UIN under the SGST/CGST Act provided that the application for UIN has not been rejected//no deficiency has been communicated to applicant by the proper officer under SGST/CGST Act within the time specified

Q 14. What is the responsibility of the taxable person supplying to UN bodies?

Ans. The taxable supplier supplying to UN bodies is expected to mention the UIN on the invoices and treat such supplies as supplies to another registered person (B2B).

Q 15. Can a person without GST registration claim ITC and collect tax?

Ans. No. A person without GST registration can neither collect GST from his customers nor claim any input tax credit of GST paid by him.

Q 16. What will be the effective date of registration?

Ans. Where the application for registration has been submitted within thirty days from the date on which the person becomes liable to registration, the effective date of registration shall be date on which he become liable for registration.

Where an application for registration has been submitted by the applicant after thirty days from the date of his becoming liable to registration, the effective date of registration shall be the date of grant of registration.

In case of suomoto registration, i.e. registration pursuant to any survey, enquiry, inspection, search or any other proceedings, the effective date of registration shall be the date of order of registration.

Q 17. What are the cases in which registration is compulsory?

Ans. As per Section 24 of the GST Act, the following categories of persons shall be required to be registered compulsorily irrespective of the threshold limit:

(a) persons making any inter-State taxable supply;

It is important to mention that Central Government vide*Notification No. 07/2017-Integrated Tax, dated. 14-09-2017* has provided that the job workers engaged in making inter-State supply of services to a registered person are exempted from obtaining registration [However, such exemption is not available to a job-workerwho is liable to be registered u/s22(1)i.e threshold limit or who opts for voluntarily u/s 25(3) ; or of section 25 of the said Act; or job worker is involved in making supply of services in relation to the goods mentioned against serial number 151 in the Annexure to Rule 138 of the CGST Rules, 2017 i.e.,jewellery, goldsmiths' and silversmiths' wares as covered under Chapter 71 which do not require e-way bill.]

Further, the Central Government vide *Notification No. 10/2017 – Integrated Tax dated 13-10-2017* has exempted the persons making inter-State supplies of taxable services and having an aggregate turnover not exceeding an amount of ₹ 20 lakhs in a financial year from obtaining registration / ₹ 10 lakhs in case of the States specified in Article 279A (4) (g) of the Constitution except Jammu & Kashmir [i.e., Exemption from obtaining compulsory registration u/s 24 of CGST Act, 2017 in case of Inter State Supply of Services]

(b) casual taxable persons making taxable supply;

Please note that in terms of Notification No. 32/2017-Central Tax, dated 15-09-2017 & Notification No. 8/2017 – Integrated Tax, dated 14-09-2017, the casual taxable persons as well as the persons making inter-State taxable supplies of handicraft goods as the category of persons exempted from obtaining registration if the aggregate value of such supplies, to be computed on all India basis, does

not exceed an amount of ₹ 20 lakhs in a financial year (₹ 10 lakhs for Special Category States other than J&K).

The casual taxable persons or the persons making inter-State taxable supplies, as the case may be, will be required to obtain a Permanent Account Number and generate an e-way bill in accordance with the provisions of rule 138 of the Central Goods and Services Tax Rules, 2017. Further, the list of eligible 'handicraft goods' and their respective HSN codes for the purpose of aforesaid notifications has also been provided for when they are made by the craftsmen predominantly by hand even though some machinery may also be used in the process.

(c) persons who are required to pay tax under reverse charge;

(d) non-resident taxable persons making taxable supply;

(e) an electronic commerce operator for whom the provision of section 9(5) of GST Act apply.

(f) persons who are required to deduct tax under section 51;

(g) Every electronic commerce operator;

(h) persons who supply goods or services or both on behalf of other taxable persons whether as an agent or otherwise;

(i) input service distributor;

(j) persons who supply goods or services or both, other than supplies specified under sub-section (5) of section 9, through such electronic commerce operator who is required to collect tax at source under section 52;

It is imperative to state, the Central Government vide Notification No. 65/2017 – Central Tax dated 15.11.2017,exempted persons making supplies of services, other than supplies specified under section 9(5) of CGST Act through an e-commerce operator who is required to collect TCS under section 52,from obtaining registration provided their aggregate turnover does not exceed ₹ 20 lakhs (₹ 10 lakhs in special category states except J & K)

(k) every person supplying online information and database access or retrieval services from a place outside India to a person in India, other than a registered person;

(l) such other person or class of persons as may be notified by the Government on the recommendations of the Council

Q 18. Is it necessary for the Government organization to get registration?

Ans. Yes, the government organizations which are required to deduct tax at source u/s 51 of GST Law, shall mandatorily obtain registration under the Act,

Q 19. Who is a Casual Taxable Person?

Ans. Casual Taxable Person has been defined in Section 2 (20) of the CGST Act. It means a person who occasionally undertakes transactions involving supply of goods or services or both in the course or furtherance of business, whether as principal, agent or in any other capacity, in a State or a Union territory where he has no fixed place of business.

Q 20. Who is a Non-resident Taxable Person?

Ans. Non-resident Taxable Person means any person who occasionally undertakes transactions involving supply of goods or services or both, whether as principal or agent or in any other capacity, but who has no fixed place of business or residence in India in terms of Section 2 (77).

Q 21. What is the validity period of the Registration certificate issued to a Casual Taxable Person and non-resident taxable person?

Ans. The certificate of registration issued to a "casual taxable person" or a "non-resident taxable person" shall be valid for a period specified in the application for registration or for a period of 90 days from the effective date of registration, whichever is earlier. However, the proper officer, at the request of the said taxable person, may extend the validity of the aforesaid period by a further period not exceeding ninety days.

Q 22. Is there any Advance tax to be paid by a Casual Taxable Person and Non-resident Taxable Person at the time of obtaining registration under this Special Category?

Ans. Yes. 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 27, 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. If registration is to be extended beyond the initial period of ninety days, an advance additional amount of tax equivalent to the estimated tax liability is to be deposited for the period for which the extension beyond ninety days is being sought.

Q 23. Whether the amount deposited by a casual taxable person or non-resident taxable person is refundable?

Ans. Yes. Such deposited amount can be utilised against the output tax liability and balance amount shall be refunded to the applicant subject to Section-54 of the CGST Act.

Q 24. Whether Amendments to the Registration Certificate is permissible?

Ans. Yes. In terms of Section 28, the proper officer may, on the basis of such information furnished either by the registrant or as ascertained by him, approve or reject amendments in the registration. The applicationin Form GST REG-14 shall be made within 15 days of such change. It is to be noted that permission of the proper officer for making amendments will be required for only certain core fields of information, whereas for the other fields, the registrant can himself carry out the amendments.

However, any particular of the application for registration shall not stand amended with effect from a date earlier than the date of submission of the application in Form GST REG-14 on the common portal except with the order of the Commissioner for reasons to be recorded in writing and subject to such conditions as the Commissioner may, in the said order, specify.

Q 25. Whether the Cancellation of registration Certificate is permissible?

Ans. Yes. Any registration granted under the CGST Act may be cancelled by the proper officer, in circumstances mentioned in Section 29 of the CGST Act. The proper officer may, either on his own motion or on an application filed by the registered 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*(refer the CGST rules).*

Q 26. Whether cancellation of Registration under the CGST Act means cancellation under SGST Act also?

Ans. Yes. The cancellation of registration under one Act (say the CGST Act) shall be deemed to be a cancellation of registration under the other Act (i.e. the SGST Act). (Section 29 (4)).

Q 27. Can the proper Officer Cancel the Registration on his own?

Ans. Yes, in certain circumstances specified under section 29(2) of the CGST Act, the proper officer can cancel the registration on his own. Such circumstances include: a person who contravene provisions of the Act; not filing return for a continuous period of six months (for a normal taxable person) or three returns (for Composition taxable person); registration has been obtained by means of fraud, and not commencing business within six months from the date of registration (in case of voluntary registration). However, before cancelling the registration, the proper officer shall give reasonable opportunity of being heard. (Section 29 (2)).

Q 28. What happens when the registration is obtained by means of willful mis-statement, fraud or suppression of facts?

Ans. In such cases, the registration may be cancelled from such date including any retrospective date by the proper officer as per Section 29(2)(e).

Q 29. Is there an option to take centralized registration for services under GST Law?

Ans. No. There is no option to take Centralize registration for services or goods or both.

Q 30. If the taxpayer has different business verticals in one state, will he have to obtain separate registration for each such vertical in the state?

Ans. No. However, the taxpayer has the option to register such separate business verticals independently in terms of proviso to Section 25(2) of the CGST Act.

Q 31. Will ISD be required to register separately other than the existing taxpayer registration?

Ans. Yes. The ISD registration is for one office of the taxpayer which will be different from the normal registration irrespective of the threshold.

Q 32. Can a taxpayer have multiple ISDs?

Ans. Yes. Different offices of a taxpayer can apply for ISD registration.

Q 33. What could be the liabilities (in so far as registration is concerned) on transfer of a business?

Ans. The transferee or the successor shall be liable to be registered with effect from the date of such transfer or succession and will have to obtain a fresh registration as per Section 22 (3) of the CGST Act.

Q 34. Whether all assesses/dealers who are already registered under existing Central Excise/Service Tax/ Vat Laws will have to obtain fresh registration?

Ans. No. Every person registered under an earlier law and having a Permanent Account Number issued under the Income Tax Act, 1961 shall be granted registration on a provisional basis and a certificate of registration incorporating the Goods and Services Tax Identification Number (GSTIN) therein, shall be made available on the Common Portal. Further, the proper officer will issue a final registration certificate after calling for information and documents.

Q 35. Whether the job worker will have to be compulsorily registered?

Ans. No. Section 22 of the CGST Act does not prescribe any such condition. If Job Worker fulfil any condition of Section 22 or section 24 then only he is required to get himself registered.

Q 36. At the time of registration will the assessee have to declare all his places of business?

Ans. Yes. The principal place of business and place of business have been separately defined under section 2(85) & 2(89) of the CGST Act respectively. The taxpayer will have to declare the principal place of business as well as the details of additional places of business in the registration form.

Q 37. Whether application for registration to be submitted manually or electronically?

Ans. Every application must be filed only electronically in Form GST REG 01 on the common portal.

Q 38. What is the time limit within which the application for registration be approved?

Ans. The application for registration (FORM GST REG-01) shall be submitted online and shall be approved within 3 working days by the proper officer. If the proper officer finds that the application filed under the Act is deficient, then he may call for further clarification on the information or documents through a notice (in FORM GST-03) within 3 working days from the date of submission of application for registration. The applicant shall provide such additional information within 7 working days (in FORM GST -04), the proper officer shall approve the grant of registration within 7 working days of receiving such Form GST REG 04 giving certificate of registration (in FORM GST REG -06). If the proper officer doesn't take any action within 3 days of receipt of application in GST REG or 7 days from receipt of form GST REG 04, then it shall deemed that the application of registration is approved.

Q 39. Can the registration certificate be downloaded from the GSTN portal?

Ans. Yes, registration certificate shall be granted in Form GST REG 06 and the same shall be available on the common portal.

Q 40. When the registration granted under Section 25(3) can be cancelled?

Ans. The proper officer may cancel such registration if the person who has voluntarily registered doesn't commence the business within 6 months for the date of registration. The registered person himself may apply for cancellation of registration only after the expiry of 1 year from the effective date of registration.

Q 41. Can any one of the business verticals, which are required to be registered under the Act, as a taxable person take registration as a person paying tax u/s 10?

Ans. No. If anyone business vertical of a taxable person becomes ineligible for paying tax u/s 10, then all other business verticals of the said taxable person shall become ineligible for paying tax u/s 10.

Q 42. When will a non-resident become liable for registration?

Ans. A non-resident taxable person shall become liable for registration when he makes any taxable supply as per Section 24(v).

Q 43. Can cancellation of registration be revoked?

Ans. When a registration of a taxable person is cancelled by a proper officer on his own motion, then such person shall apply for revocation of such cancellation to such proper

officer within 30 days from the date of service of cancellation order. No revocation is possible for cancellation on account of non-filing of returns unless such returns are filed and the tax thereon is paid along with applicable interest, penalty and late fee. If the proper officer is satisfied that sufficient ground for revocation of cancellation are there then such officer may revoke the cancellation of the registration by an order within 30 days from the receipt of such application of revocation.

The proper officer may call for further details and clarification within such period as prescribed upon filing the application. The proper officer cannot reject the application for revocation without giving the person a reasonable opportunity of being heard.

Q 44. Can a person who is not required to be registered under GST Act but registered under the earlier law, cancel the provisional registration?

Ans. Yes, but the time limit is not mentioned for applying for cancellation of provisional registration.

Q 45. Should a casual taxable person or non-resident taxable person apply for registration in every State from which that person is operating or is the registration common for all the States?

Ans. In terms of section 22(1) read with Section 25(1) such persons need to obtain a separate registration in every such States.

Q 46. From which State the taxable person should obtain registration?

Ans. As per Section 22(1) a taxable person should obtain registration in every State from where he makes taxable supply of goods or services or both.

Q 47. If the job-worker subsequently registers, should the principal amend his registration by cancelling the job-workers premises as his additional place of business?

Ans. Yes

Q 48. Does cancellation of registration have any effect on the tax liability of the person whose registration has been cancelled?

Ans. No, Cancellation of registration does not affect the tax liability of the person which is incurred prior to the date of cancellation. He shall still be liable to pay the amount of tax and other dues or any other obligation for a period prior to the date of cancellation irrespective of the fact that whether the same is determined before or after the cancellation of registration.

Q 49. What are the effects of cancellation of registration on input tax credit in respect of inputs held in stock, contained in semi-finished and finished goods and capital goods?

Ans. Every registered taxable person whose registration has been cancelled shall pay the

amount of ITC on inputs which are 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 to be calculated in a manner as prescribed.

In case of capital goods, the person shall pay the ITC claimed on such capital goods reduced by such percentage points as maybe prescribed in this behalf or tax on transaction value whichever is higher.

The above said payment can be made by debiting the electronic credit ledger or through cash ledger.

Q 50. Who can be the primary authorized signatory?

Ans. A Primary authorized signatory is the person who is primarily responsible to perform action on the GST System Portal on behalf of the taxpayer. All communication from the GST System Portal relating to taxpayer will be sent to him. He may be resident or non-resident.

Q 51. Whether a person who is registered, is liable to collect and remit the tax even though his aggregate turnover does not exceed threshold limit of ₹ 20 Lakhs/ 10 Lakhs as the case may be?

Ans. Yes. As there is no provision under the GST Law exists to provide for exemption to such cases.

Q 52. Which are all the states specified under Article 279A (4) (g) of the Constitution?

Ans. States of Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand.

Q 53. Within how many days the amendments to registration is to be intimated?

Ans. The registered taxable person shall intimate within 15 days of such amendment by submitting an application electronically in Form GST REG 14.

Q 54. Whether the registered taxable person is required to display his certificate of registration?

Ans. Yes, every registered taxable person shall display his registration certificate in a prominent location at his principal place of business and at every additional place or places of business. Further, he has to display his GSTIN in the name board exhibited at the entry of his principal place of business and at every additional place or places of business.

Q 55. Can the person who has opted for voluntary registration, apply for cancelling the registration?

Ans. Yes, he can apply for cancellation of registration after the completion of one year from the effective date of registration.

Q 56. State the method of authencation for submitting under GST?

Ans. All applications, including reply, if any, to the notices, returns including the details of outward and inward supplies, appeals or any other document required to be submitted under CGST Rules shall be so submitted electronically with digital signature certificate or through e-signature as specified under the provisions of the Information Technology Act, 2000 or verified by any other mode of signature or verification as notified by the Board in this behalf.

Further, a registered person registered under the Companies Act, 2013 shall furnish the documents or application verified through digital signature certificate [Rule 26(1)].

Q 57. State the modes of verification notified by Central Board of Excise and Customs (Board) for the purpose of Rule 26 of the CGST Rules?

Ans. Documents to be submitted under the CGST Rules needs to be verified by any of the following modes as per the Board:

- Electronic verification code generated through net banking login on the common portal
- Electronic verification code generated on common portal
- Bank account based one-time password

[*Rule 26 read with Notification 11/2017-Central Tax, dated. 28.06.2017*]

Q 58. Do traders having turnover less than ` 20 Lakhs need to get registered under GST? If not, how can they purchase primary goods from other states without having GST Registration No?

Ans. Traders having turnover of less than Rs 20 lakhs can buy from other States also without registration except in case of those goods which are subject to reverse charge.

Q 59. Whether licensed Tour Guides having registered office in one state but providing services Pan India will have to register in each State?

Ans. If the presence of tour guide is in each State and he is supplying services from those States then registration requirement in each State would be there.

Q 60. Ms. XYZ are paying freight charges to our GTA for which in erstwhile law we are paying service tax at applicable rate. In case of GST what we understand is GTA is exempt from obtaining GST registration no. Are Ms. XYZrequired to pay GSTN @5% on freight for transportation of goods which are 0%. In case we are not required to obtain registration under GST if we are under 0% products how do we make payment for the same?

Ans. As Ms. XYZare business entity and availing GTA services Ms. XYZare liable to pay GST on GTA services on reverse charge basis and therefore liable to be registered. Section 24 of CGST Act, 2017 may be referred.

MCQ's

Registration (Section 22 to 30)

Q1. How the aggregate turnover of ₹ 20 Lakh is calculated?

(a) Aggregate value of all taxable supplies(excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, export of goods/services and interstate supplies of a person having same PAN computed on all India basis.

(b) Aggregate value of all taxable supplies(excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, export of goods/services and interstate supplies of a person computed for each state separately.

(c) Aggregate value of all taxable intrastate supplies, export of goods/services and exempt supplies of a person having same PAN computed for each state separately.

(d) Aggregate value of all taxable supplies(excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, export of goods/services and interstate supplies of a person having same PAN computed on all India basis and excluding taxes if any charged under CGST Act, SGST Act and IGST Act.

Ans. *(d) Aggregate value of all taxable supplies(excluding the value of inward supplies on which tax is payable by a person on reverse charge basis),, exempt supplies, export of goods/services and interstate supplies of a person having same PAN computed on all India basis and excluding taxes if any charged under CGST Act, SGST Act and IGST Act*

Q2. Whether all persons are mandatorily required to obtain registration?

(a) Yes

(b) Not required if he is an agriculturist or person exclusively engaged in supplying exempt goods or services, if specified threshold limit does not exceeds in a financial year.

(c) Not required if he is an agriculturist or person exclusively engaged in supplying exempt goods or services.

(d) No, only if specified threshold exceeds in a financial year then only need to obtain.

Ans. *(b) Not required if he is an agriculturist or person exclusively engaged in supplying exempt goods or services, if specified threshold limit does not exceeds in a financial year.*

Q3. Which one of the following is true?

(a) A person can't collect tax unless he is registered.

(b) Registered person not liable to collect tax till his aggregate turnover exceeds ₹20 lakhs/ ₹10 Lakhs as the case may be.

(c) A person can collect the tax during the period of his provisional registration.

(d) Both (a) and (b) are correct.

Ans. *(a) A person can't collect tax unless he is registered*

Q4. Which of the following forms are used for registration?

(a) Form GSTR -1

(b) Form GSTAPL–01

(c) Form GST REG-01

(d) Form GST RFD -01

Ans. *(c) Form GST REG-01*

Q5. Within how many days a person should apply for registration?

(a) Within 60 days from the date he becomes liable for registration.

(b) Within 30 days from the date he becomes liable for registration.

(c) No Time Limit

(d) Within 90 days from the date he becomes liable for registration.

Ans. *(b) Within 30 days from the date he becomes liable for registration*

Q6. A person having ____business verticals in a State ____obtain a separate registration for each business vertical.

(a) Single, shall

(b) Multiple, shall

(c) Multiple, may

(d) Single, May

Ans. *(c) Multiple, may*

Q7. Which one of following statements are correct?

(a) Voluntary registration is not possible under GST.

(b) Voluntarily registered person not liable to comply with all the provisions of the GST.

(c) A person may get himself registered voluntarily and shall comply with all the provisions of GST.

(d) None of the above.

Ans. *(c) A person may get himself registered voluntarily and shall comply with all the provisions of GST*

Q8. PAN issued under the Income Tax Act is mandatory for grant of registration.

(a) It is one of the document listed.

(b) Yes, but non-resident taxable person may be granted registration on the basis of any other document.

(c) Yes, but persons required to deduct tax at source u/s 51 may have TAN in lieu of PAN.

(d) Both (b) and (c)

Ans. *(d) Both (b) and (c)*

Q9. An E-commerce operator should get registered irrespective of his threshold limit?

(a) Yes

(b) No, required to register only if his aggregate turnover exceeds the threshold limit.

(c) Yes, if he is located in North-western states.

(d) He is required to register if he is liable to collect tax at source and his aggregate turnover exceeds the threshold limit.

Ans. *(a) Yes*

Q10. Which of the following statements are correct?

(i) Persons who are required to deduct tax u/s 51 shall obtain registration irrespective of the threshold specified.

(ii) Persons who are required to collect tax u/s 52 shall obtain registration irrespective of the threshold specified.

(iii) Every electronic commerce operator shall obtain registration irrespective of the threshold specified.

Option

(a) (i) and (ii)

(b) (i) and (iii)

(c) (ii) and (iii)

(d) (i), (ii) and (iii)

Ans. *(d) (i), (ii) and (iii)*

Q11. What is the validity of the registration certificate?

(a) One year

(b) No validity

(c) Valid till it is cancelled.

(d) Five years.

Ans. *(c) Valid till it is cancelled*

Q12. What is the validity of the registration certificate issued to casual taxable person and non-resident taxable person?

(a) 90 days from the effective date of registration

(b) Period specified in the application for registration

(c) Earliest of (a) or (b) above

(d) 180 days from the effective date of registration.

Ans. *(c) Earliest of (a) or (b) above*

Q.13. Which of the following requires amendment in the registration certificate?

(a) Change of name of the registered person

(b) Change in constitution of the registered person

(c) Addition, deletion or retirement of partners or directors, Karta, Managing Committee, Board of Trustees, Chief Executive Officer or equivalent, responsible for the day to day affairs of the business

(d) All of the above

Ans. *(d) All of the above*

Q.14. When can a voluntarily registration be cancelled?

(a) If the person does not start business within six months from the date of registration.

(b) Business has been discontinued or transferred for any reason.

(c) Non-filing of returns for a continuous period of six months or for three consecutive tax period in case of composite dealer.

(d) All of the above

Ans. *(d) All of the above*

Q.15. What are the consequences of obtaining registration by misrepresentation?

(a) Liable to cancellation of registration by proper officer.

(b) Liable to a fine not exceeding ₹ 1,000,000/-

(c) Imprisonment for a period of 6 months to 3 years.

(d) Both (b) and (c)

Ans. *(a) Liable to cancellation of registration by proper officer*

Q.16 Does cancellation of registration under CGST affect the liability under SGST/IGST for period prior to cancellation of registration?

(a) Cancellation of registration will immune his liability under CGST only.

(b) Cancellation of registration will immune his liability under IGST only.

(c) Cancellation of registration will immune his liability under SGST and CGST but not under IGST.

(d) Cancellation does not affect the liability of taxable person to pay tax and other dues under CGST/SGST/IGST Act.

Ans. *(d) Cancellation does not affect the liability of taxable person to pay tax and other dues under CGST/SGST/IGST Act*

Q17. Within how many days an application for revocation of cancellation of registration can be made?

(a) Within 7 days from the date of service of the cancellation order.

(b) Within 15 days from the date of issue of the cancellation order.

(c) Within 45 days from the date of issue of the cancellation order.

(d) Within 30 days from the date of service of the cancellation order.

Ans. *(d) Within 30 days from the date of service of the cancellation order*

Q18. Which of the following statements are correct?

i. Revocation of cancellation of registration under CGST/SGST Act shall be deemed to be a revocation of cancellation of registration under SGST/CGST Act.

ii. Cancellation of registration under CGST/SGST Act shall be deemed to be a cancellation of registration under SGST/CGST Act.

iii. Revocation of cancellation of registration under CGST/SGST Act shall not be

deemed to be a revocation of cancellation of registration under SGST/CGST Act.

iv. Cancellation of registration under CGST/SGST Act shall not be deemed to be a cancellation of registration under SGST/CGST Act.

(a) i and ii

(b) i and iv

(c) ii and iii

(d) iii and iv

Ans. *(a) i and ii*

Q.19 Who can submit application for registration in Form GST REG-09?

(a) Non- Resident taxable person

(b) Input service distributor

(c) Person deducting tax at source

(d) Person collecting tax at source

Ans. *(a) Non- Resident taxable person*

Q.20 Where the application for grant of registration has been approved, a certificate of registration in _____shall be made available to the applicant on the____

(a) FORM GST REG-06, Common Portal

(b) FORM GST CER-06, Common Portal

(c) FORM GST CER-06, Jurisdictional office

(d) FORM GST REG-10, Company portal

Ans. *(a) FORM GST REG-06, Common Portal*

Q.21 Which of the below statements are incorrect in finding out the effective date of registration?

(a) From the date on which a person becomes liable to registration, where application is submitted within 30 days from such date.

(b) Date of grant of registration, where application is submitted after 30 days from such date.

(c) From the date of grant of provisional registration, in case of persons registered under earlier law.

(d) Date of issue of certificate of registration.

Ans. *(d) Date of issue of certificate of registration*

Q22. Can a person apply for registration to pay tax u/s 10 for any of his business verticals at his choice?

(a) Yes, irrespective of the registration status of other business verticals.

(b) No all of his other business verticals also should have obtained registration for paying tax under section 10.

(c) Yes, provided majority of the business verticals are paying under section 10.

(d) Yes, if all the business vertical in a state are obtained registration to pay tax under section 10.

Ans. *(b) No all of his other business verticals also should have obtained registration for paying tax under section 10*

Q23. An Unique Identity Number will be allotted to the following persons upon submitting an application:

(a) All the taxable persons can apply.

(b) Only unregistered persons can apply.

(c) Specialized agency of the UNO or any multilateral financial institution or consulate or embassy of foreign countries.

(d) No such concept under CGST/SGST Act.

Ans. *(c) Specialized agency of the UNO or any multilateral financial institution or consulate or embassy of foreign countries*

Q24. Every registered taxable person shall display his certificate of registration in a prominent location at his principal and at every other place of business also GSTIN shall be displayed on the name board at the entry of such places.

(a) No, certificate of registration to be displayed only at a registered place of business and GSTIN need not be displayed on the name board.

(b) Yes, above statement is correct.

(c) No, GSTIN to be displayed only on the invoices.

(d) Above statement is correct subject to certificate of registration to be displayed only at registered place of business.

Ans. *(b) Yes, above statement is correct*

Q25. Under what circumstances physical verification of business premises is mandatory?

(a) Physical verification of business premises is a discretionary power of proper officer.

(b) If additional information for registration asked by the proper officer is not submitted within specified time.

(c) If certificate of registration is obtained on misrepresentation of facts.

(d) If photograph of the business premise is not uploaded in the common portal within specified time.

Ans. *(a) Physical verification of business premises is a discretionary power of proper officer*

Q26. State which of the following statement is correct in respect of obtaining a separate registration for Business verticals:

(a) Person can obtain centralized registration.

(b) Person may obtain a separate registration for each of his verticals.

(c) He can have only two registration in a state.

(d) Either (a) or (b).

Ans. *(b) Person may obtain a separate registration for each of his verticals*

Q27. Business which has centralized registration under erstwhileAct.

(a) Shall obtain a centralized registration under GST Law.

(b) Shall obtain separate registration in each state from where it is making taxable supplies

(c) Shall obtain registration on temporary basis.

(d) No need to apply for registration under GST.

Ans. *(b) Shall obtain separate registration in each state from where it is making taxable supplies*

Q28. Every person registered under any of the existing laws, who is not liable to be registered under the Act may, on or before …….. , at his option, submit an application in FORM GST REG-29 for the cancellation of registration granted to him

(a) September 30,2017

(b) October 31,2017

(c) November 30,2017

(d) December 31,2017

Ans. *(d) December 31, 2017*

Q29. Does a Medical Service Provider needs to get registered under GST, if his aggregate turnover (u/s 2 (6) is more than ₹ 20 Lakhs but has taxable supply of only an amount of ₹2.4 Lakh p.a.?

(a) No

(b) Yes

Ans. *(b) Yes [he should get registered and also pay GST on taxable supply.]*

Q30. Who will take registration on services in relation to transportation of goods (including

used household for personal use)if, GTA avails ITC on supplies made by him

(a) GTA, forward charge

(b) GTA, RCM

(c) Service receiver, forward charge

(d) Service receiver, RCM

Ans. *(a) GTA, foreword charge*

Q31. Will all establishments display a certificate from government (displaying his turnover category) and their GST Registration No. which should appear on all his cash memos/bills?

(a) No

(b) Yes

Ans. *(b) Yes [Rule 18 of CGST Rules, 2017]*

Q32. Does a trader who has turnover of less than 20 lakh and are selling on ecommerce websites, have to register for GST,if such e-commerce operator is required to collect TCS?

(a) No

(b) Yes

Ans. *(a) No[Notification No. 65/2017 – Central Tax dated 15.11.2017]*

Q33.Do I, a Mutual fund Distributor working in Delhi, need to register under GST, having income less than ₹ 20 Lakhs but working for offices that are registered in Mumbai and have branch offices in Delhi?

(a) No

(b) Yes

Ans. *(b) No [Section 24 read Notification No. 10/2017 – Integrated Tax dated 13.10.2017]*

Q34. If I already have a GSTIN, do I need to register separately as an Input Service Distributor?

(a) No

(b) Yes

Ans. *(b) Yes [Section 24(viii) of the CGST Act]*

Chapter V
Tax Invoice, Credit and Debit Notes

FAQ's

Tax Invoice, Credit and Debit Notes (Section 31 – Section 34)

Section 31 to 34 of the CGST Act, 2017 made applicable to IGST *vide* Section 20 of the IGST Act, 2017 and UTGST *vide* Section 21 of the UTGST Act, 2017

Q1. When should a Tax Invoice be issued for supply of Goods?

Ans.
- If movement of goods is involved, then the tax invoice has to be issued before or at the time of removal of the goods for supply to the recipient.
- If movement of goods is not involved, then the tax invoice has to be issued before or at the time of the goods are delivered to the recipient or when the goods are made available to the recipient.

Q2. How can I supply goods without movement?

Ans. In cases where the ownership, or the risks and rewards are transferred without requiring the movement of goods, the goods would be treated as supplied although no movement is involved in effecting such supply.

E.g. when an Agent who is in possession of certain goods decides to buy the goods from the principal, on-site installation of machinery, sale and lease back transactions, etc.

Q3. What is Removal?

Ans. Removal is defined u/s 2(96) of the CGST Act, 2017. 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

It can be seen that removal is complete as soon as the goods are dispatched. However, where the supply is such that the recipient collects the goods from the supplier, the point at which the good are collected would be the time of removal of the goods The dispatch (or collection, as the case may be) would trigger the liability to raise the invoice, and the supplier should not wait until the goods reach the destination.

Q4. Who can remove the goods?

Ans. Goods can be removed by way of:

- Dispatch by the supplier himself,
- Dispatch by any person acting on behalf of the supplier,
- Collection by the recipient himself,
- Collection by any person acting on behalf of the recipient.

Q5. I am supplying A4-sized bundles of paper to an Advocate's Office. I submit the account of total supplies made during the 2-month period on the 25th of alternate month. Do I have to issue an invoice each time I dispatch the bundles?

Ans. As per section 31(4) of the CGST Act, where, under a contract, there is a continuous supply of goods involving periodic invoices or payments, the invoice shall be issued before or at the time of issue of the statements of account or receipt of payments. Since, the given instance is a case of continuous supply of goods, tax invoice has to be issued latest by the time of submitting the statement every time.

Q6. Will the invoicing requirement change if I am paid ₹ 50,000 every Wednesday?

Ans. Based on the explanation in Q5 above, it is clear that the liability becomes certain only on submission of the statements of account. Therefore, the invoice can be raised on a bi-monthly basis, by the 25th of every 2nd month when the account is submitted. However, the time of supply provisions get triggered on receipt of payment in advance, for which, a receipt voucher shall be issued. Tax should be discharged on receipt of advances, although invoice is yet to be raised.

Q7. Do I have to issue an invoice even if I remove goods for 'sale on approval basis'?

Ans. In such cases, as per section 31(7) of the CGST Act, 2017, tax invoice need not be raised at the time of removal. This is because it is not certain (at the time of dispatch of goods) that the sending of goods will result in a 'supply'. However, on or before the confirmation of the supply by the other party, the tax invoice has to be issued.

The law provides a time limit of 6 months from the date of removal, during which the goods will not be treated as supplied. Where no confirmation is received within such period, a tax invoice should be issued on the day immediately succeeding the 6-month period.

Q8. What is the invoice or other documentation required in case reverse charge cases?

Ans. Where the tax liability is cast on the recipient, either:

- in case of specified categories of supply of goods or services or both notified by the Government

OR

- where the supplier of goods or services or both is unregistered, the recipient shall issue:
- an invoice in respect of goods or services or both received by him from the supplier who is not registered on the date of receipt of goods or services or both;
- a payment voucher at the time of making payment to the supplier.

Q9. What is the time limit to raise an invoice for services?

Ans. As per Rule 47 of the CGST Rules, 2017 (Chapter VI- Tax Invoice, Credit and Debit Notes), Invoice has to be raised within 30 days of supply of service.

Q10. I have a contract to supply manpower to a factory for 12 months, whereby the recipient should make payment by the 15th of the succeeding month. When should I raise the invoice?

Ans. Given that the contract is for a period exceeding 3 months, to provide services on a continuous/ recurrent basis, the supply will be treated as a continuous supply of services. As the due date of payment is ascertainable from the contract, the invoice has to be raised on or before the due date of payment. (Section 31(5)(a) of the CGST Act).

Q11. I am constructing a building for my client. The client is required to pay me on completion of plinth, 1st floor and 2nd floor. When should the invoice be raised?

Ans. The above instance is a case of continuous supply of services. Here, since the payment is linked to completion of an event (i.e., milestones set in the contract), an invoice should be raised on or before the due date of completion of event as per section 31(5)(c) of the CGST Act, 2017. Therefore, an invoice be raised on or before completion of the 1st floor and the second time on or before the completion of 2nd floor.

Q12. I had a contract for supplying manpower for 28 days for ₹ 28,000/-. However, after 10 days, the service has stopped. Should I raise an invoice?

Ans. Yes. Where a supply of service ceases before its completion, an invoice has to be issued at the time the supply ceases, i.e., on the 10th day. The invoice shall be issued to the extent of the service provided before its cessation. (Section 31(6) of the CGST Act,2017).

Q13. I have a registration as an Input Service Distributor. Am I required to raise invoices even though no taxable supplies are made from this registration number?

Ans. Yes. An Input Service Distributor (ISD) should issue a tax invoice being an 'ISD invoice' for distributing credits to the GST registrations that have the same PAN as that of the

ISD. Such invoice will be different from invoices reflecting supply of goods or services (refer Invoice Rules). This is a document required under Section 20 of the CGST Act, 2017.

Q14. What is the time limit for issuing invoices by Banking Companies?

Ans. In case of banking companies, financial institutions including NBFCs, the time limit for issuing an invoice is extended to 45 days (as against 30 days in respect of other supplier) from the date of supply of service.

Q15. Can an Unregistered person issue a tax invoice?

Ans. Only a registered person can issue a tax invoice. Section 32 of the CGST Act, 2017 also specifically prohibits collection of tax by persons who are not registered under the GST law.

Q16. I became liable to pay tax on 1st April,2017. I have applied for registration on 15th April, 2017 which is within the 30 days' window given to me. My registration is granted on 29th April, 2017. What document can I issue to collect tax from 1st April to 28th April, 2017?

Ans. Till the grant of registration on i.e., 29th April, 2017 tax cannot be collected on the supplies made.

However, even though the registration is granted on 29th April, 2017 the effective date of registration will be 1st April, as registration is applied for within the permissible period.

Section 31(3)(a) provides for issue of 'revised invoices' against the bills raised on a regular basis (without collection of tax) from 1st April to 28th April, within a period of 1 month from the date of grant of registration certificate, i.e., within 29th May, 2017. Applicable taxes can be collected in the revised invoices issued.

Q17. Can a consolidated 'revised invoice' be issued to every recipient for supplies made during the period before registration is granted?

Ans. In terms of Rule 53(2) of the CGST Rules, every registered person who has been granted registration with effect from a date earlier than the date of issuance of certificate of registration to him, may issue revised tax invoices in respect of taxable supplies effected during the period starting from the effective date of registration till the date of the issuance of the certificate of registration

However, rate wise consolidated invoice can be issued to an unregistered recipient during such period except separate invoice be issued in case of inter-state supply exceeding value ₹ 2.5 lacs.

Further, in the case of inter-State supplies, a consolidated invoice can be issued separately in respect of all the recipients located in a State, who are unregistered recipient and where the value of a supply does not exceed ₹ 2,50,000/-.

Q18. Is it necessary for me to issue receipt for advances?

Ans. Yes. A 'receipt voucher' containing prescribed particulars should be issued on receipt of any advance payment towards supply of goods or services.

Q19. What is meant by Continuous Supply of Goods or Services?

Ans. U/s 2(32) of the CGST Act, *Continuous supply of goods* means a supply of goods which is provided, or agreed to be provided, continuously or on recurrent basis. There should be a contract for such a supply requiring the supplier to issue invoices to the recipient on a regular or periodic basis. Also, the supply may or may not be through a wire, cable, pipeline or other conduit.

U/s 2(33) of the CGST Act, *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. Such contract should be for a period exceeding 3 months, with periodic payment obligations.

The Government is also empowered to treat the supply of a particular category of goods or services as 'continuous supply', subject to certain conditions, irrespective of the criteria specified above.

Q20. What is a 'Bill of Supply'?

Ans. A bill of supply should be issued instead of a tax invoice in case of the following supplies:

- supply of exempted goods or services; or
- supplies made by a supplier opting composition scheme.

Q21. Can a consolidated bill of supply be issued on a periodic basis?

Ans. A separate 'Bill of Supply' is not necessary if the value of the goods or services supplied is less than ₹ 200 unless the recipient demands for such a bill. In such a case, a consolidated 'Bill of Supply' should be prepared at the close of each day in respect of all such supplies to each recipient, separately.

Q22. What are the circumstances in which a Credit Note is to be issued?

Ans. As per section 34(1) of the CGST Act, for issuing a Credit Note, a tax invoice for a supply should have been issued earlier. A credit note may be issued in the following cases:

- The taxable value on which the tax is collected is more than the actual taxable value;
- The tax charged is more than what should have been charged;

- The recipient has returned the goods or
- The recipient has found that the goods or services or both supplied are deficient.

Q23. I had made a supply in April. The party returned the goods in May. How will I declare the credit note to the tax authorities?

Ans. The credit note should be declared in return of outward supplies (GSTR-1) for the month of May.

Q24. I had made a supply in April. The party returned the goods in October. Will I still be able to issue a Credit Note?

Ans. A credit note can be issued for any supplies. However, in order to declare the details of the credit note and thereby claim a reduction in output tax liability, it must be issued and declared in a return for the month during which such credit note has been issued but not later than September following the end of Financial Year in which such supply was made, or before filing of the annual return for that Financial Year, whichever earlier and the tax liability shall be adjusted in such manner as may be prescribed:

E.g. Assuming that annual return for the year 2017-18 is not yet filed, a credit note can be issued in respect of any of supplies made during the year 2017-18, up to 30th September 2018. However, if the Annual Return is filed for financial year 2017-18 on 30th June 2018, then the details of the credit note for the year 2017-18 cannot be declared in the returns file after 30th June 2018.

Q25. Will my tax liability be reduced if I issue a Credit Note?

Ans. The below requirements must be met for claiming a reduction in output tax liability:

(a) It can be proven that the incidence of tax and interest have not been passed on to any person;

(b) The details of the credit note are declared within the prescribed timelines as explained in Q 24 above.

(c) The recipient of the supply should accept credit note in his return of inward supply and reduce his claim of input tax credit to the extent reduction of tax liability.

Q26. When I reject an inward supply, can I issue a Debit Note?

Ans. A debit note may be raised for accounting purposes. However, for the purpose of GST, such a debit note will be of no relevance. Under the scheme of things, both debit note and credit note are to be issued by the supplier. Where the supplier fails to declare the details of such documents, the recipient can declare the details of the same (i.e., those

issued by the supplier) and require the supplier to accept the same, in order to effect amendments in his return of outward supplies (GSTR-1). (Section 34(3) of the CGST Act, 2017).

Q27. Is it correct to state that, Debit Note can be issued only for increasing tax liability by the supplier?

Ans. Yes. 'Debit note' are akin to 'supplementary invoice'. They are issued by the supplier for recording increase in taxable value or tax charged in the supply.

Q28. I had made a supply in August. In September, the recipient decided to permit increased rate for the supply. How will I declare the debit note to the tax authorities?

Ans. Debit note should be issued with immediate effect, and the details should be declared in the return of outward supplies for the month of September.

Q29. Are there any restrictions on raising debit notes for earlier supplies?

Ans. No. Every increase in tax liability or taxable value mandates an issue of debit note.

Q30. What should be the contents of a tax invoice?

Ans. Normally, the tax invoice should have the following details:

(a) Name, address, GSTIN of the supplier

(b) Consecutive Serial Number not exceeding sixteen characters, unique for a financial year having alphabets, numerals and special characters being "-'' or " / '' only

(c) Date of Issue

(d) Name, address of the recipient and GSTIN/UID of the recipient, if registered

(e) name and address of the recipient and the address of delivery, along with the name of the State and its code, if such recipient is un-registered and where the value of the taxable supply is ₹ 50,000 /- or more;

(f) name and address of the recipient and the address of delivery, along with the name of the State and its code, if such recipient is un-registered and where the value of the taxable supply is less than ₹ 50,000 /- and the recipient requests that such details be recorded in the tax invoice

(g) HSN code of Goods or Services

(h) Description of Goods / Services

(i) Quantity and Unit(or Unique Quantity Code) in case of Goods

(j) Total Value of Goods and/or Services

(k) taxable value of Goods and Services

(l) Rate of Tax (Central tax, State tax, Integrated tax, Union territory tax)

(m) Amount of Tax Charged in respect of taxable goods or services (central tax, State tax, integrated tax, Union territory tax or cess);

(n) Place of Supply along with the name of the State, if the supply is an inter-State supply

(o) Address of delivery if different from place of supply

(p) Whether tax is payable on reverse charge

(q) Signature/Digital Signature of the Suppler or his authorized representative.

Further, the provisos to Rule 46 of the CGST Rules states that:

- Where, the Board by notification, may specify - no. of digits of HSN code for goods or services that a class of registered persons shall be required to mention, and the class of registered persons that would not be required to mention the HSN code for goods or services, for such period as may be specified in the said notification.
- A registered person who is liable to pay tax under section 9(3) or (4) shall issue an invoice in respect of goods or services or both received by him from the supplier who is not registered on the date of receipt of goods or services or both, may issue a consolidated invoice at the end of a month for supplies covered under section 9(4), the aggregate value of such supplies exceeds ₹ 500 in a day from any or all the suppliers.
- In the case "SUPPLY MEANT FOR EXPORT/SUPPLY TO SEZ UNIT OR SEZ DEVELOPER FOR AUTHORISED OPERATIONS ON PAYMENT OF INTEGRATED TAX" or "SUPPLY MEANT FOR EXPORT/SUPPLY TO SEZ UNIT OR SEZ DEVELOPER FOR AUTHORISED OPERATIONS UNDER BOND OR LETTER OF UNDERTAKING WITHOUT PAYMENT OF INTEGRATED TAX", as the case may be, and shall, in lieu of the details specified in Rule 46(e) of the CGST Rules, contain name and address of the recipient; address of delivery; and name of the country of destination.
- A registered person shall issue a consolidated tax invoice at the close of each day in respect of all such supplies, where the value of the goods or services or both supplied is less than ₹ 200, the recipient is not a registered person; and does not require such invoice.

Q31. State the no. of digits of HSN code for goods or services that a class of registered persons shall be required to mention, as notified by the Board?

Ans. CBEC *vide* Notification no 12/2017- Central Tax dated June 28.06.2017 effective from July 1,2017 notified the following number of digits of Harmonized System of Nomenclature (HSN) Codes which are required to be mentioned in a tax invoice issued by a registered person having prescribed annual turnover:

Annual Turnover In The Preceding Financial Year	No. of digits of HSN Code
Upto ₹ 1.5 crore	Nil
More than ₹ 1.5 crore upto ₹ 5 crores	2
More than ₹ 5 crore	4

Q32. What are the mandatory details required in the invoice/ document issued by a Goods Transport Agency?

Ans. A GTA supplying services in relation to transportation of goods by road in a goods carriage, is required to have the following details in its invoices (in addition to other details required):

(a) Gross weight of the consignment

(b) Name of the Consignor and the Consignee

(c) Registration number of the goods carriage in which the goods are transported

(d) Details of goods transported

(e) Details of place of origin and destination

(f)GSTIN of the person liable to pay tax (whether as consignor, consignee or GTA).

Q33. What are the contents of a 'Bill of Supply'?

Ans. A Bill of Supply should have the following details:

(a) Name, address, GSTIN of the supplier

(b) Consecutive Serial Number not exceeding sixteen characters, unique for a financial year having alphabets/ numerals and special characters being "-" or " / " only

(c) Date of Issue

(d) Name, address of the recipient and GSTIN/UID of the recipient, if registered

(e) HSN code of Goods or Services

(f) Description of Goods / Services

(g) Post discount/abatement value of Goods and Services

(h) Signature/Digital Signature of the Suppler or his authorized representative.

Further, provisos to rule 46 shall, mutatis mutandis, apply to the bill of supply.

Furthermore, any tax invoice or any other similar document issued under any other Act for the time being in force in respect of any non-taxable supply shall be treated as a bill of supply for the purposes of the Act.

Q34. What are the contents of Credit Notes, Debit Notes and Supplementary/ Revised Tax Invoices?

Ans. These documents shall contain the following details:

(a) Name, address, GSTIN of the supplier

(b) Nature of the Document – i.e., Debit Note / Credit Note / Supplementary invoice / Revised Invoice;

(c) Consecutive Serial Number not exceeding sixteen characters, unique for a financial year having alphabets/ numerals and special characters being "-" or " / " only

(d) Date of Issue

(e) Name, address of the recipient and GSTIN/UID of the recipient, if registered

(f) Name and address of the recipient and address of delivery, along with the name of State and its code, if such recipient is unregistered

(g) Serial number and date of the corresponding tax invoice/ bill of supply

(h) Taxable value of goods or services, rate of tax and the amount of tax credited/ debited to the recipient

(i) Signature/Digital Signature of the Suppler or his authorised representative.

Q35. What are the contents of invoices issued by ISD?

Ans. The tax invoice issued by an ISD shall contain the following details:

(a) Name, address, GSTIN of the ISD

(b) Consecutive Serial Number unique for a financial year having alphabets/ numerals and special characters being "-" or " / " only

(c) Date of Issue

(d) Name, address, GSTIN of the recipient to whom credit is being distributed

(e) Amount of Credit Distributed

(f) Signature/Digital Signature of the ISD or his authorised representative.

Q36. Are there any relaxations available for banking companies or a financial institutions including NBFC?

Ans. Yes. In case of the supplier being a Banking Company or a Financial Institution including NBFC or an insurer, the tax invoice would be treated as complete if it contains other information in terms of Rule 46 of CGST Rules, even in the following cases:

- The invoice is not serially numbered;
- The invoice does not contain the address of the recipient of taxable supply.

Also, they may issue an invoice within 45 days from the date of supply of service (as against 30 days in other cases).

Even, they may issue a consolidated tax invoice or any other document in lieu thereof, by whatever name called, for the supply of services made during a month at the end of the month, whether issued or made available, physically or electronically whether or not serially numbered, and whether or not containing the address of the recipient of taxable service but containing other information as mentioned under Rule 46.

Q37. Should suppliers of Passenger Transportation Service issue an invoice in addition to issue of tickets?

Ans. In case of such suppliers, a tax invoice will include a 'ticket'. The invoice would be treated as complete if it contains other information in terms of Rule 46 of the CGST Rules except in the following cases:

- The invoice is not serially numbered;
- The invoice does not contain the address of the recipient of taxable supply.

Q38. Who can issue Invoice-cum-bill of supply

Ans. Central Government vide Notification No. 45/2017 – Central Tax dated 13.10.2017 has inserted Rule 46 A under CGST Rule of issuing Invoice-cum-bill of supply. Rule 46A stipulated that: "*Notwithstanding anything contained in Rule 46 or Rule 49 or rule 54, where a registered person is supplying taxable as well as exempted goods or services or both to an unregistered person, a single "invoice-cum-bill of supply" may be issued for all such supplies"*

Q39. How many copies of invoice are required in case of supply of Goods?

Ans. The invoice should be prepared in triplicate. The original is for the recipient, the duplicate for the transporter and the triplicate for the supplier. The copies should be marked as *'ORIGINAL FOR RECIPIENT', 'DUPLICATE FOR TRANSPORTER'* and *'TRIPLICATE FOR SUPPLIER'*, as the case may be. [Rule 48]

Q40. Whether goods can be transported without issuance of Invoice?

Ans. Yes. The consigner can issue a delivery challan instead of an invoice at the time of removal of goods for transportation in the following cases:

(a) supply of liquid gas where the quantity at the time of removal from the place of business of the supplier is not known,

(b) transportation of goods for job work,

(c) transportation of goods for reasons other than by way of supply, or

(d) such other supplies as may be notified by the Board.

Q41. What is a Receipt Voucher?

Ans. Receipt voucher is a document issued as per Section 31(3)(d) when advance is collected/- received in relation to supply of Goods or Services.

In other words, as per Section 31(3)(d) of the CGST Act, a registered person shall, on receipt of advance payment with respect to any supply of goods or services or both, issue a receipt voucher or any other document, containing such particulars as may be prescribed, evidencing receipt of such payment;

Q42. What if at the time of receipt of advance, the rate of tax or nature of supply is not determinable?

Ans. In terms of proviso to Rule 50 of the CGST Rules, where time of receipt of advance:

(i) the rate of tax is not determinable, the tax shall be paid at 18 %.;

(ii) the nature of supply is not determinable, the same shall be treated as inter-State supply

Q43. How will the transporter satisfy the proper officer, if he checks the goods in movement where no invoice is required to be raised and a delivery challan suffices?

Ans. As per Rule 55 of the CGST Rules, where goods are being transported on a delivery challan in lieu of invoice. The transporter can show his delivery challan, which should *inter alia,* show the details of the goods, place of supply and details of the consignee.

Q44. How many copies of an invoice is required for supply of services?

Ans. For supply of Services, only two copies of the invoice are sufficient. The original is for the recipient and the duplicate for the supplier.

Q45. Can I start a fresh series of serial number for my 'invoice' or 'bill of supply' every day, e.g., 20160401-001 for April 1st and 20160402-001 for 2nd April?

Ans. The invoice rules require that the serial number should be consecutive and unique for a financial year. Hence, restarting the serial number of the invoice or 'bill of supply' on a daily basis would not be considered appropriate.

Q46. Are the requirements of tax invoice the same for both registered and unregistered recipients?

Ans. Yes, the requirements are the same but for one:- In case of supplies to unregistered persons, along with the name, address of the recipient and the address of delivery, the name of the State and its code will also have to be mentioned in the invoice, in case of every supply where the taxable value is ₹ 50,000 or more.

Q47. Is it compulsory to mention HSN Codes or SAC?

Ans. The Board/Commissioner by notification may specify the number of digits of HSN code for goods or Accounting Code for Services that a class of registered persons shall be required to mention, for such period as may be specified in the said notification

Q48. What are the special requirements of a supplementary or revised invoice?

Ans. The words 'Revised Invoice' should be mentioned prominently along with reference of the date and invoice number of the original invoice.

Q49. What are the specific requirements of an export supply?

Ans. The document should carry any one of the following endorsements, as applicable:

- Supply meant for export/supply to SEZ unit or SEZ developer for authorised operations on payment of integrated tax or
- Supply meant for export/supply to SEZ unit or SEZ developer for authorised operations under bond or letter of undertaking without payment of integrated tax

Also, the document should contain the following details of the recipient:

- Name and Address
- Address of Delivery
- Name of the country of Destination

Q50. Since some customers may not bear the taxes if shown separately, can a single consolidated price inclusive of all taxes be shown along with such a declaration?

Ans. The invoice rules prescribe a separate field to mandatorily mention prominently, the amount of tax and the rate of tax applicable on the price at which the supply is made. Therefore, mentioning a consolidated amount without showing the tax separately will not be valid.

MCQ's

Tax Invoice, Credit and Debit Note (Section 31 – Section 34)

Q1. Tax invoice must be issued by_____

(a) Every supplier

(b) Every taxable person

(c) Registered persons not paying tax under composition scheme

(d) All the above

Ans. *(c) Registered persons not paying tax under composition scheme*

Q2. Law permits collection of tax on supplies effected prior to registration, but after applying for registration:

(a) Yes, but only on intra-State supplies, if the revised invoice is raised within one month

(b) Yes, but only on intra-State supplies effected to unregistered persons, if the revised invoice is raised within one month

(c) Yes, on all supplies, if the revised invoice is raised within one month

(d) No, tax can be collected only on supplies effected after registration is granted.

Ans. *(c) Yes, on all supplies, if the revised invoice is raised within one month*

Q3. A bill of supply can be issued in case of inter-State and intra-State:

(a) Exempted supplies

(b) Supplies to unregistered persons

(c) Both of above

(d) None of the above.

Ans. *(a) Exempted supplies*

Q4. An invoice must be issued:

(a) At the time of removal of goods

(b) On transfer of risks and rewards of the goods to the recipient

(c) On receipt of payment for the supply

(d) Earliest of the above dates.

Ans. *(a) At the time of removal of goods.*

Q5. An acknowledgement must be given on receipt of advance payment in respect of supply of goods or services:

(a) Yes, in the form of a proforma invoice

(b) Yes, as a receipt voucher

(c) Yes, the invoice must be raised to that extent

(d) None of the above

Ans. *(b) Yes, as a receipt voucher.*

Q6. A continuous supply of goods requires one of the following as a must:

(a) The goods must be notified by the Commissioner in this behalf

(b) The contract for supply lasts for a minimum period of 3 months

(c) The supply is made by means of a wire, cable, pipeline or other conduit

(d) Supplier invoices the recipient on a regular or periodic basis

Ans. *(d) Supplier invoices the recipient on a regular or periodic basis*

Q7. The recipient must issue an invoice in the following cases:

(a) The supplier fails to issue an invoice

(b) The supplier is unregistered

(c) The goods or services received are notified for tax on reverse charge basis

(d) All of the above.

Ans. *(b) The supplier is unregistered and/or (c) The goods or services received are notified for tax on reverse charge basis*

Q8. A payment voucher need not be raised if the supplier is an unregistered person.

(a) True, as the recipient is required to issue an invoice in that case

(b) True, if the unregistered person does not require it

(c) False, a payment voucher is the only document to evidence the supply

(d) False, payment voucher should be issued in addition to raising an invoice for the inward supply

Ans. *(d) False, payment voucher should be issued in addition to raising an invoice for the inward supply*

Q9. The time limit for issue of tax invoice in case of continuous supply of goods:

(a) At the time of issue of statement of account where successive accounts are involved

(b) At the time of receipt of payment, if payments are received prior to issue of accounts

(c) On a monthly basis

(d) As and when demanded by the recipient.

Ans. *(a) At the time of issue of statement of account where successive accounts are involved*

Q10. In case of goods sent on sale on approval basis, invoice has to be issued:

(a) while sending the goods; another Invoice has to be issued by the recipient while rejecting the goods

(b) while sending the goods but the recipient can take credit only when the goods are accepted by him

(c) when the recipient accepts the goods or six months from the date of removal whichever is earlier

(d) when the recipient accepts the goods or three months from the date of supply whichever is earlier

Ans. *(c) when the recipient accepts the goods or six months from the date of removal, whichever is earlier.*

Q11. If Supply of Services has ceased under a contract before the completion of supply:

(a) Invoice has to be issued within 30 days on the basis of 'Quantum Meruit' from the date of cessation

(b) Invoice has to be issued at the time of cessation to the extent of the supply effected

(c) Invoice has to be issued for the full value of the contract after deducting a percentage thereof as prescribed

(d) Invoice cannot be issued as the matter will be sub-judice.

Ans. *(b) Invoice has to be issued at the time of cessation to the extent of the supply effected.*

Q12. The tax invoice should be issued _____the date of supply of service:

(a) Within 30 days from

(b) Within 1 month from

(c) Within 15 days from

(d) On

Ans. *(a) Within 30 days from*

Q13. A person who has applied for registration can:

(a) Provisionally collect tax till his registration is approved, on applying for registration, if he has applied for registration within prescribed time

(b) Neither collect tax nor claim input tax credit

(c) Issue 'revised invoice' and collect tax within 1 month of date of issuance of certificate of registration, subject to conditions

(d) All of the above.

Ans. *(c) Issue 'revised invoice' and collect tax within 1 month of date of issuance of certificate of registration, subject to conditions.*

Q14. The name of the State of recipient along with State code is required on the invoice where:

(a) Supplies are made to unregistered persons

(b) Supplies are made to unregistered persons where the value of supply is ₹ 50,000 or more

(c) Inter-state supplies are made to unregistered persons where the value of supply is ₹ 50,000 or more

(d) Supplies are made to registered persons

Ans. *(b) Supplies are made to unregistered persons where the value of supply is ₹ 50,000 or more*

Q15. A credit note is issued by _____ and it is a document accepted for GST purposes:

(a) Supplier, for reducing the tax/ taxable value

(b) Recipient, for reducing the tax/ taxable value

(c) Supplier, for increasing the tax/ taxable value

(d) Recipient, for increasing the tax/ taxable value

Ans. *(a) Supplier, for reducing the tax/ taxable value.*

Q16. For an increase in the tax/ taxable value, a debit note for GST purposes:

(a) Should be issued by the supplier

(b) Should be issued by the recipient

(c) May be issued by the supplier

(d) May be issued by the recipient

Ans. *(a) Should be issued by the supplier.*

Q17. The last date for declaring the details of a Credit Note issued on 25-Jun-2018 for a supply made on 19-Sep-2017 is:

(a) 31-Dec-2018 – Last date for filing annual return

(b) 20-Jul-2018 – Actual date for filing annual return

(c) 20-Jan-2018 – Due Date of Filing of December Return

(d) 20-Oct-2018 – Due Date of Filing of September Return

Ans. *(d) 20-Oct-2018 – Due Date of Filing of September Return*

Q18. The receipt voucher must contain:

(a) Details of goods or services

(b) Invoice reference

(c) Full value of supply

(d) None of the above

Ans. *(a) Details of goods or services.*

Chapter VI
Accounts and Records

FAQ's

Accounts and other records (Section 35)

Section 35 of the CGST Act, 2017 made applicable to IGST vide Section 20 of the IGST Act, 2017 and UTGST vide Section 21 of the UTGST Act, 2017

Q1. Should every registered person required to maintain books of account?

Ans. Yes, as per Section 35 of the CGST Act, 2017 every registered person is required to keep and maintain books of account at his principal place of business, as mentioned in the certificate of registration.

Further, 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. However, in case of supply of tea, coffee, rubber, etc. where the auctioneer claims ITC in respect of the supply made to him by the principal before the auction of such goods and the said goods are supplied only through auction. Then, both the principal and the auctioneer has the option to maintain the books of accounts relating to the additional place(s) of business at their principal place of business instead of such additional place(s). *[Refer Circular No.23/23/2017-GST dated 21.12.2017]*

Q2. What are the basic accounts required to be maintained by a person at the principal place of business?

Ans. As per Section 35 of the CGST Act, 2017 read with the CGST Rules, 2017, the following accounts need to be maintained on a true and correct basis:

(a) Production or manufacture of goods;

(b) Inward or outward supply of goods or services of both;

(c) Stock of goods;

(d) Input tax credit availed;

(e) Output tax payable and paid;

(f) Such other particulars as may be prescribed.

Q3. What are the additional accounts to be maintained by the registered person under the Chapter VII - Accounts and Records of the CGST Rules, 2017?

Ans. Every registered person, in addition to the records to be maintained under section 35 of

the CGST Act, is required to maintain following additional accounts on a true and correct basis:

1. Goods or services imported or exported;
2. Supplies attracting reverse charge along with relevant documents (including invoices, bill of supply, delivery challans, credit notes, debit notes, receipt vouchers, payment vouchers, refund vouchers);
3. Accounts of stock in respect of goods received and supplied – containing particulars of opening balance, receipt, supply, goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples and balance of stock including raw materials, finished goods, scrap and wastage thereof (these details need not be maintained by a composition dealer);
4. Advances received, paid and adjustments made thereto;
5. Tax payable on reverse charge basis;
6. Tax payable, tax collected and paid, input tax, input tax credit claimed, together with a register of tax invoice, credit note, debit note, delivery challan issued or received during any tax period (Not applicable to composition dealer);
7. Names and complete addresses of suppliers from whom he has received the goods or services;
8. Names and complete addresses of the persons to whom he has supplied the goods or services; and
9. Complete addresses of the premises where the goods are stored by him, including goods stored during transit along with the particulars of the stock stored therein.

Q4. Is an agent required to maintain any set of books of accounts?

Ans. Yes as per Rule 56(11) of the CGST Rules, 2017, every agent referred in section 2(5) of the CGST Act, 2017 shall maintain accounts containing:

1. particulars of authorization received by him from each principal to receive or supply goods or services on behalf of such principal separately;
2. particulars including description, value and quantity (wherever applicable) of goods or services received on behalf of every principal;
3. particulars including description, value and quantity (wherever applicable) of goods or services supplied on behalf of every principal;
4. details of accounts furnished to every principal; and
5. tax paid on receipts or on supply of goods or services effected on behalf of every principal.

Q5. Is there any specific set of records to be maintained by the provider of works contract service?

Ans. Yes as per Rule 56(14) of the CGST Rules, 2017, the registered person providing works contract service shall maintain the accounts showing-

1. the names and addresses of the persons on whose behalf the works contract is executed;
2. description, value and quantity (wherever applicable) of goods or services received for the execution of works contract;
3. description, value and quantity (wherever applicable) of goods or services utilized in the execution of each works contract;
4. the details of payment received in respect of each works contract; and
5. the names and addresses of suppliers from whom he has received goods or services.

Q6. Is there any specific record to be maintained by custodian of goods?

Ans. Yes, as per Rule 56(17) of the CGST Rules, 2017, the clearing and forwarding agent or the carrier of goods shall maintain true and correct records in respect of such goods handled by him on behalf of the registered person.

Q7. Where are the books of account liable to be maintained?

Ans. The books of account are to be maintained at principal place of business, as mentioned in the certificate of registration. 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.

Q8. In case of more than one place of business, the records are required to be maintained only at principal place of business?

Ans. No, in case of additional places of business, the accounts relating to each place of business shall be kept at such places of business concerned (provided such place is specified in the certificate of registration) such books of account shall include any electronic form of data stored on any electronic device

Q9. Whether accounts can be maintained in the electronic form?

Ans. Yes, the registered person may keep and maintain such accounts and other particulars in the electronic form and must be digitally signed. Proper electronic back-up of records shall be maintained and presented. The same must be produced on demand along with its sample hard copy and passwords, codes, etc.

Q10. Is there any category of registered person required to maintain additional accounts or documents?

Ans. The Commissioner may notify a class of taxable persons to maintain additional accounts or documents for such purpose as may be specified therein.

Q11. Can an exception be made for maintenance of books of account as per provisions of Section 35 of the CGST Act?

Ans. Yes, in case any class of taxable persons is not in a position to keep and maintain accounts in accordance with the provisions of section 35, the Commissioner may permit such class of taxable persons to maintain accounts in such manner as may be prescribed after recording the reasons for the same in writing.

Q12. Whether the accounts maintained by the registered taxable person need to be audited?

Ans. Yes, every registered person whose aggregate turnover during a financial year exceeds the prescribed limit of ₹ 2 Crore, 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 annual accounts, the reconciliation statement (duly certified, in FORM GSTR-9C) under Section 44(2) and such other documents in the form and manner as may be prescribed.

Q13. Can the provisions of Sections 73 or 74 be made applicable for not maintaining books of account?

Ans. Yes, where the registered person fails to account for the goods and/or services in accordance with Section 35(1), the proper officer shall determine the amount of tax payable on the goods and/or services that are not accounted for, as if such goods and/or services had been supplied by such person, and the provisions of Sections 73 or 74, as the case may be, shall apply, mutatis mutandis, for determination of such tax.

Note:

- Under section 17(5)(h), input tax credit shall not be available in respect of goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples and
- Section 73 & 74 are the demand-related provisions under the Act.

Q14. Does the law require an owner/ operator of a warehouse or godowns/ transporter to maintain books of account?

Ans. Yes, every owner/ operator of warehouse or godowns or any other place used for storage of goods and transporter (whether registered or not) needs to maintain records of consigner, consignee and other relevant details as under:

1. For Transporter:
    - GSTIN of registered consignor/consignee
    - Goods transported
    - Goods delivered
    - Goods stored in transit by him
2. For owner/ operator of a warehouse or godowns:
    - Accounts related to that period for which goods remain with him
    - Details of dispatch, movement, receipt and disposal of goods

Further, owner/ operator of warehouse or godowns should store the goods in such a way that they can be identification item-wise and owner-wise and shall facilitate any physical verification/ inspection by proper officer on demand.

Q15. Is there any form to be submitted by the owner/ operator of warehouse or godowns or any other place used for storage of goods and transporter to maintain books as per section 35?

Ans. Yes, as per Rule 58 the CGST Rules, 2017, owner/ operator of warehouse or godowns or any other place used for storage of goods and transporter, if not already registered is required to submit the details regarding his business electronically on the Common Portal in FORM GST ENR-01, either directly or through a Facilitation Centre notified by the Commissioner and, upon validation of the details furnished, a unique enrollment number shall be generated and communicated to the said person.

Q16. What are the consequences if taxable goods are found in a place other than those declared without valid documents?

Ans. The proper officer is free to determine the amount of tax payable on such goods as if the goods have been supplied by the registered person

Q17. Are the books of accounts to be maintained serially?

Ans. Yes

Q18. Is there any specific set of details to be maintained by a supplier of service?

Ans. Yes. As per Rule 56(13) of the CGST Rules, 2017, a supplier of service is required to maintain quantitative details of goods used in provision of each service, details of input service utilized and services supplied.

Q19. Can the entries in the registers be erased?

Ans. No, as per Rule 56(8) of the CGST Rules, 2017, any entry in the register, accounts and documents shall not be erased, effaced or overwritten.

Q20. What shall be the treatment of incorrect entries made in the registers, accounts or documents?

Ans. As per Rule 56(8) of the CGST Rules, 2017, if incorrect entries (except those of clerical nature) are made in the registers, accounts or documents, they shall be scored out under attestation. Thereafter, the correct entry shall be recorded. Further, where the registers and other documents are maintained electronically, a log of every edited or deleted entry shall be maintained.

Q21. What shall be the consequence if any document, register, or books of accounts belonging to a registered person are found at any premises other than those mentioned in the certificate of registration?

Ans. As per Rule 56(10) of the CGST Rules, 2017, unless it is proved otherwise, if any document, register, or books of accounts belonging to a registered person are found at any premises other than those mentioned in the certificate of registration, they shall be presumed to be maintained by the said registered person.

Q22. Is there any specific set of records to be maintained by a person manufacturing goods?

Ans. Yes, as per Rule 56(12) of the CGST Rules, 2017, every registered person manufacturing goods shall maintain monthly production accounts showing quantitative details of-

1. Raw materials or services used in the manufacture, and
2. Goods manufactured including the waste and by products thereof.

Period of retention of accounts (Section 36)

Section 36 of CGST Act, made applicable to IGST vide Section 20 of IGST Act and Section 21 of the UTGST Act

Q23. Is there any time period during which the maintenance of accounts and records is mandatory?

Ans. Yes, as per section 36 every registered person is required to keep and maintain books of account or other records as prescribed under Section 35(1) and retain them until the expiry of 72 months from the due date for filing of Annual Return for the year pertaining to such accounts and records.

Q24. What is the time period prescribed for maintenance of accounts and records if the registered person is a party to an appeal or revision?

Ans. A registered person, who is a party to an appeal or revision or any other proceeding before any Appellate Authority or Tribunal or Court, or investigation for an offence under Chapter XIX, shall retain the books of account pertaining to the subject matter of such appeal or revision or proceedings or investigation for a period of one year after final

disposal of such appeal or revision or proceedings or investigation, or until the expiry of 72 months from the due date of filing of Annual Return for the year pertaining to such accounts and records, whichever is later.

MCQ's

Accounts and other records (Section 35)

Q1. The books and other records U/S 35 are to be maintained at

(a) Place where the books and accounts are maintained

(b) Place of address of the Proprietor/ Partner/Director/Principal Officer

(c) Principal place of business mentioned in the Certificate of Registration

(d) Any of the above

Ans. *(c) Principal place of business mentioned in the Certificate of Registration*

Q2. In case, more than one place of business situated within a state specified in the Registration Certificate, the books and Accounts shall be maintained at

(a) Each place of business pertaining to such place

(b) Place where the books of accounts are maintained for all places situated within a state

(c) At principal place of business covered mentioned in the Registration Certificate for all places of business in each state

(d) Any of the above

Ans. *(a) Each place of business pertaining to such place*

Q3. Accounts are required to be maintained in

(a) Manual form

(b) Electronic form

(c) Manual and electronic form

(d) Manual or electronic form

Ans. *(d) Manual or electronic form*

Q4. Who among the following, even if not registered, is required to maintain records

(a) Owner of warehouse

(b) Owner of godown

(c) Owner of any other place used for storage of goods

(d) All the above

Ans. *(d) All the above*

Q5. If a turnover during a financial year exceeds the prescribed limit, then accounts get audited by

(a) Chartered Accountant

(b) Cost Accountant

(c) Either (a) or (b)

(d) Both (a) and (b)

Ans. *(c) Either (a) or (b)*

Q6. What accounts and records are required to be maintained by every registered taxable person at his principal place of business

(a) account of production or manufacture of goods

(b) inward or outward supply of goods and/or services

(c) stock of goods

(d) input tax credit availed

(e) output tax payable and paid

(f)All of the above

Ans. *(f) All of the above*

Q7. Can all the records be maintained in an electronic form?

(a) Yes

(b) No

(c) Some records

(d) Yes, if authenticated by digital signature

Ans. *(d) Yes, if authenticated by digital signature*

Period of retention of accounts (Section 36)

Section 36 of the CGST Act, 2017 made applicable to IGST vide Section 20 of the IGST Act, 2017 and UTGST vide Section 21 of the UTGST Act, 2017

Q8. The time period prescribed for maintenance of accounts and records, if the taxable person is a party to an appeal or revision shall be-

(a) Two year after final disposal of such appeal or revision or proceeding, or until the expiry of thirty-six months from the last date of filing of Annual Return for the year pertaining to such accounts and records, whichever is later

(b) Two year after final disposal of such appeal or revision or proceeding, or until the expiry of sixty months from the last date of filing of Annual Return for the year pertaining to such accounts and records, whichever is later

(c) One year after final disposal of such appeal or revision or proceeding, or until the expiry of seventy-two months from the last date of filing of Annual Return for the year pertaining to such accounts and records, whichever is later

(d) One year after final disposal of such appeal or revision or proceeding, or until the expiry of forty months from the last date of filing of Annual Return for the year pertaining to such accounts and records, whichever is later

Ans. *(c) One year after final disposal of such appeal or revision or proceeding, or until the expiry of seventy two months from the last date of filing of Annual Return for the year pertaining to such accounts and records, whichever is later*

Q9. Taxable person has to maintain his records for a period of

(a) expiry of seventy-two months from the due date of filing of Annual Return for the year

(b) expiry of forty months from the due date of filing of Annual Return for the year

(c) expiry of thirty months from the due date of filing of Annual Return for the year

(d) expiry of ninety months from the due date of filing of Annual Return for the year

Ans. *(a) expiry of seventy-two months from the due date of filing of Annual Return for the year.*

Chapter VII
Returns

FAQ's

Returns (Section 37 To 48)

Provisions relating return under the CGST Act, 2017 made applicable to IGST *vide* Section 20 of the IGST Act, 2017 and UTGST *vide* Section 21 of the UTGST Act, 2017

Q1. What are the various returns prescribed under the GST Act?

Ans. The various returns prescribed under GST Act read with Chapter VIII- Returns of the CGST Rules, 2017 are as follows:-

Return	Particulars	Due date
GSTR-1	Furnishing details outward supplies of goods or services or both	10th of the month succeeding tax period - 10th of the next month for Normal / Regular Taxpayer
GSTR-1A (auto-drafted)	Communication to supplier of goods and services for any addition/deletion/modification made by the recipient in FORM GSTR-2	Accept or reject before 17th of month the succeeding tax period
GSTR-2	Furnishing details of inward supplies	Before 15th of the month succeeding tax period- 15th of the next month for Normal / Regular Taxpayer
GSTR-2A (auto-drafted)	Part A: Communication to receiver of goods and services in respect of goods and services procured by it and uploaded by the supplier. Part B: Communication to the receiver of credit in case of distribution of credit by Input Service Distributor in FORM GSTR-6	

Return	Particulars	Due date
	Part C: Communication of details of tax deducted at source from the payments to the receiver based on FORM GSTR-7 of the deductor Part D: Communication of details of tax collected at source on payments received by the supplier from the e-commerce operator, based on FORM GSTR-8.	
GSTR-3	Monthly return after finalization of outward supplies and inward supplies	20th of the month succeeding tax period -20th of the next month for Normal / Regular Tax Payer
GSTR-3A	Notice sent to registered taxable persons who fails to furnish return under section 39 or section 44 or section 45 or section 52 of the CGST Act,2017	
GSTR-3B	Return to be filed in lieu of FORM GSTR-3 when the due date for filing FORM GSTR-1 and FORM GSTR-2 has been extended by the Commissioner	Due date shall be notified by the Commissioner
GSTR-4	Return to be furnished by a registered taxable person under composition scheme	18th of the month next to the quarter
GSTR-4A	Communication to the person registered under composition scheme in respect of inward supplies procured by it and uploaded by the supplier	
GSTR-5	Return to be furnished by non-resident taxable person	20th of the next month or within 7 days after expiry of registration, whichever is earlier

Return	Particulars	Due date
GSTR-6	Monthly Return to be furnished by Input Service Distributor	13th of the next month
GSTR-6A	Communication to Input Service Distributor in respect of inward supplies procured by it and uploaded by the supplier	
GSTR-7	Return to be furnished by persons liable to deduct tax at source under Section 51 of the CGST Act	10th of the next month
GSTR-7A	Certificate to be issued to the recipient by the person deducting tax at source	Within 5 days of remitting the amount deducted
GSTR-8	Return to be furnished by persons liable to collect tax at source under Section 52 of the CGST Act	10th of the next month
GSTR-9	Annual return	31st December of subsequent year
GSTR-9A	Annual return for Composition Supplier	31st December of subsequent year
GSTR-9B	Annual Return for Electronic Commerce Operator required to collect tax at source	31st December of subsequent year
GSTR-9C	Furnish a copy of audited annual accounts and a reconciliation statement, duly certified- Normal tax payer having aggregate turnover of more than ₹ 2 crores	31st December of subsequent year
GSTR-10	Final Return- Registered Person whose registration has been cancelled	3 months from the date of cancellation/order of cancellation, whichever later
GSTR-11	Return to be filed by persons having Unique Identity Number and claiming refund on inward supplies	To be submitted along with Refund Application

Q2. Who is required to furnish the details of outward taxable supply? In what format should such details be furnished? What is the due date for furnishing such details?

Ans. All registered taxable persons are required to furnish the details of outward supplies of goods and services effected during the tax period, except:

(a) Input Service Distributors

(b) Composition suppliers

(c) Non-resident taxable persons

(d) Persons liable to deduct tax at source as per Section 51(TDS)

(e) Persons liable to collect tax at source as per Section 52 (TCS)

(f) Person providing Online Information and Data Access & Retrieval Services (OIDAR) to a non-taxable online recipient.

The details should be furnished electronically in the format prescribed in FORM GSTR-1. Such returns should be furnished on or before 10th of the month succeeding the tax period.

It is pertinent to mention that Government has extended the due dates of filing Form GSTR-1, certain period, the brief of which is as under:

S.No.	DETAIL / RETURN	MONTH	ORIGINAL DUE DATE	DUE DATES
1.	GSTR-1	July, 2017	10.08.2017	1. Extended up to 1-5 Sept 2017 *vide Notification No. 18/2017-CT dated 08.08.2017* 2. Further extended up to 10.09.2017 *vide Notification No. 29/2017-CT dated 05.09.2017* 3. Further extended up to 03.10.2017 for registered person having turnover > 100 crores and 10.10.2017 for registered person having turnover up to 100 crores.
2.	GSTR-1	August, 2017	10.09.2017	1. Extended up to 16-20 Sept 2017 *vide Notification No. 18/2017-Central Tax, dated 08.08.2017* 2. Further extended up to 05.10. 2017 *vide Notification No. 29/2017- Central Tax, dated 05.09.2017*

3.	GSTR-1	For the months of July 2017 to October 2017	10th day of next month	Date extended up to 31.12.2017 for registered persons having turnover exceeding 1.50 crore *vide Notification No. 58/2017- Central Tax, dated 15.11.2017* Further, date extended up to 10.01.2018 *vide Notification No. 72/2017 – Central Tax, dated 29.12.2017*
4.	GSTR-1	For the month of November 2017	10th day of next month	Date extended up to 10.01.2018 for registered persons having turnover exceeding 1.50 in the preceding financial year or the current financial year *vide Notification No. 58/2017- Central Tax, dated 15.11.2017* and also stated in *Notification No. 72/2017 – Central Tax, dated 29.12.2017*
5.	GSTR-1	For the month of December 2017	10th day of next month	Date extended up to 10.02.2018 for registered persons having turnover exceeding 1.50 crore in the preceding financial year or the current financial year *vide Notification No. 58/2017- Central Tax, dated 15.11.2017* and also stated in *Notification No. 72/2017 – Central Tax, dated 29.12.2017*
6.	GSTR-1	For the month of January 2018	10th day of next month	Date extended up to 10.03.2018 for registered persons having turnover exceeding 1.50 crore in the preceding financial year or the current financial year *vide Notification No. 58/2017- Central Tax, dated 15.11.2017* and also stated in *Notification No. 72/2017 – Central Tax, dated 29.12.2017*
7.	GSTR-1	For the month of February 2018	10th day of next month	Date extended up to 10.04.2018 for registered persons having turnover exceeding 1.50 crore in the preceding financial year or the current financial year *vide Notification No. 58/2017-*

				Central Tax, dated 15.11.2017 and also stated in *Notification No. 72/2017 – Central Tax, dated 29.12.2017*
8.	GSTR-1	For the months of March 2018	10th day of next month	Date extended up to 10.05.2018 for registered persons having turnover exceeding 1.50 crore in the preceding financial year or the current financial year *vide Notification No. 58/2017- Central Tax, dated 15.11.2017* and also stated in *Notification No. 72/2017 – Central Tax, dated 29.12.2017*
9.	GSTR-1	Quarter from July to Sept 2017	----	31.12.2017 specified, *vide Notification No. 57/2017- Central Tax, dated 15.11.2017*, as due date for filing return by registered person with turnover up to 1.50 crore in the preceding FY or in the current FY Further, extended upto 10.01.2018 *vide Notification No. 71/2017 – Central Tax, dated 29.12.2017*
10.	GSTR-1	Quarter from October to December 2017	----	15.02.2018 specified, vide Notification No. 57/2017- Central Tax, dated 15.11.2017, as due date for filing return by registered person with turnover up to 1.50 crore in the preceding FY or in the current FY and also stated in *Notification No. 71/2017 – Central Tax, dated 29.12.2017*
11.	GSTR-1	Quarter from January to March 2018	----	30.04.2018 specified as due date for filing return by registered person with turnover up to 1.50 crore in the preceding FY or in the current FY *vide Notification No. 57/2017- Central Tax, dated 15.11.2017* and also stated in *Notification No. 71/2017 – Central Tax, dated 29.12.2017*

Q3. What are the details to be submitted while furnishing the details of outward supply in FORM GSTR-1?

Ans. The supplier has to furnish the details of invoices, debit notes, credit notes and revised invoices issued in relation to outward supplies made during the tax period. Key points to be disclosed are as follows:-

- supplies made to registered persons and unregistered persons including consumers.
- Inter-State supplies to a consumer (non-registered person) where invoice value is more than ₹ 2,50,000/- should be separately captured.
- Consolidated amount of Intra-State supplies to a consumer (non-registered person) for each rate of tax.
- Zero rated supplies, Exempted supplies, Nil-rated supplies, Exports (including deemed exports) and non-GST supplies should each be captured, separately.
- Tax liability arising in the current tax period where invoice is not issued in the current tax period (i.e., yet to be raised, in case of advance).
- Invoices issued in the current tax period for which tax was already paid earlier (adjusting the previous advances).
- Supplies made through e-commerce portal of other companies to registered taxable persons and other consumers, separately.
- The supplier has to mention the Harmonized System of Nomenclature for goods and Service Accounting Code.
- Documents issued during the tax period

Q4. Whether the details uploaded by the supplier in GSTR-1 would be communicated to the receiver?

Ans. The details uploaded by the supplier in GSTR-1 would be communicated to the recipient in Part A of FORM GSTR-2A, which is an auto-drafted form

Q5. What is the procedure to be followed if the recipient finds that the details disclosed in FORM GSTR-2A are incorrect?

Ans. The recipient can verify and validate/modify/delete such details and even add details, and thereafter submit the same in FORM GSTR-2 on or before 15th of the succeeding tax period.

Q6. What happens when the recipient modifies/deletes the details appearing in FORM GSTR-2A?

Ans. If the recipient modifies/deletes any details, such modification/deletion will be communicated to the supplier in FORM GSTR-1A. The supplier can accept/reject such

modification/deletion before 17th of the succeeding tax period. To the extent of such modifications/ deletions, FORM GSTR-1 of the supplier would stand amended.

Q7. State the major components of valid GST Return for Outward Supplies made by the Taxpayer (FORM GSTR-1)?

Ans. Major Components of valid GST Return for Outward Supplies made by the Taxpayer (FORM GSTR-1) are:

1. GSTIN
2. Name
3. Period to which the return pertains
4. Aggregate turnover of the taxpayer in the previous Financial Year. This information would be submitted by the taxpayers only in the first year and will be auto-populated in subsequent years.
5. The following particulars shall be furnished – at an invoice / consolidated level based on the table as below:

Type	Supplies made to	Invoice Value	Level of submission
Interstate	Registered Persons	Any	Invoice level
Intrastate	Registered Persons	Any	Invoice level
Interstate	Unregistered Persons (stated as Consumer in the return)	> ₹ 250,000	Invoice level

Type	Supplies made to	Invoice Value	Level of submission
Intrastate	Registered Persons	Any	Consolidated
Interstate	Unregistered Persons (stated as Consumer in the return)	< ₹ 250,000	Consolidated

Note:

- For all B to C supplies (whether inter-State or intra-State) where invoice value is up to ₹ 2,50,000/- State-wise summary of supplies, rate-wise, should be uploaded in Table 7 of the Form GSTR-1.
- Mention Place of Supply, if different from the location of the recipient;

Q8. On verification of FORM GSTR-2A, if the recipient finds that certain inward supplies made by him are not reflected, can he add the details of such inward supplies manually?

Ans. If the recipient finds that certain inward supplies made to him in the tax period are not reflected in the FORM GSTR-2A, the recipient can manually add the details of such supplies in FORM GSTR-2. Such additions will be communicated to the supplier in FORM GSTR-1A. The supplier can accept/reject such modifications before 17th of the succeeding period, upon which, FORM GSTR-1 filed by him would stand amended.

Q9. After filing of FORM GSTR-1, the recipient has modified/deleted/added the details. What is the procedure to be followed by the supplier?

Ans. Where the recipient has modified/deleted/added any details in his FORM GSTR-2, the supplier will receive a communication in FORM GSTR-1A. The supplier can accept or reject such modifications/deletions/addition before 17th of the succeeding period. If the supplier accepts the modifications/deletions/addition, the details furnished by him in FORM GSTR-1 will be amended automatically.

Q10. Whether the details furnished under Form GSTR-1 and Form GSTR-2 can be rectified? Is there any time limit for revision / rectification of such details?

Ans. It may also be noted that there is no concept of revision of a filed return under the GST regime. However, the details furnished in Form GSTR-1 and Form GSTR-2 which have remained unmatched as per Section 42 or 43 can be rectified as and when the error or omission is discovered. However, no rectification is permissible after filing the annual return or the return for the month of September of the following year (whichever is earlier).

Q11. Whether HSN Code needs to be mention in FORM GSTR-1?

Ans. In FORM GSTR-1 (return), the description of goods and services may not be required to be submitted by the taxpayer as the same will be identified through the submission of HSN code for goods and Accounting Code for services.

HSN code as specified below shall be furnished in FORM GSTR-1. In order to differentiate between the HSN code and the Service Accounting Code (SAC), the latter will be prefixed with "S". The taxpayers who have turnover below the limit of ₹ 1.5 Crore will have to mention the description of goods/service, as the case may be, wherever applicable.

Category of taxable person and turnover in the preceding financial year	Any taxpayer, irrespective of his turnover, may use HSN code at 6- digit or 8-digit level if he so desires.
Aggregate Turnover is < ₹ 1.5 crores	HSN/SAC is not mandatory for taxable person whose aggregate turnover is less than

Category of taxable person and turnover in the preceding financial year	Any taxpayer, irrespective of his turnover, may use HSN code at 6- digit or 8-digit level if he so desires.
	₹ 1.5 crores. (Hence, composition dealers may not be required to specify HSN at 2-digit level also.) For exports 8 digit HSN is mandatory
Aggregate Turnover is ₹ 1.5 to ₹ 5 crores	HSN codes may be specified only at 2-digit chapter level as an optional exercise to start with. This would be mandatory from the second year of GST implementation For exports 8 digit HSN is mandatory SAC code is mandatory
Aggregate Turnover is > ₹ 5 crores	HSN – minimum of 4 digits – mandatory For exports 8 digit HSN is mandatory SAC code is mandatory
All exports included above categories	HSN Codes at 8-digit level

Q12. Who is required to furnish the details of inward taxable supply? In what format should such details be furnished? What is the due date for furnishing such details?

Ans. All registered taxable persons are required to furnish the details of inward supplies of goods and services effected during the tax period, except:

(a) Input Service Distributors

(b) Composition suppliers

(c) Non-resident taxable persons

(d) Persons liable to deduct tax at source as per Section 51

(e) Persons liable to collect tax at source as per Section 52

(f) Person providing OIDAR Services

The details should be furnished electronically in the format prescribed in FORM GSTR-2. Such returns should be furnished after 10th but before 15th of the succeeding tax period.

NOTE:

1. It is pertinent to mention that Government has extended the due dates of filing Form GSTR-2, certain period, the brief of which is as under:

S.No.	DETAIL/ RETURN	MONTH	ORIGINAL DUE DATE	DUE DATES
1.	GSTR-2	July 2017	15.08.2017	1. Extended up to 6-10 Sept *2017 vide Notification no. 19/2017-Central Tax dated 08.08.2017* 2. Further extended up to 11-15.09.2017 *vide Notification No. 29/2017-Central Tax dated 05.09.2017* 3. Further extended up to 31.10.2017 for all registered persons *vide Notification No. 30/2017-Central Tax dated 11.09.2017* 4. Further extended up to 30.11.2017 for all registered persons *vide Notification No. 54/2017-Central Tax dated 30.10.2017* 5. As per *Notification No. 58/2017-Central Tax dated 15.11.2017*, the due dates for filing GSTR-2 shall be notified subsequently.
2.	GSTR-2	August 2017	15.9.2017	1. Extended up to 21-25 Sept 2017 *vide Notification No. 19/2017-Central Tax, dated 08.08.2017*

				2. Further extended up to 6-10.10.2017 *vide Notification No. 29/2017-Central Tax, dated 05.09.2017* 3. As per *Notification No. 58/2017-Central Tax, dated 15.11.2017*, the due dates for filing GSTR-2 shall be notified subsequently.

2. *Notification No. 57/2017 – Central Tax dated 15.11.2017 inter alia* provides that due date for filing FORM GSTR-2 for the months of July, 2017 to March, 2018, by registered persons having aggregate turnover of up to 1.5 crore rupees in the preceding financial year or the current financial year, shall be subsequently notified in the Official Gazette.

Q13. What are the details to be submitted while furnishing the details of inward supply in FORM GSTR-2?

Ans. The details regarding inward supplies will be auto-populated from FORM GSTR-2A. However, the recipient can modify/delete/add the details of inward supply. Key points to be disclosed are as follows:-

- Details of inward supplies from registered persons and unregistered persons
- Details of debit notes/ credit notes issued by the suppliers to the person.
- Details of inward supplies attracting reverse charge.
- Details of goods, capital goods and services procured from outside India. Further, the details of total eligible input tax credit and input tax credit available in the current tax period shall also be disclosed.
- Specify the inward supplies on which he is not eligible, either fully or partially, for input tax credit for each invoice.
- Specify the quantum of ineligible input tax credit on inward supplies, which are relatable to non-taxable supplies or for purpose other than business, which cannot be determined invoice level.
- Supplies received from composition taxable person, unregistered persons and other exempt/nil/non-GST supplies shall be reported separately.
- Input tax credit received from ISD, TDS credit and TCS credit.

- Input tax credit received on an invoice on which partial credit was claimed earlier.
- Where there is liability to pay tax under reverse charge mechanism even though the invoice has not been received.
- Where tax has already been paid under reverse charge mechanism in the earlier period but invoice has been received in the current tax period.
- Input tax credit reversed along with the reason for such reversal.
- HSN Summary of Inward Supplies

Q14. What is FORM GSTR-2A?

Ans. FORM GSTR-2A is an auto-drafted form and contains the details of inward supplies of the assesse, the details of which have been uploaded by the supplier. It also contains the input tax credit distributed by the Input Service Distributor, tax deducted at source under Section 51 and tax collected at source under Section 52.

Q15. Supplier raises an invoice on 30.08.2017 and discloses the same in FORM GSTR-1 for August 2017. Recipient receives the goods and records the inward supply in his books of account on 01.09.2017. How will the inward supply of the recipient and outward supply of the supplier match? *[Consider this example without considering the extensions of due dates]*

Ans. As per Section 37, details of inward supply of the recipient should match with the outward supply declared by the supplier for the current tax period or for the earlier tax period. In this case, the inward supply of the recipient is filed for the period September 2017 and will match with the outward supply of the supplier filed for the period August 2017.

Q16. How should the assesse disclose the details of inward supplies on which he wishes to avail input tax credit?

Ans. The registered person shall specify the inward supplies in respect of which he is not eligible, either fully or partially, for input tax credit in FORM GSTR-2 where such eligibility can be determined at the invoice level. Further, in case invoice level details cannot be mentioned, the assesse can specify the quantum of ineligible input tax credit on inward supplies, which are relatable to non-taxable supplies or for purpose other than business.

Details of invoices/TDS/TCS furnished by	In his return	Shall be made available to the recipient of credit
Non-resident taxable person	FORM GSTR-5 under rule 63	Part A of FORM GSTR 2A

Input Service Distributor	FORM GSTR-6 under Rule 65	Part B of FORM GSTR-2A
TDS furnished by the deductor [TDS provision postponed till 31st March, 2018]	FORM GSTR-7	Part C of FORM GSTR-2A
TCS furnished by e-commerce operator [TCS provision postponed till 31st March, 2018]	FORM GSTR-8	Part C of FORM GSTR-2A

Also he has the option to accept, reject, modify or do nothing regarding an input tax credit.

The details of inward supplies of goods or services or both furnished in FORM GSTR-2 shall include, inter-alia:

(a) invoice wise details of all inter-State and intra-State supplies received from registered persons or unregistered persons;

(b) import of goods and services made; and

(c) debit and credit notes, if any, received from supplier.

Q17. After finalization of outward supplies and inward supplies, what is the next procedure?

Ans. After finalizing the statements for outward and inward supplies, a registered taxable person has to file the monthly return in FORM GSTR-3. However, the following persons are not required to file the FORM GSTR-3 return:-

(a) Registered taxable person paying taxes under Composition scheme (Form GSTR-4 to be furnished instead)

(b) Input service distributor (FORM GSTR-6 to be furnished instead)

(c) Non-resident taxable person (FORM GSTR-5 to be furnished instead)

(d) Person liable to deduct tax at source as per Section 51 (FORM GSTR-7 to be furnished instead)

(e) Person liable to deduct tax at source as per Section 52 (FORM GSTR-8 shall be furnished instead)

The return in FORM GSTR-3 will be auto populated from Forms GSTR-1 and GSTR-2. Further, the details of tax, interest and penalty paid have to be reported in Part B of FORM GSTR-3. The return has to be filed by 20th of the succeeding tax period.

NOTE:

1. It is pertinent to mention that Government has extended the due dates of filing Form GSTR-3,certain period, the brief of which is as under:

S.No.	DETAIL/ RETURN	MONTH	ORIGINAL DUE DATE	DUE DATES
1.	GSTR-3	July 2017	20.08.2017	1. Extended up to 11-15 Sep 2017 *vide Notification No. 20/2017-Central Tax, dated 08.08.2017* 2. Further extended up to 30.09. 2017 *vide Notification No. 29/2017-Central Tax, dated 05.09.2017* 3. Further extended up to 10.11.2017 for all registered persons *vide Notification No. 30/2017-Central Tax, dated 11.09.2017.* 4. Further extended up to 11.12.2017 for all registered persons *vide Notification No. 54/2017- Central Tax, dated 30.10.2017* 5. As per *Notification No. 58/2017- Central Tax, dated 15.11.2017*, the due dates for filing Form GSTR-2 shall be notified subsequently.
2.	GSTR-3	August 2017	20.09.2017	1. Extended up to 26-30 Sep 2017 *vide Notification No. 20/2017- Central Tax, dated 08.08.2017*

				2. Further extended up to 15.10. 2017 *vide Notification No. 29/2017- Central Tax , dated 05.09.2017.* 3. As per *Notification No. 58/2017- Central Tax, dated 15.11.2017,* the due dates for filing GSTR-2 shall be notified subsequently.

2. *Notification No. 57/2017 – Central Tax dated 15.11.2017 inter alia provides* that due date for filing FORM GSTR-3 for the months of July, 2017 to March, 2018, by registered persons having aggregate turnover of up to 1.5 crore rupees in the preceding financial year or the current financial year, shall be subsequently notified in the Official Gazette

Q18. Is there any return to filed by the registered person where time limit for furnishing of details in FORM GSTR-1 under section 37 and in FORM GSTR-2 under section 38 has been extended?

Ans. Yes. In terms Rule 61(5) of the CGST Rules, where the time limit for furnishing FORM GSTR-1 and FORM GSTR-2 has been extended and the circumstances so warrant, the Commissioner may, by notification, specify the manner and conditions subject to which the return shall be furnished in FORM GSTR-3B electronically through the common portal, either directly or through a Facilitation Centre notified by the Commissioner.

NOTE:

- It is relevant to mention here, that as per Press Information Bureau Government of India Ministry of Finance circular dated 18-June-2017. For the smooth transition, for the first two months tax would be payable on a simple return (Form GSTR-3B) containing summary of outwards and inwards supplies which will be submitted before 20th of the succeeding month
- Time line for filing of FORM GSTR-3B have been extended from time to time.

S.N.	DETAIL/ RETURN	MONTH	ORIGINAL DUE DATE	DUE DATES
1.	GSTR-3B	July 2017	---	Due date of filing is 20.08.2017 *vide Notification No. 21/2017- Central Tax, dated 08.08.2017.*

				Notification No. 23/2017-Central Tax, dated 17.08.2017 specifies as follows : 1. In case of registered person entitled to avail ITC in terms of section 140 of the Act but opting not to file TRAN-1 on or before 28.08.2017, the due date of filing is 20.08.2017 without any conditions 2. In case of registered persons entitled to avail ITC in terms of section 140 of the said Act, and opting to file Form TRAN-1 on or before 28.08.2017, the due date of filing is 28.08.2017 with the following conditions: a) deposit tax on or before 20.08.2017 b) file TRAN-1 before filing GSTR-3B c) pay interest for delayed payment of tax for the period from 21.08.2017 till payment of tax. For any other person, the due date is 20.08.2017 Further extended to 25.08.2017 *vide Notification No. 24/2017-Central Tax,dated 21.08.2017*
2.	GSTR-3B	August 2017	----	Due date of filing is 20.09.2017 vide Notification No. 21/2017-*Central Tax,* dated 08.08.2017 and *Notification No. 35/2017-Central Tax, dated 15.09.2017*

3.	GSTR-3B	September to December 2017	----	Notifies 20.10.2017, 20.11.2017, 20.12.2017 & 20.01.2018 respectively as due date of filing Form GSTR-3B *vide Notification No. 35/2017-Central Tax, dated 15.09.2017*
4.	GSTR-3B	January to March 2018	----	Notifies 20.02.2018, 20.03.2018 & 20.04.2018 respectively as due date of filing *vide Notification No. 56/2017-Central Tax, dated 15.11.2017*

- No late fees and penalty would be levied for the interim period.
- Late fees for failure to file GSTR-3B has been waived for the months of July 2017, August 2017 and September 2017. From October 2017, the late fees has been reduced to ₹25 per day (both under CGST and SGST/UTGST) and where the central tax payable is nil, the late fees is restricted to Rs 10 per day (both under CGST and SGST/UTGST).

Q19. Whether FORM GSTR-3 still needs to filed after FORM GSTR-3B?

Ans. Yes. FORM GSTR-3 still needs to filed after FORM GSTR-3B. Further, as per Rule 61 (6) of the CGST Rules, where a return in FORM GSTR-3B has been furnished, after the due date for furnishing of details in FORM GSTR-2—

a) Part A of the return in FORM GSTR-3 shall be electronically generated on the basis of information furnished through FORM GSTR-1, FORM GSTR-2 and based on other liabilities of preceding tax periods and PART B of the said return shall be electronically generated on the basis of the return in FORM GSTR-3B furnished in respect of the tax period;

b) the registered person shall modify Part B of the return in FORM GSTR-3 based on the discrepancies, if any, between FORM GSTR-3B and FORM GSTR-3 and discharge his tax and other liabilities, if any;

c) where the amount of ITC in FORM GSTR-3 exceeds the amount of ITC in FORM GSTR-3B, the additional amount shall be credited to the electronic credit ledger of the registered person.

Q20. Whether an assesse under composition scheme is required to furnish details of inward supply and outward supply?

Ans. No. An assesse under the composition scheme is not required to furnish details of inward and outward supplies. Such assesses are required to file quarterly returns in

FORM GSTR-4 within 18 days from the end of quarter. Further, time line for filing of FORM GSTR-4 have been extended from time to time as:

SN	DETAIL/ RETURN	MONTH	ORIGINAL DUE DATE	DUE DATES
3.	GSTR-4	Quarter from July - Sep 2017	18.10.2017	1. Extended up to 15.11.2017 *vide Notification No. 41/2017- Central Tax, dated 13.10.2017* 2. Further Extended up to 24.12.2017 *vide Notification No. 59/2017- Central Tax, dated 15.11.2017*

Q21. State the late fees on filing belated return?

Ans. For late filing of return, following late fee shall be levied:

Defaulted Return	*Late fee*
Details of Outward Supplies (Ref: Sec 37)	₹ 100 per day of delay Maximum ₹ 5,000
Details of Inward Supplies (Ref: Sec 38)	same as above
Monthly Return (Ref: Sec 39)	same as above
Final Return in case of cancellation of registration (Sec 45)	same as above
Annual Return (Sec 44)	₹ 100 per day of delay Maximum = 0.25% on Turnover in the state/UT*

- Late fees for failure to file GSTR-3B has been waived for the months of July 2017, August 2017 and September 2017. From October 2017, the late fees has been reduced to ₹ 25 per day (both under CGST and SGST/UTGST) and where the central tax payable is nil, the late fees is restricted to Rs 10 per day (both under CGST and SGST/UTGST).
- The Central Government vide *Notification No. 73/2017 – Central Tax dated 29.12.2017 has waived o*ff the late fee payable by any registered person for failure to furnish the return in Form GSTR 4 (Return by compounding tax payers) by the due date, which is in excess of an amount of ₹ 25 per day during which such failure continues. And where the total amount payable in lieu of central tax in the said return is nil, the

amount of late fee payable by any registered person for failure to furnish the said return by the due date shall stand waived to the extent which is in excess of an amount of ₹ 10 per day during which such failure continues.

Q22. What is GSTR-4A?

Ans. FORM GSTR-4A contains the details of inward supplies received by composition suppliers from registered taxable persons, debit/credit notes received and tax deducted at source. This statement is auto populated from Forms GSTR-1, GSTR-5 and GSTR-7 filed by other assesses.

Q23. What are the details that are required to be submitted in FORM GSTR-4?

Ans. While furnishing the return in FORM GSTR-4, the assesse has to furnish the following details:

(a) Invoice wise details of inter-State and intra-State inward supplies received from registered and unregistered persons

(b) Import of goods and services

(c) Consolidated details of outward supplies

(d) Debit and credit notes issued and received, if any

(e) TCS Credit received

(f) Consolidated statement of advances paid/adjusted

(g) Amendment of outward supplies furnished in earlier returns

Q24. I am a non-resident taxable assesse. What are the returns to be furnished by me?

Ans. A non-resident taxable assesse is liable to file FORM GSTR-5 for furnishing the monthly details of inward and outward supplies, debit/credit notes, tax paid details, details of closing stock and refund claimed, if any. The return should be furnished by 20th of the month succeeding the tax period, or within 7 days from the last day of the validity of registration, whichever is earlier.

. It is pertinent to note that time line for filing FORM GSTR-5 for the months from July 2017 to December 2017 have been extended from time to time as:

DETAIL/ RETURN	MONTH	ORIGINAL DUE DATE	DUE DATES
GSTR-5	For the months from July 2017 to December 2017	20th of Next month	1. Due date extended up to 11.12.2017 for filing return by a non-resident taxable person *vide Notification No. 60/2017- Central Tax, dated 15.11.2017*.

			2. Due date further extended up to 31.01.2018 *vide Notification No.68/2017 – Central Tax, dated 21.11.2017.*

Q25. Mr. X, registered person provide OIDAR services from London to Mr. Y, an unregistered person of India. What are the returns to be furnished by Mr. X?

Ans. Mr. X, registered person providing online information and data base access or retrieval services from a place outside India (London) to Mr. Y, an unregistered person in India shall file return in FORM GSTR-5A on or before 20th of the month succeeding the calendar month or part thereof.

It is pertinent to note that time line for filing FORM GSTR-5A for the months from July 2017 to December 2017 have been extended from time to time as:

DETAIL/ RETURN	MONTH	ORIGINAL DUE DATE	DUE DATES
GSTR-5A	For the months from July 2017 to December 2017	20th of Next month	1. Due date extended up to 15.09.2017 *vide Notification No. 25/2017- Central Tax, dated 28.08.2017* 2. Due date further extended up to 20.11.2017 *vide Notification No. 42/2017- Central Tax dated 13.10.2017* 3. Due date further extended up to 15.12.2017 *vide Notification No.61/2017- Central Tax, dated 15.11.2017* 4. Due date further extended up to 31.01.2018 *vide Notification No. 69/2017 – Central Tax, dated 21.12.2017*.

Q26. Whether Input Service Distributor is liable to furnish details of inward and outward supplies?

Ans. Input Service Distributor is not liable to furnish the details of inward and outward supplies. Input Service Distributor is liable to file return in FORM GSTR-6 on or before 13th of the month succeeding the tax period. The details relating to input tax credit distributed is communicated to the recipient in Part B of FORM GSTR-2A.

S.N.	DETAIL/ RETURN	MONTH	ORIGINAL DUE DATE	DUE DATES
1.	GSTR-6	July 2017	13.08.2017	1. Extended up to 08.09.2017 *vide Notification No. 26/2017- Central Tax, dated 28.08.2017*

				2. Further Extended up to 13.10.2017 *vide Notification No. 31/2017- Central Tax, dated 11.09.2017* 3. Further Extended up to 15.11.2017 *vide Notification No. 43/2017- Central Tax, dated 13.10.2017* 4. Further Extended up to 31.12.2017 *vide Notification No. 62/2017- Central Tax, dated 15.11.2017*
2.	GSTR-6	August 2017	13.09.2017	1. Extended up to 23.09.2017 *vide Notification No. 26/2017- Central Tax, dated 28.08.2017* 2. Further Extended up to 15.11.2017 *vide Notification No. 43/2017- Central Tax, dated 13.10.2017* 3. As per Notification No. 62/2017- *Central Tax*, dated 15.11.2017 date of filing to be notified subsequently
3.	GSTR-6	September 2017		1. Extended up to 15.11.2017 *vide Notification No. 43/2017- Central Tax, dated 13.10.2017* 2. Date of filing to be notified subsequently as mentioned in *Notification No. 62/2017- Central Tax, dated 15.11.2017*
4.	GSTR-6	October 2017		1. Date of filing to be notified subsequently as mentioned in *Notification No. 62/2017- Central Tax, dated 15.11.2017*

Q27. What is FORM GSTR-6A?

Ans. FORM GSTR-6A contains the details of inward supplies received by Input Service Distributors from registered taxable persons and debit/credit notes received. This

statement is auto populated from FORM GSTR-1 and FORM GSTR-5 filed by other assesses bearing the same PAN as the Input Service Distributor.

I am notified under Section 51 of the CGST Act to deduct tax at source. What are the returns to be furnished by me?

Ans. Any person liable to deduct tax at source under Section 51 of the CGST Act is specifically liable to furnish returns in FORM GSTR-7. The details in respect of tax deduced at source, as well as the details relating to tax payable and tax paid shall be disclosed. Further, the person shall be required to furnish other returns in FORM GSTR-1, GSTR-2 and GSTR-3, to the extent not covered in FORM GSTR-7.

Q28. I am notified under section 52 of the CGST Act to collect tax at source. What are the returns to be furnished by me?

Ans. Any person liable to collect tax at source under section 52 of the CGST Act is specifically liable to furnish returns in FORM GSTR-8.The details in respect of tax collected at source, as well as the details relating to tax collected and tax paid shall be disclosed. Further, the person shall be required to furnish other returns in FORM GSTR-1, GSTR-2 and GSTR-3, to the extent not covered in FORM GSTR-8 above.

Q29. Whether returns have to filed if the assesse has not effected any inward or outward supply during a tax period?

Ans. Section 39(8) of the CGST Act specifies that the periodical return in FORM GSTR-3 or FORM GSTR-4 (as the case may be) shall be furnished whether or not any supplies have been effected during the tax period. Here, it is relevant to note that the term "supplies" includes both inward and outward supplies.

However, a non-resident taxable person, an input service distributor, a person liable to deduct tax at source and person liable to collect tax at source would not be liable to furnish returns (in Forms GSTR-5, GSTR-6, GSTR-7 and GSTR-8, respectively) if they have not effected any supplies requiring them to furnish the respective forms (as mentioned above).

Q30. During the course of inspection/audit/scrutiny/enforcement activity, the department has pointed out certain omissions or incorrect particulars in the returns. Whether the assesse can rectify the returns to correct the omissions or incorrect particulars in its returns?

Ans. As per Section 39(9), where the omission / incorrect particulars are pointed out by the department during audit/inspection/scrutiny/enforcement, the assesse can rectify such omissions/incorrect particulars in the returns. In the month/quarter in which such omission/ incorrect particulars are noticed, the due tax and interest shall be payable thereon.

Q31. Whether the tax payable under GST Act has to be paid to the Central Government or the State Government?

Ans. As per section 39(7), the tax payable as per return has to be paid to the 'Government' on or before the due date for filing the return. Section 2(53) of the CGST Act defined 'Government' to mean the Central Government. Further, as per Section 2(9) of the IGST Act, the term 'Government' has been defined to mean the Central Government. Therefore, in respect of CGST and IGST taxes, the tax has to be paid to the credit of the Central Government. In respect of SGST, the tax has to be paid to the credit of the State Government.

Q32. I was liable to get registered from July 12, 2017. I got my registration only on August 16, 2017. How should I disclose the details of supplies effected during the period July 12, 2017 to August 16, 2017?

Ans. As per Section 40, a registered taxable person is required to file First Return to disclose the details of supplies effected during the period between the date on which he became liable to registration till the date on which registration is granted. Therefore, the assesse Will disclose the details from 12.07.2017 to 16.08.2017 in the August Return.

Q33. What is meant by provisional input tax credit?

Ans. The input tax credit availed by the recipient in its return is allowed to the recipient on a provisional basis. Once the input tax credit availed by the recipient is matched with the corresponding details of outward supply furnished by the supplier or with the additional duty of customs paid by the recipient in respect of imported goods, the input tax credit will become final.

Q34. What is meant by self-assessment?

Ans. Under the GST regime, the responsibility to compute the correct output tax liability, eligible input tax credit and net tax liability lies with the assesse. The assesse must determine the rate of tax, value of supply and the output tax payable. The assesse must also decide the eligibility of input tax credit in respect of the various inward supplies. The determination of turnover, rate of tax, value of supply, eligibility to input tax credit, reversal of input tax credit, etc. done by the assesse himself is called as self-assessment.

Q35. What is meant by matching of input tax credit?

Ans. As per Section 42(1), the details of inward supplies and input tax credit availed by the recipient and disclosed in FORM GSTR-2 have to be matched with the following: -

(a) Corresponding details of outward supply furnished by the supplier in his valid return for the same tax period or earlier tax period,

(b) Additional duty of customs paid under section 3 of the Customs Act in respect of imported goods, and

Further, duplication of claims of input tax credit would also be noted.

Also, the details of the GSTIN of the supplier, GSTIN of the recipient, invoice/debit note number, taxable value and the tax amount shall also be matched.

Q36. When will the input tax credit be finally accepted?

Ans. Once the details of inward supply and input tax credit are matched with the corresponding details of outward supply furnished by the supplier in his valid return for the same tax period (or earlier tax periods), or with the additional duty of customs paid by the person himself, the input tax credit shall be finally accepted. Once the input tax credit is finally accepted, the details of such acceptance will be communicated to the assesse in FORM GST MIS-1.

Q37. The recipient has inadvertently claimed input tax credit twice on the same invoice. What are the consequences of such duplicate claims?

Ans. Section 42(4) of the CGST Act provides that duplicate claims of input tax credit will be communicated to the recipient in FORM GST MIS-1. Such duplicate claim of input tax credit will be added to the output tax payable for the month in which such FORM GST MIS-1 is communicated to the recipient, and interest shall be payable thereon.

Q38. If the input tax credit availed in respect of certain supplies does not match with the details uploaded by the supplier, what is the procedure to be followed?

Ans. If the input tax credit claimed by the recipient is in excess of the output tax declared by the supplier for the same supply or where the supplier does not declare such outward supply in the returns, the discrepancy will be communicated to the supplier in FORM GST MIS-1 and to the recipient in FORM GST MIS-2 on or before the last day of the month in which such matching is carried out. On receipt of such communication, either the supplier or the recipient can rectify the details so as to match the claim of input tax credit. Where the supplier rectifies the mistake, the amount claimed as credit shall be allowed, and the supplier shall be liable to pay due tax and interest thereon. However, where the supplier does not accept the excess input tax credit claimed by the recipient, such excess shall be added to the output tax liability of the recipient in the following month, and interest shall be payable on such amount by the recipient.

Q39. The mismatch in input tax credit is due to the incorrect details entered by the recipient of the supplies. What is the procedure to followed by the recipient?

Ans. If there is a mismatch in the claim of input tax credit, a communication in FORM GST MIS-1 will be sent to the supplier and communication in FORM GST MIS-2 will be sent to the recipient of such supply. If the discrepancy is due to the incorrect particulars entered by the recipient, then the recipient can rectify such discrepancy in its return for the month in which FORM GST MIS-2 is communicated to him. Once the discrepancy is rectified and the input tax credit is matched, a communication in

FORM GST MIS-1 will be sent to the recipient and the claim of input tax credit will be finally accepted. However, if the recipient does not rectify the discrepancy in the month in which such discrepancy is communicated, the amount of tax payable on account of such discrepancy will be added to the output tax liability of the recipient for the month succeeding the month in which the discrepancy is communicated to the recipient the discrepancy is communicated.

Q40. The mismatch in input tax credit is due to the incorrect details entered by the supplier. What is the procedure to followed by the recipient?

Ans. If the supplier declares incorrect details in its FORM GSTR-1 or does not declare a particular supply in FORM GSTR-1, the recipient has an option of modifying/deleting/adding such details in FORM GSTR-2. Once the recipient modifies/deletes/adds such details in its FORM GSTR-2, the supplier will be intimated of such modification/deletion/addition in FORM GSTR-1A. The supplier has the option to accept or reject such modification/deletion/addition. If the supplier accepts such modification/deletion/addition, his FORM GSTR-1 is also amended accordingly and the issue of mismatch of credit does not arise. However, if the supplier rejects such modification/deletion/addition, then there will be a mismatch in the claim of input tax credit availed by the recipient. Such mismatch in input tax credit will be communicated to the supplier in FORM GST MIS-1 and in to the recipient in FORM GST MIS-2 on or before the last day of the month in which such matching is carried out. On receipt of such communication, either the supplier or the recipient can rectify the details so as to match the claim of input tax credit. If the supplier/recipient does not correct the discrepancy, the tax payable on account of such mismatch will be added to the output tax liability of the recipient in the month succeeding the month in which discrepancy is made available.

Q41. Whether the recipient is liable to pay interest on the differential tax liability arising due to the mismatch of input tax credit or due to duplicate claim of input tax credit?

Ans. As per section 42(8) of the CGST Act, the recipient is liable to pay interest on the differential tax liability arising on account of mismatch of input tax credit or due to duplicate claim of input tax credit at the rate specified in section 50(1). The interest is liable to be paid from the date on which credit is availed till the date on which such differential tax liability is added to the output tax liability of the recipient.

Q42. On a perusal of the provisions relating to mismatch of input tax credit, it is noticed that the tax payable on account of mismatch of input tax credit is added to the output tax liability of the recipient. Why is the recipient penalised for such mismatch?

Ans. As per section 155 of the CGST Act, if any person claims input tax credit, then the burden of proving such claim lies on him. Therefore, if the supplier does not declare the

supplies or declares output tax lower than the amount claimed as credit, the recipient is burdened with the differential tax liability.

Q43. The discrepancy communicated in FORM GST MIS-1 to the supplier has been rectified in subsequent return filed by the supplier. Should the recipient avail the credit once the supplier rectifies the return?

Ans. The input tax credit which remains unmatched is added to the output tax liability of the recipient in the month succeeding the month in which FORM GST MIS-2 is communicated to the recipient. However, if the supplier rectifies the discrepancy within the date for filing the return for the period of September of the succeeding financial year or before the annual return is submitted by him, then the recipient is eligible to reduce the output tax liability to the extent of differential tax liability paid on account of such input tax mismatch.

Q44. Illustration for ITC mismatch

- Goods supplied by A to B in the month of August 2017
- Value of goods = ₹ 1,000/-
- GST = ₹ 200/-
- A does not declare the details of such supplies in FORM GSTR-1.
- B claims input tax deduction of ₹ 200 by adding the details of such supply in FORM GSTR-2.
- A rejects the communication in FORM GSTR-1A.
- The department issues FORM GST MIS-1 to the supplier and FORM GST MIS-2 to the recipient in the month of September 2017.
- The supplier does not rectify the discrepancy by September 2017.
- The department adds ₹ 200 to the output tax liability of B for the month of October 2017.
- B is liable to pay ₹ 200 along with interest for the period August 2017 to October 2017.
- A rectifies the discrepancy in the month of December 2017.
- B can reduce output tax liability for January 2017 by ₹ 200. B will also be eligible for refund of interest paid earlier.

Q45. Whether the credit note issued by the supplier has to be matched with the corresponding reduction of input tax by recipient?

Ans. As per Section 43 of the CGST Act, the details of credit notes issued by the supplier in respect of outward supply and claimed as reduction in output tax liability has to be matched with a corresponding reduction of input tax by the recipient of the supply. Further, the credit note issued shall also be matched for duplication of reduction of output tax liability.

Q46. The assesse has inadvertently reduced its output tax liability twice on the same credit note. What are the consequences of such duplicate claims?

Ans. As per Section 43(1) of the CGST Act, all claims of reduction in output tax liability on account of credit notes will be matched so as to ensure that the supplier does not claim such deduction more than once for a particular credit note. Where the supplier claims such deduction more than once, such discrepancy will be communicated to the supplier in GST MIS-3. Such duplicate claim of reduction of output tax liability will be added to the output tax payable of the supplier for the month in which such GST MIS-3 is communicated to the supplier.

Q47. Deduction of output tax liability claimed on account of credit notes issued does not match with the corresponding reduction of input tax by the recipient? What is the procedure to be followed?

Ans. If the reduction in output tax liability claimed by the supplier does not match with the corresponding reduction of input tax by the recipient, then such discrepancy will be communicated to the supplier in FORM GST MIS-3 and to the recipient in FORM GST MIS-4 on or before the last day of the month in which such matching is carried out. On receipt of such communication, either the supplier or the recipient can rectify the details so as to match the claim of reduction in output tax liability and corresponding reduction of input tax credit.

Q48. The mismatch in reduction in output tax liability is due to the incorrect details entered by the recipient of the supply. What is the procedure to followed by the supplier?

Ans. If there is a mismatch in the claim of reduction of output tax liability, a communication in FORM GST MIS-3 will be sent to the supplier and a communication in FORM GST MIS-4 will be sent to the recipient of such supply. If the discrepancy is due to the incorrect particulars entered by the recipient, then the recipient can rectify such discrepancy in its return for the month in which GST MIS-4 is communicated to him. Once the discrepancy is rectified and the reduction in output liability is matched, a communication in FORM GST MIS-3 will be sent to the supplier and the claim of reduction in output tax liability will be finally accepted. However, if the recipient does not rectify the discrepancy in the month in which such discrepancy is communicated, the amount of tax payable on account of such discrepancy will be added to the output tax liability of the supplier for the month succeeding the month in which FORM GST MIS-4 is communicated to the recipient.

Q49. Whether the supplier is liable to pay interest on the differential tax liability arising due to the mismatch of reduction in output tax liability or due to duplicate claim of reduction of output tax liability?

Ans. As per Section 43(8) of the CGST Act, the supplier is liable to pay interest on the differential tax liability arising on account of mismatch of reduction in output tax liability or due to duplicate claim of reduction in output tax liability at the rate specified in

Section 50(1) of the CGST Act. The interest is liable to be paid from the date on which reduction in output tax liability is claimed till the date on which such differential tax liability is added to the output tax liability of the supplier.

Q50. The discrepancy communicated in FORM GST MIS-3 to the supplier has been rectified in subsequent return filed by the recipient. Can the supplier avail the reduction in output tax liability after the recipient rectifies the return?

Ans. The reduction in output tax liability which remains unmatched is added to the output tax liability of the supplier in the month succeeding the month in which FORM GST MIS-3 is communicated. However, if the discrepancy is rectified within the date for filing the return for the period of September of the succeeding financial year or before the annual return is submitted by him, then the supplier is eligible to reduce the output tax liability to the extent of differential tax liability paid on account of such mismatch.

Q51. Once the reduction in output tax liability mismatch has been rectified, whether the supplier is eligible for refund of the interest paid on the differential tax paid due to such mismatch?

Ans. As per Section 43(9) of the CGST Act, once the discrepancy in the reduction of output tax liability is rectified and such rectification is accepted, then the supplier is eligible to refund of interest paid earlier. The maximum interest refundable is equivalent to the interest paid by the recipient. The supplier has to make a claim for such refund in FORM GSTR-3. The interest to be refundable will be credited to the electronic cash ledger in FORM GST PMT-3 and will be available for any future payment of interest. Alternatively, the supplier can claim the refund of such amount by following the procedure set out in Section 54 of the CGST Act.

Q52. Whether the details furnished by e-commerce operator relating to tax collected at source has to be matched with supplies disclosed by the e-commerce supplier in FORM GSTR-1?

Ans. The supplied made through e-commerce operator as declared by the e-commerce operator in FORM GSTR-8 has to be matched with the corresponding details disclosed by the supplier in FORM GSTR-1. Where the supplier is liable to disclose invoice wise details in FORM GSTR-1, the matching with FORM GSTR-8 shall be done at invoice level. Where the supplier is not liable to disclose invoice wise details in FORM GSTR-2, the matching will done on the basis of total taxable value of supplies made in the State through e-commerce operator.

Q53. Details disclosed by the e-commerce operator in FORM GSTR-8 does not match with the corresponding details disclosed by the supplier in FORM GSTR-1? What is the procedure to be followed?

Ans. Where the details disclosed by the e-commerce operator in FORM GSTR-8 does not match with the corresponding details disclosed by the supplier in FORM GSTR-1, then such discrepancy will be communicated to the supplier in FORM GST MIS-3 and to the

e-commerce operator in FORM GST MIS-4 on or before the last day of the month in which such matching is carried out. On receipt of such communication, either the supplier can make suitable rectification in the statement of outward supplies to be furnished for the month in which the discrepancy is communicated or the e-commerce operator can make rectification in the statement to be furnished for the month in which such discrepancy is communicated.

Q54. What happens when the discrepancy is not rectified either by the supplier or by the e-commerce operator?

Ans. Where the discrepancy is not rectified by the e-commerce operator, an amount to the extent of the discrepancy will be added to the output tax liability of the supplier in his return in FORM GSTR-3 for the month succeeding the month in which the details of discrepancy is communicated.

Q55. Who is required to file an Annual Return? In what format such return should be furnished? What is the due date for furnishing such return?

Ans. All registered taxable persons are required to furnish an Annual Return for every financial year, electronically, in FORM GSTR-9. A registered taxable person paying opting to pay tax under the composition scheme is required to file the annual return in FORM GSTR-9A. However, the below mentioned registered taxable persons are not required to file an Annual Return:-

(a) Input Service Distributor

(b) Person liable to deduct tax at source as per Section 51 (for the purpose of TDS)

(c) Person liable to collect tax at source as per Section 52 (for the purpose of TCS)

(d) Casual taxable person

(e) Non-resident taxable person

Such returns should be furnished on or before 31st December of the following the end of financial year.

Q56. Whether the Annual Return is required to be audited by Chartered Accountant / Cost Accountant?

Ans. If the turnover of the registered taxable person exceeds ₹ 2 crore, then the Annual Return is required to be audited by a Chartered Accountant or Cost Accountant. Further, they also have to submit reconciliation statement in FORM GSTR-9C. If the turnover does not exceed ₹ 2 crore, the registered taxable person can himself compile the details in FORM GSTR-9 and submit the return.

Q57. Who is required to furnish Final Return?

Ans. Any registered taxable person whose registration has been cancelled is required to file Final return in FORM GSTR-10. The return has to be filed within three months from the date of cancellation or date of order of cancellation, whichever is later.

Q58. What are the consequences of not filing any particular return?

Ans. If the registered taxable person fails to furnish the return in FORM GSTR-3 or GSTR-4 or GSTR-5 or GSTR-6 or GSTR-7 or Final return in FORM GSTR-10, the department will issue a notice in FORM GSTR-3A asking the registered taxable person to furnish the particular return within 15 days.

Q59. Who is a goods and service tax practitioner? Whether the goods and service tax practitioner can file returns of behalf of the registered taxable persons?

Ans. Goods and service tax practitioner is a person who has been approved to act as a goods and service tax practitioner as per Section 48 of the CGST Act, 2017. He has to satisfy the conditions and eligibility as prescribed under the Rules to act as a goods and service tax practitioner.

A registered taxable person can authorise an approved goods and service tax practitioner to file the returns in FORM GSTR-1, GSTR-2, GSTR-3, GSTR-4, GSTR-5, GSTR-6, GSTR-7, Annual return in FORM GSTR-9 and Final return in FORM GSTR-10, and also to perform other tasks as may be prescribed. In respect of returns filed by the goods and service tax practitioner, the registered taxable person will be responsible for the correctness of the details furnished in the returns.

Q60. What is the due date of filing FORM GST ITC-01?

Ans Registered person shall within a period of 30 days from the date of becoming eligible to avail the input tax credit under section 18(1) of the CGST Act, or within such further period as may be extended by the Commissioner by a notification in this behalf, shall make a declaration, electronically, on the common portal in FORM GST ITC-01 to the effect that he is eligible to avail the input tax credit.

Time line for filing of FORM ITC-01 for the month of July, August and September,2017 have been extended from time to time as:

DETAIL/ RETURN	MONTH	DUE DATES
ITC-01	July 2017	1. Extended up to 90 days from the appointed day *vide Notification No. 22/2017- Central Tax, dated 17.08.2017* *2.* Further Extended up to 31.10.2017 *vide Notification No. 44/2017- Central Tax, dated 13.10.2017* 3. Further Extended up to 30.11.2017 *vide Notification No. 52/2017- Central Tax, dated 28.10.2017*

		4. Further Extended up to 31.01.2018 *vide Notification No. 67/2017- Central Tax, dated 21.12.2017*
ITC-01	August & September 2017	*1.* Extended up to 31.10.2017 *vide Notification No. 44/2017- Central Tax, dated 13.10.2017* *2.* Further Extended up to 30.11.2017 *vide Notification No. 52/2017- Central Tax, dated 28.10.2017* 3. Further Extended up to 31.01.2018 *vide Notification No. 67/2017- ,Central Tax, dated 21.12.2017*
ITC-01	October, 2017 and November, 2017	Extended up to 31.01.2018 *vide Notification No. 67/2017- Central Tax, dated 21.12.2017*

Q61. What is the due date of filing FORM GST ITC-04?

Ans Details of challans in respect of goods dispatched to a job worker or received from a job worker or sent from one job worker to another during a quarter shall be furnished in FORM GST ITC-04 for that period on or before the 25th of the month succeeding the said quarter or within such further period as may be extended by the Commissioner.

Time line for filing of FORM ITC-04 for July -Sept 2017 quarter have been extended from time to time as:

DETAIL/ RETURN	MONTH	ORIGINAL DUE DATE	DUE DATES
ITC-04	Quarter from July -Sept 2017	25.10.2017	*1.* Extended up to 30.11.2017 *vide Notification No. 53/2017- Central Tax, dated 28.10.2017.* 2. Further extended up to 31.12.2017 *vide Notification No. 63/2017- Central Tax, dated 15.11.2017.*

MCQ's

Returns (Section 37 To 48)

Q1. The details of outward supplies of goods or services shall be submitted by

(a) 10th of the succeeding month

(b) 18th of the succeeding month

(c) 15th of the succeeding month

(d) 20th of the succeeding month

Ans. *(a) 10th of the succeeding month*

Q2. Details of Outward supplies shall include

(a) Invoice

(b) Credit and Debit notes

(c) Revised invoice issued in relation to outward supplies

(d) All the above

Ans. *(d) All the above*

Q3. The details submitted by the outward supplier in Form GSTR 1 shall be furnished to the recipient regular dealer in form

(a) GSTR 4A

(b) GSTR 5A

(c) GSTR 2A

(d) GSTR 6A

Ans. *(c) GSTR 2A*

Q4. The details submitted by the outward supplier in Form GSTR 1 shall be furnished to the recipient compounding dealer in form

(a) GSTR 4A

(b) GSTR 5A

(c) GSTR 2A

(d) GSTR 6A

Ans. *(a) GSTR 4A*

Q5. The details submitted by the outward supplier in Form GSTR 1 shall be furnished to the input service distributor in form

(a) GSTR 4A

(b) GSTR 5A

(c) GSTR 2A

(d) GSTR 6A

Ans. *(d) GSTR 6A*

Q6. Which of the following is true?

(a) The Commissioner may extend the time limit for furnishing the details of outward supplies by notification for valid reasons

(b) The details of outward supplies shall include details of debit notes, credit notes and revised invoices issued in relation to outward supplies

(c) The details of outward supplies shall be submitted in Form GSTR-1 by all the registered taxable person other than ISD, non-resident tax payer and a person paying tax under section 10, section 51 and section 52

(d) All the above

Ans. *(d) All the above*

Q7. The details submitted by the supplier in Form GSTR 1 are communicated to the registered taxable person in

(a) Form GSTR 1A on 17th of the succeeding month

(b) Form GSTR 2A on 15th of the succeeding month

(c) Form GSTR 2A after the due date of filing Form GSTR 1

(d) Form GSTR 1A on 15th of the succeeding month

Ans. *(c) Form GSTR 2A after the due date of filing Form GSTR 1*

Q8. Which of the following is a correct statement?

(a) Every registered taxable person other than ISD, non-resident tax payer & a person paying tax under section 10, 51 or 52 shall verify, validate, modify or delete the details communicated in Form GSTR 2A

(b) The details of outward supplies communicated in Form GSTR 2A cannot be modified or altered

(c) The registered taxable person should accept the details communicated in Form GSTR 2A by 12th of the succeeding month

(d) The registered taxable person other than ISD, non-resident tax payer & a person paying tax under section 10, 51 or 52 shall furnish the details of inward supplies of goods or services excluding tax payable on reverse charge basis.

Ans. *(a) Every registered taxable person other than ISD, non-resident tax payer & a person paying tax under section 10, 51 or 52 shall verify, validate, modify or delete the details communicated in Form GSTR 2A.*

Q9. The details of inward supplies of goods or services in Form GSTR 2 shall be submitted by

(a) 10th of the succeeding month

(b) 18th of the succeeding month

(c) 15th of the succeeding month

(d) 20th of the succeeding month

Ans. *(c) 15th of the succeeding month*

Q10. Details of Inward supplies shall include

(a) Inward supplies of goods and services communicated in Form GSTR 2A

(b) Inward supplies in respect of which tax is payable under reverse charge mechanism

(c) Inward supplies of goods and services not declared by suppliers

(d) All the above

Ans. *(d All the above*

Q11. Any modification / deletion done by the recipient to the details contained in Form GSTR 2 shall be communicated to the supplier in:

(a) Form GSTR 1A

(b) Form GSTR 3A

(c) Form GSTR 6A

(d) Form GSTR 2A

Ans. *(a) Form GSTR 1A*

Q12. The supplier on receiving the communication in Form GSTR 1A shall accept, reject or modify the details by:

(a) 18th of the succeeding month

(b) 20th of the month succeeding the quarter

(c) 17th of the succeeding month

(d) 10th of the succeeding month

Ans. *(c) 17th of the succeeding month*

Q13. A registered taxable person other than ISD, non-resident tax payer & a person paying tax under section 10, 51 or 52, shall file its periodical in:

(a) Form GSTR 3 by 18th of the month succeeding the quarter

(b) Form GSTR 4 by 18th of the month succeeding the quarter

(c) Form GSTR 4 by 18th of the succeeding month

(d) Form GSTR 3 by 20th of the succeeding month

Ans. *(d Form GSTR 3 by 20th of the succeeding month*

Q14. Every tax payer paying tax under section 10 (Composition levy) shall file the return in

(a) Form GSTR 3 by 18th of the month succeeding the quarter

(b) Form GSTR 4 by 18th of the month succeeding the quarter

(c) Form GSTR 4 by 18th of the succeeding month

(d) Form GSTR 4 by 20th of the month succeeding the quarter

Ans. *(b Form GSTR 4 by 18th of the month succeeding the quarter*

Q15. Which of the following is correct?

(a) Non-Resident taxable person shall file the return by 20th of succeeding month in Form GSTR 5

(b) Input Service Distributor shall furnish the return by 13th of the succeeding month in Form GSTR 6

(c) The person deducting tax at source shall furnish the return by 10th of the succeeding month in Form GSTR 7

(d) All the above

Ans. *(d All the above*

Q16. The certificate of details of tax deducted by the deductor shall be furnished to the deductee in Form

(a) GSTR 7

(b) GSTR 7A

(c) GSTR 2A

(d) GSTR 1A

Ans. *(b) GSTR 7A*

Q17. The e-commerce operator collecting tax under section 52 shall file its monthly return in

(a) Form GSTR 8 by 18th of the succeeding month

(b) Form GSTR 7 20th of the month succeeding the quarter

(c) Form GSTR 8 17th of the succeeding month

(d) Form GSTR 8 10th of the succeeding month

Ans (d) Form GSTR 8 10th of the succeeding month

Q18. State which is a true statement:

(a) The last date for payment of taxes to the appropriate government is the last date on which the registered taxable person is required to furnish the return

(b) Every person who is required to furnish return under 39(1) and 39(2) shall furnish return for every tax period whether or not supplies have been effected during such period.

(c) Both (a) and (b)

(d) None of the above

Ans. *(d) Both (a) and (b)*

Q19. GSTR 3, GSTR 4 and GSTR 6 filed can be rectified on the grounds of

(a) Any omission or incorrect particulars

(b) Omission or incorrect particulars found during Audit

(c) Omission or incorrect particulars found during Scrutiny

(d) Omission or incorrect particulars found during Inspection

Ans. *(a) Any omission or incorrect particulars*

Q20. What is the time limit for rectification of GSTR 1, GSTR 4 and GSTR 6?

(a) Return can be rectified within 6 months from the date of filing the return

(b) Return can be rectified within 90 days from the date of filing the return

(c) Return have to be rectified before the due date for filling the subsequent periods return

(d) Return can be rectified before the due date for filing the returns for month of September or second quarter, as the case may be, following the end of the financial year.

Ans. *(d) Return can be rectified before the due date for filing the returns for month of September or second quarter, as the case may be, following the end of the financial year*

Q21. The First return shall be filed by every registered taxable person for the period from

(a) The date on which he became liable for registration till the date of grant of registration

(b) The date of registration to the last day of that month

(c) The date on which he became liable for registration till the last day of that month

(d) All of the above

Ans. *(a) The date on which he became liable for registration till the date of grant of registration*

Q22. The details of inward supply furnished by the registered taxable person shall be matched with the

(a) Corresponding details of outward supply furnished by the corresponding taxable person

(b) Additional duty of customs paid under section 3(5) of the Customs Tariff Act, 1975

(c) For duplication of claims of input tax credit

(d) All of the above

Ans. *(d) All of the above*

Q23. If Input credit claimed by recipient is more than the output tax declared by the supplier or if the supplier has not declared the outward supply, then

(a) The excess amount claimed as input is added to the output tax liability of the recipient in the return of succeeding month

(b) The discrepancy is communicated to both the supplier and receiver

(c) The excess amount claimed as input is added to the output tax liability of the supplier

(d) The supplier is given an opportunity of being heard

Ans. *(b) The discrepancy is communicated to both the supplier and receiver*

Q24. The discrepancy pointed out in GST MIS 1 and GST MIS 2 with regard to excess input tax credit claimed has not been rectified the by the supplier as well as the recipient. The excess input tax credit is

(a) Added to the output tax liability of the recipient

(b) Added to the output tax liability of the supplier

Ans. *(a) Added to the output tax liability of the recipient*

Q25. Every registered taxable person shall be entitled to take credit of input tax in his return and such input tax credit shall be credited to

(a) Personal Ledger Account

(b) Refund account

(c) Electronic Cash Ledger

(d) Electronic Credit Ledger

Ans. *(d) Electronic Credit Ledger*

Q26. The details of every credit note relating to outward supplies furnished by the registered taxable person shall be matched

(a) With corresponding reduction in claim for input tax credit by the corresponding taxable person in his valid return for the same tax period or any subsequent tax period.

(b) For duplication of claims for reduction in the output tax liability

(c) All of the above

(d) None of the above

Ans. *(c) All of the above*

Q27. If the reduction in output tax liability claimed by the supplier is more than the corresponding reduction in input tax credit declared by the recipient or if the recipient has not reduced the input tax liability, then

(a) The excess reduction claimed is added to the output tax liability of the recipient

(b) The discrepancy is communicated to both the supplier and receiver

(c) The excess reduction claimed is added to the output tax liability of the supplier

(d) The supplier is given an opportunity of being heard

Ans. *(b) The discrepancy is communicated to both the supplier and receiver*

Q28. The discrepancy pointed out in GST MIS 3 and GST MIS 4 with regard to excess reduction of output tax has not been rectified the by the supplier as well as the recipient. The excess reduction of output tax is

(a) Added to the output tax liability of the recipient

(b) Added to the output tax liability of the supplier

Ans. *(b) Added to the output tax liability of the supplier*

Q29. The due date for furnishing the annual return for every financial year by every registered taxable person other than ISD, non-resident tax payer, a person paying tax under section 10, 51 or 52 and a casual taxable person is

(a) 30th of September following the end of the financial year

(b) 20th of October following the end of the financial year

(c) 31st of December following the end of the financial year

(d) 31st of May following the end of the financial year

Ans. *(c) 31st of December following the end of the financial year*

Q30. Every registered taxable person who is required to get his accounts audited under section 35(5) shall furnish electronically

(a) Annual return

(b) Audited copy of annual accounts

(c) Reconciliation statement reconciling the value of supplies declared in the return and the financial statement

(d) All of the above

Ans. *(d) All of the above*

Q31. The annual return shall be filed by the registered taxable person (other than dealers paying tax under section 10) in form

(a) GSTR 7

(b) GSTR 9

(c) GSTR 9A

(d) GSTR 10

Ans. *(b) GSRT 9*

Q32. Find the correct match of annual returns to be filed

(a) Registered taxable person – Form GSTR 8

(b) Input service distributor – Form GSTR 9

(c) Non Resident taxable person – Form GSTR 9B

(d) Compounding taxable person – Form GSTR 9A

Ans. *(d) Compounding taxable person – Form GSTR 9A*

Q33. Notice to non-filers of return shall be sent in Form

(a) GSTR 5

(b) GSTR 3

(c) GSTR 3A

(d) GSTR 10

Ans. *(c) GSRT 3A*

Q34. The final return shall be filed by the registered taxable person within

(a) 3 months of the date of cancellation

(b) Date of order of cancellation

(c) Later of the (a) or (b)

(d) Earlier of the (a) or (b)

Ans. *(d) Later of (a) or (b)*

Q35. Which of the following is correct?

(a) Failure to file annual return within due date attracts a late fee of ₹ 100 per day up to 0.25% of his turnover

(b) Failure to file annual return within due date attracts late fee of 1% of his turnover till the failure continues

(c) Failure to file annual returns within due date attracts a late fee of ₹ 100 per day up to 1% of his turnover.

(d) On failure to file annual return within due date the proper officer shall issue a notice of non-filing on such person

Ans. *(a) Failure to file annual return before due date attracts a late fee of ₹ 100 per day up to 0.25% of his turnover*

Q36. A goods and service tax practitioner can undertake the following activities if authorized by the taxable person

(a) Furnish details inward and outward supplies

(b) Furnish monthly / quarterly return

(c) Furnish Annual and Final return

(d) All of the above

Ans. *(d) All of the above*

Chapter VIII
Payment of Tax

FAQ's

Payment of tax, interest, penalty and other amounts (Section 49)

Section 49 of the CGST Act, 2017 made applicable to IGST *vide* Section 20 of the IGST Act, 2017 and UTGST vide Section 21 of the UTGST Act, 2017

Q1. What is Electronic tax liability register?

Ans. Electronic tax liability register is a register to be maintained in the common portal of GST in FORM GST PMT-01 to record all liabilities of a taxable person. Part-I is for recording return related liabilities and Part-II is for recording other than return related liabilities.

Q2. What are the possible debits and credits to Electronic tax liability register?

Ans. The possible debits and credits to Electronic tax liability register are as follows;

Debit	Credit
• the amount payable towards tax, interest, late fee or any other amount payable as per the return filed by the said person; • the amount of tax, interest, penalty or any other amount payable as determined by a proper officer in pursuance of any proceeding under the Act or as ascertained by the said person; • the amount of tax and interest payable as a result of mismatch under section 42 or section 43 or section 50; or • any amount of interest that may accrue from time to time.	• Electronic credit ledger (Payment of Amount deducted u/s 51 or amount collected u/s 52, amount payable on Reverse Charge basis, amount payable u/s 10, any amount payable towards interest, penalty, fee or any other amount under the Act) • Electronic cash ledger • Relief given by the Appellate Authority or Appellate Tribunal or Court • Reduction in penalty (if any)

Q3. What is Electronic credit ledger?

Ans. Electronic credit ledger is a register to be maintained in the common portal of GST in FORM GST PMT-02 to record input tax credit claimed, utilization, reversal and refund.

Q4. What action needs to be taken if there is any discrepancy in the Electronic Credit Ledger?

Ans. In case of discrepancy in the Electronic Credit Ledger the taxable person needs to communicate the same to the Jurisdictional officer through common portal in FORM GST PMT-04.

Q5. What are the possible debits and credits to Electronic credit ledger?

Ans. The possible debits and credits to Electronic credit ledger are as follows:

Debit	Credit
(i) Discharge of any liability in accordance with Section 49; (ii) Towards claim for refund of unutilized amount.	(i) Input tax credit claimed; (ii) Reversal of amount debited earlier, on account of final rejection of refund (FORM GST PMT-03).

Q6. What is Electronic cash ledger?

Ans. Electronic cash ledger is a register to be maintained in the common portal of GST in FORM GST PMT-05 to record deposit of tax, interest, penalty and other amounts, utilization thereof and refund.

Q7. What are the possible debits and credits to Electronic cash ledger?

Ans. The possible debits and credits to Electronic cash ledger are as follows:

Debit	Credit
i. Discharge of any liability in accordance with Section 49 ii. Towards claim for refund of any amount	i. Payment made through challan on receipt of CIN ii. Amount deducted under Section 51 and claimed in FORM GSTR-02 by the registered taxable person from whom the said amount was deducted iii. Amount collected under Section 52 and claimed in FORM GSTR-02 by the registered taxable person from

	whom the said amount was collected iv. Reversal of amount debited earlier on account of final rejection of refund (FORM GST PMT-03)

Q8. How one can deposit tax under GST?

Ans. Any person, or a person on his behalf, shall generate a challan in FORM GST PMT-06 on the Common Portal and enter the details of the amount to be deposited by him towards tax, interest, penalty, fees or any other amount and pay the amount through any of the following modes:

(i) Internet banking through authorized bank;

(ii) Credit/debit card through the authorized bank;

(iii) National Electronic Fund Transfer (NEFT) or Real Time Gross Settlement (RTGS) from any bank;

(iv) Over the Counter payment (OTC) through authorized banks for deposits upto ₹ 10,000/- per challan per tax period, by cash, cheque or demand draft.

Further, a person supplying online information and database access or retrieval services ("OIDAR") from a place outside India to a non-taxable online recipient referred to in section 14 of the IGST Act, 2017 may also make the deposit under Rule 87(2) through international money transfer through Society for Worldwide Interbank Financial Telecommunication payment network, from the date to be notified by the Board

Q9. To whom the restriction of deposits upto ₹ 10,000/- per challan per tax period, by cash, cheque or demand draft is not applicable?

Ans. The restriction of deposits upto ₹ 10,000/- per challan per tax period, by cash, cheque or demand draft is not applicable to the deposit made by:

(a) Government Departments or any other deposit to be made by persons as may be notified by the Commissioner in this behalf;

(b) Proper officer or any other officer authorized to recover outstanding dues from any person, whether registered or not, including recovery made through attachment or sale of movable or immovable properties;

(c) Proper officer or any other officer authorized for the amounts collected by way of cash or cheque, demand draft during any investigation or enforcement activity or any ad hoc deposit:

Q10. What is the validity of challan FORM GST PMT-06 generated at the common portal?

Ans. The challan FORM GST PMT-06 generated at the common portal shall be valid for a period of fifteen days.

Q11. Can OIDAR file FORM GST PMT-06?

Ans. Yes, in terms of second proviso to Rule 87(2) inserted vide *Notification No. 22/2017 – Central Tax dated 17.08.2017* a person supplying online information and database access or retrieval services i.e., OIDAR from a place outside India to a non-taxable online recipient referred to in section 14 of the IGST Act, 2017 may also file FORM GST PMT-06 through the Board"s payment system namely, Electronic Accounting System in Excise and Service Tax from the date to be notified by the Board

Q12. What are the special procedures to be followed for deposit of tax by way of NEFT or RTGS?

Ans. In order to deposit tax by way of NEFT or RTGS, the taxable person needs to generate a mandate form along with the challan and submit it to Bank for processing.

Q13. What is the validity of mandate form generated at the common portal?

Ans. The mandate form generated at the common portal shall be valid for a period of fifteen days from the date of generation of challan.

Q14. What is Challan Identification Number (CIN) and when can it be generated?

Ans. Challan Identification Number (CIN) is the number generated for identification of payment made by the taxable person. It will be generated upon successful credit of the amount to the concerned government account maintained in the authorized bank. CIN shall be generated by the collecting bank and the same shall be indicated in the challan.

Q15. What to do if in case where account is debited with the amount paid under GST but CIN is not generated?

Ans. Where the bank account of the concerned taxable person, or the person making the deposit on his behalf, is debited but no Challan Identification Number (CIN) is generated or generated but not communicated to the common portal, the said person may represent electronically in FORM GST PMT-07 through the Common Portal to the Bank or electronic gateway through which the deposit was initiated.

Q16. Should the payment be made only from the account of the taxable person?

Ans. There is no restriction on the account to be used of the taxable person for payment of the tax. The payment can be made by a third party from his account using the GSTIN of the taxable person to get the amount debited to the electronic cash ledger of the taxable person.

Q17. Where tax is paid at 11:00 P.M. on 20th October 2017 and filed returns on the same day. If for any reason the amount is credited to the account of the appropriate Government on 21st October 2017, will it amount to default? (without considering actual extension dates)

Ans. The date of credit to the account of the appropriate Government in the authorized bank shall be deemed to be the date of deposit in the electronic cash ledger. Therefore, in this case the date of payment/deposit of tax shall be 21st October 2017, which means a delay of one day in payment of tax.

Q18. Where one can see the payment made in GST portal?

Ans. All payments will reflect in the 'electronic cash ledger' of the person. As the portal is common for CGST, SGST, UTGST and IGST, all the payments will be reflected in a single electronic cash ledger. However, cross utilization may not be allowed within the ledger.

Q19. Will the input tax credit claimed by a taxable person get added to the balance in electronic cash ledger?

Ans. No, input tax credit will appear separately in the 'electronic credit ledger' maintained in the common portal.

Q20. What are the differences between electronic cash ledger and electronic credit ledger?

Ans.

Sl. No.	Electronic cash ledger	Electronic credit ledger
1.	Can be used for payment of tax, interest, penalty and other amounts	Can be used only for payment of output tax
2.	Credit to the ledger will be through payment vide Challans	Credit to the ledger will be through input tax credit claimed as per FORM GSTR-2 (inward return)
3.	Refund for excess balance in the cash ledger can be applied through GSTR-03 or 04 or 07	Refund for excess balance in credit ledger may be refunded only though the forms specified

Q21. Can one use input tax credit for payment of interest/penalty?

Ans. No, as per Section 49(4) of the CGST Act, 2017 the amount available in the electronic credit ledger may be used for making any payment towards 'output tax' payable only. As per Section 2(82) of the CGST Act, 2017, '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. Therefore, input tax credit cannot be used for payment of interest/penalty.

Q22. Can one use input tax credit for payment of tax under reverse charge basis?

Ans. No, the amount available in the electronic credit ledger may be used for making any payment towards 'output tax'. Further, the definition of output tax u/s 2(82) specifically excludes tax payable under reverse charge basis. Therefore, input tax credit cannot be used for payment of tax under reverse charge basis.

Q23. What is the manner/order of utilization of input tax credit?

Ans. The manner/order of utilization of input tax credit is as follows:

- The amount of IGST credit in the electronic credit ledger can be utilized in the following order:

  IGST against IGST-CGST-SGST/UTGST

  Eg: If IGST credit available is ₹ 100, IGST liability is ₹ 50, CGST liability is ₹ 40 and SGST/UTGST liability is ₹ 30. The credit will be utilized as follows:

  In this case the balance of SGST/UTGST may be paid using SGST/UTGST credit or by cash.

- CGST against CGST-IGST
- SGST/UTGST against SGST-IGST
- SGST/UTGST against CGST or CGST against SGST/UTGST – Not allowed

Q24. Is there any order in which liability of a person shall be discharged or it can be appropriated as per the convenience of the tax payer?

Ans. No, every taxable person shall discharge his tax and other dues 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 66 or 67.

Note 1:"tax dues" means the tax payable under this Act and does not include interest, fee and penalty.

Note 2:"other dues" means interest, penalty, fee or any other amount payable under the Act or the rules made thereunder .

Q25. Will the Electronic credit ledger be debited only with matched input tax credit?

Ans. No, the Electronic credit ledger be debited with matched, unmatched and also provisional input tax credit.

Q26. Is principles of unjust enrichment applicable for payment made under GST?

Ans. Yes, 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.

Q27. Who will bear the commission charged by bank towards payment of taxes online?

Ans. The commission charged by bank towards payment of taxes online shall be borne by the taxable person making such payment.

Q28. What is the procedure for payment of tax for a casual taxable person or non-resident taxable person who is required to pay tax in advance for obtaining registration?

Ans. As GSTIN will not be available with the casual taxable person or non-resident taxable person required to pay tax in advance for obtaining registration, they will be provided a temporary identification number using which the person can deposit estimated tax liability.

Q29. Can one pay CGST, IGST, UTGST and SGST together or should be paid separately in different challans?

Ans. FORM GST PMT-06 contains separate columns for CGST, IGST, UTGST and SGST which shall deposit the amount to the respective account of the government though paid through a single challan, therefore, CGST, IGST, UTGST and SGST can be paid together in a single challan.

Q30. What is the due date for payment of tax under GST?

Ans. As per section 37(7), every registered taxable person, who is required to furnish a return shall pay to the account 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. Therefore, the due date for payment of tax shall be the due date for filing of returns.

Q31. Should the challan be apportioned against a fixed tax period or can be used against any liability of a taxable person?

Ans. The challan for payment of tax (FORM GST PMT-06) does not collect details of the period for which the deposit of tax is made, and any amount deposited through the challan is debited to the electronic credit ledger, from which the amount can be utilized against any liability.

Q32. Is HSN code for goods or accounting code for service relevant for payment of tax?

Ans. The format of challan does not contain column to disclose the HSN code or the accounting code, therefore, it is not relevant for payment of tax.

Q33. How do we ensure that SGST is paid to the appropriate State Government?

Ans. There is a specific column in FORM GST PMT-06, wherein the Name of the State will be auto-populated/selected at the time of filling the challan to ensure that SGST is paid to the appropriate State Government.

Q34. Should a taxable person maintain any minimum balance in the electronic cash ledger?

Ans. There are no provisions in the GST Acts or rules which prescribes maintenance of minimum balance in the electronic cash ledger.

Interest on delayed payment of tax (Section 50)

Section 50 of the CGST Act, 2017 made applicable to IGST *vide* Section 20 of the IGST Act, 2017 and UTGST *vide* Section 21 of the UTGST Act, 2017

Q35. What are the provisions in relation to interest under GST?

Ans. Interest is applicable on delayed payment of tax at the rate to be notified (not exceeding 18%) and on undue or excess claim of input tax credit or on undue or excess reduction of output tax liability at the rate to be notified (not exceeding 24%), calculated from the from the day succeeding the day on which such tax was due to be paid Interest is applicable in case of undue or excess claim of input tax credit as well (Section 50).

Q36. If there is default in payment of tax and filing of returns, interest is payable on gross tax payable or net tax payable?

Ans. Gross tax payable, if there is default in payment of tax and filing of returns, input tax credit will become ineligible as per Section 16(2) of the CGST Act. Therefore, the taxable person will not be allowed claim set-off of input tax credit for calculation of interest.

Q37. There is no specific provision for interest under IGST Act, does this mean interest is not applicable for delay in payment of IGST?

Ans. No, provision of Section 50 of the CGST Act has been made applicable to IGST Act vide miscellaneous provision contained in section 20 of the IGST Act.

Q38. Is payment of interest mandatory?

Ans. Interest being compensatory in nature, it is mandatory. Further, Section 50 uses the word ‘shall’ which also indicates that interest is mandatory.

Tax deduction at source (Section 51)

Section 51 of the CGST Act, 2017 made applicable to IGST *vide* Section 20 of the IGST Act, 2017 and UTGST *vide* Section 21 of the UTGST Act, 2017

Q39. What is Tax deduction at source?

Ans. Tax deduction at source ('TDS') is a mechanism wherein the recipient of goods or services or both will deduct out of the amount payable to the supplier, an amount at a percentage of value of supply and deposit the same to the account of the Government within the time prescribed.

Q40. What is the rate of TDS?

Ans. The rate of TDS is 1% of the value of supply.

Q41. Who is liable to deduct tax at source?

Ans. In terms of Section 51 (1) of the CGST Act, the Government may mandate the following person to deduct tax at source-

(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.

It is pertinent to mention that Central Government *vide Notification No. 33/2017 – Central Tax dated 15.09.2017* appoints the September 18, 2017 as the date on which the provisions of section 51(1) of the CGST Act shall come into force with respect to persons specified under section 51(1) (a) & (b) and also notifies the following persons under Section 51(1)(d):

(a) an authority or a board or any other body, -

(i) set up by an Act of Parliament or a State Legislature; or

(ii) established by any Government,

with 51 % or more participation by way of equity or control, to carry out any function;

(b) society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860 (21 of 1860);

(c) public sector undertakings:

The Notification also states that TDS provisions shall come into effect from a date to be notified subsequently, on the recommendations of the Council, by the Central Government.

Press Release issued by the Government highlighting decisions of 22nd GST Council Meeting, reads that after assessing the readiness of the trade, industry and Government departments, it has been decided that registration and operationalization of TDS/TCS provisions shall be postponed till 31.03.2018

Q42. Whether person liable to deduct tax, make TDS even if the supplier has charged GST in his invoice?

Ans. Yes, the taxable person shall deduct the tax irrespective of whether GST is charged in the invoice or not.

Q43. What is the threshold limit for tax deduction at source?

Ans. The threshold limit for tax deduction at source is ₹ 2.5 Lakh. In other words, where the value of supply under contract exceed ₹ 2,50,000 TDS needs to be deducted. For the purpose of computation of threshold limit, contract value needs to be considered and not the invoice value or payment amount. However, for the purpose of ascertaining the threshold limit, the value of supply shall be considered as the amount excluding taxes.

Q44. What are the compliances to be adhered by the deductor and specify the due dates for the same?

Ans. The following are the compliances to be adhered by the deductor and the due dates for the same:

Payment of TDS	Issue of Certificate
The deductor is liable to pay the amount deducted from the supplier to the Government within 10 days of the subsequent month	The deductor is liable to issue Certificate in **Form GSTR-7A** to the deductee within 5 days from the date of payment of tax to the Government mentioning therein contract value, rate of deduction, amount deducted, amount paid to government etc.

Q45. What will happen if the deductor fails to issue TDS Certificate within the time prescribed?

Ans. If the deductor fails to issue TDS Certificate within the time prescribed, the deductor shall be liable to pay, by way of a late fee, a sum of ₹ 100 per day from the day after the expiry of such five days period until the failure is rectified, subject to a cap of ₹ 5,000/-

Q46. If the rate of GST on the supply on which TDS is applicable is 18% and TDS @ 1% is made at the time of payment, will the effective rate of tax become 19%?

Ans. No, tax deducted at source by the deductor is available to deductee as credit. Therefore, the deductee will effectively pay tax at only 18% (17% by cash/input tax credit and 1% by utilization of TDS credit).

Q47. Is interest applicable on non-payment of TDS?

Ans. Yes, the deductor shall be liable to pay interest in accordance with the provisions of Section 50(1) for failure to pay the amount deducted as tax.

Electronic Commerce – Collection of tax at source (Section52)

Section 52 of the CGST Act, 2017 made applicable to IGST *vide* Section 20 of the IGST Act, 2017 and UTGST *vide* Section 21 of the UTGST Act, 2017

Press Release issued by the Government highlighting decisions of 22nd GST Council Meeting held on 6.10.2017, reads that after assessing the readiness of the trade, industry and Government departments, it has been decided that registration and operationalization of TDS/TCS provisions shall be postponed till 31.03.2018.

[http://www.cbec.gov.in/resources//htdocs-cbec/gst/20171006_PressRelease_22ndGSTCMeeting.pdf]

Q48. What is electronic commerce and who is an electronic commerce operator?

Ans. As per Section 2(44) of the CGST Act, 2017, electronic commerce means supply of goods and/or services including digital products over digital or electronic network. As per section 2(45) of the CGST Act, 2017 electronic commerce operator means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce.

Q49. Can the electronic commerce operator sell goods and/or services on his own behalf?

Ans. Yes, there is no such restrictions under the GST. However, it would be treated as any other form of supply of goods and/or services and chargeable to tax accordingly. Since the goods and/or services are supplied on his own behalf, provisions of collection of tax source do not apply to such transaction.

Q50. What would be the rate of tax for collection of tax at source applicable to electronic commerce operator and on what value would the rate of tax be applied on?

Ans. The rate of tax for collection of tax source prescribed in the CGST Act, 2017 is 1%. The said 1% would be on the net value of taxable supplies made through the electronic commerce by other suppliers where the consideration with respect to such supplies is to be collected by the electronic commerce operator.

Where, net value of taxable supplies" shall mean the aggregate value of taxable supplies of goods or services or both, other than services notified under section 9(5) of the CGST Act, 2017 made during any month by all registered persons through the operator reduced by the aggregate value of taxable supplies returned to the suppliers during the said month.

Q51. Does the net value of taxable supplies include all the transactions made through

electronic commerce?

Ans. No, net value does not include transactions pertaining to supply of services notified by the Government under section 9(5) of the CGST Act, 2017. Net value of taxable supplies is the aggregate value of taxable supplies of goods or services or both, other than services notified under section 9(5) of the CGST Act, 2017, made during any month by all registered taxable persons through the operator reduced by the aggregate value of taxable supplies returned to the suppliers during the said month.

Q52. Are there any deductions allowable while computing the tax collection at source?

Ans. Yes, the taxable supplies returned to the supplier on the electronic commerce is allowed as a deduction while calculating the net value.

Q53. Is electronic commerce operator liable to collect tax at source if the consideration for supplies is not collected by him?

Ans. As per the provisions of Section 52(1), an electronic commerce operator shall collect tax at source only where the consideration in respect of supplies is to be collected by the operator.

Q54. Are there any powers vested with the Government to enhance the rate of tax in case of collection of tax at source in future?

Ans. No, section 52 does not vest any powers with any authority to increase the rate of tax more than 1% in case of collection of tax at source

Q55. Can a supplier on electronic commerce opt not to register under GST?

Ans. In terms of section 24(ix) of the CGST Act, 2017 irrespective of the threshold limit the supplier who supplies goods or services or both, other than supplies specified under section 9(5) of the CGST Act, 2017, through E-commerce operator who is required to collected tax at source under Section 52 is required to obtain a registration compulsorily.

However, in case of supplier where the consideration with respect to supplies made on electronic commerce is not collected by the electronic commerce operator, then in such case, such supplier will be eligible to claim the threshold benefit for registration as per section 22 of the CGST Act, 2017.

But vide *Notification No. 65/2017 – Central Tax dated 15.11.2017*, the Central Government, on the recommendations of the Council, exempted persons making supplies of services, other than supplies specified under section 9(5) of CGST Act through an e-commerce operator who is required to collect TCS under section 52, from obtaining registration provided their aggregate turnover does not exceed ₹ 20 lakhs (₹ 10 lakhs in special category states except J & K) *[Press release on Policy issues dated*

10th November 2017, Notification No. 65/2017 – Central Tax dated 15th November 2017]

Q56. What is the time at which the tax should be collected at source by the electronic commerce operator?

Ans. No clarity in Section 52. However, it may be construed to be the date of collection of consideration by the electronic commerce operator on behalf of the supplier.

Q57. Is there any threshold limit specified for collection of tax at source?

Ans. No, there is no threshold limit specified.

Q58. If out of the total consideration received by the operator some part is adjusted against receivable from the supplier, should tax be collected at source by the operator even on such amount which is adjusted against other amounts received from the supplier?

Ans. Yes, as per section 52, irrespective of the mode of recovery of consideration by the supplier from the operator, tax should be collected at source on the net value as defined in section 52(1) of the CGST Act, 2017. There is no deduction envisaged in the CGST Act, 2017 in this regard.

Q59. What is the time within which such TCS is to be remitted by the e-commerce operator to Government account? Is the operator required to file any returns for this purpose?

Ans. The amount collected by the ecommerce operator ('operator',) is to be paid to the credit of appropriate government within 10 days after the end of the month in which amount was so collected. The operator is required to file a return in Form GSTR-8 online giving details of all amounts collected by him for the outward supplies made through his portal, within 10 days of the end of the calendar month to which such statement pertains. The return should contain the names of the actual supplier(s), details of respective supplies made by them and the amount collected on their behalf.

Q60. How can actual suppliers claim credit of this TCS?

Ans. TCS which is deposited by the E-commerce operator into government account will be reflected in the cash ledger of the registered supplier (on whose account such collection has been made) on the basis of the valid return filed by the E-commerce operator. The same can be used at the time of discharge of tax liability in respect of the supplies by the registered supplier.

Q61. What is the concept of matching in e-commerce provisions and how it would work?

Ans. The details of supplies and the amount collected during a calendar month which is furnished by every operator in his return will be matched with the corresponding details of outward supplies furnished by the concerned supplier in his valid return filed under section 37 for the same calendar month or any preceding calendar month. Where the details of outward supply, on which the tax has been collected, as declared by the operator in his statement do not match with the corresponding details declared by the

supplier the discrepancy will be communicated to both persons.

Q62. What will happen if the details remain mismatched?

Ans. The value of a supply relating to any payment in respect of which any discrepancy is communicated and which is not rectified by the supplier in his valid return for the month in which discrepancy is communicated, the same will be added to the output liability of the said supplier in the subsequent month succeeding in which the discrepancy is communicated. The concerned supplier will, in whose output tax liability any amount has been added, be liable to pay the tax payable in respect of such supply along with interest on the amount so added from the date such tax was due till the date of its payment.

Transfer of Input Tax Credit (Section 53)

Q63. What is the manner in which transfer of credit takes place on utilization of Central tax credit for payment of integrated tax?

Ans. Upon utilization of central tax credit for payment of integrated taxes, the amount collected as central tax will stand reduced to that extent and the Central Government will transfer an amount equal to the credit from the central tax account to the integrated tax account in such manner and within such time as may be prescribed.

MCQ's

Payment of tax, interest, penalty and other amounts (Section 49)

Section 49 of the CGST Act, 2017 made applicable to IGST *vide* Section 20 of the IGST Act, 2017 and UTGST *vide* Section 21 of the UTGST Act, 2017

Q1. Which of these registers/ledgers are maintained online?

(a) Tax liability register

(b) Credit ledger

(c) Cash ledger

(d) All of them

Ans. (d) All of them

Q2. Payment made through challan will be credited to which registers/ledgers?

(a) Electronic Tax liability register

(b) Electronic Credit ledger

(c) Electronic Cash ledger

(d) All of them

Ans. (c) Electronic Cash ledger

Q3. What is deemed to be the date of deposit in the electronic cash ledger?

(a) Date on which amount gets debited in the account of the taxable person

(b) Date on which payment is initiated and approved by the taxable person

(c) Date of credit to the account of the appropriate Government

(d) Earliest of the above three dates

Ans. (c) Date of credit to the account of the appropriate Government

Q4. What gets debited to the electronic credit ledger?

(a) Matched input tax credit

(b) Provisionally input tax credit

(c) Unmatched input tax credit

(d) All of them

Ans. (d) All of them

Q5. Balance in electronic credit ledger can be utilized against which liability?

(a) Output tax payable

(b) Interest

(c) Penalty

(d) All of them

Ans. (d) Output tax payable

Q6. Balance in electronic credit ledger under IGST can be used against which liability?

(a) IGST Liability only

(b) IGST and CGST liability

(c) IGST, CGST and SGST liability

(d) None of them

Ans. (c) IGST, CGST and SGST liability

Q7. Balance in electronic credit ledger under CGST can be used against which liability?

(a) CGST Liability only

(b) CGST and IGST liability

(c) CGST, IGST and SGST liability

(d) None of them

Ans. (b) CGST and IGST liability

Q8. Balance in electronic credit ledger under SGST can be used against which liability?

(a) SGST Liability only

(b) SGST and IGST liability

(c) SGST, IGST and CGST liability

(d) None of them

Ans. (b) SGST and IGST liability

Q9. What should the taxable person do if he pay's the wrong tax i.e. IGST instead of CGST/SGST or vice versa?

(a) Remit tax again and claim refund

(b) It will be auto-adjusted

(c) It will be adjusted on application/request

(d) None of the above

Ans. (a) Remit tax again and claim refund

Q10. What should the taxable person do if he pay's tax under wrong GSTIN?

(a) Pay again under right GSTIN and claim refund

(b) Auto-adjustment

(c) Adjustment on application/request

(d) Raise ISD invoice and transfer

Ans. (a) Pay again under right GSTIN and claim refund

Q11. Taxable person made an online payment of tax. Due to technical snag CIN was not generated but my bank account is debited. What should he do?

(a) Wait for 24 hours for re-credit

(b) Approach bank

(c) File application with department

(d) File return without challan

Ans. (c) File application with department (FORM GST PMT-07)

Q12. What is the due date for payment of tax?

(a) Last day of the month to which payment relates

(b) Within 10 days of the subsequent month

(c) Within 20 days of the subsequent month

(d) Within 15 days of the subsequent month

Ans. (c) Within 20 days of the subsequent month

Q13. A Company has head office in Bangalore and 4 branches in different states, all registered under GST and one ISD registered unit in Delhi. How many electronic cash ledgers will the company have?

(a) 1

(b) 4

(c) 5

(d) 6

Ans. (c) 5

Q14. What is the validity of challan in FORM GST PMT-06?

(a) 1 day

(b) 5 days

(c) 15 days

(d) Perpetual validity

Ans. (c) 15 days

Interest on delayed payment of tax (Section 50)

Section 50 of the CGST Act, 2017 made applicable to IGST *vide* Section 20 of the IGST Act, 2017 and UTGST *vide* Section 21 of the UTGST Act, 2017

Q15. A taxable person failed to pay tax and/or file returns on time. He should pay interest on?

(a) Gross tax payable

(b) Gross tax payable & input credit claimed

(c) Net tax payable

(d) No interest payable, if reasonable cause is shown

Ans. (a) Gross tax payable

Q16. From which date interest is liable in case of excess input tax credit claimed?

(a) From the late date of the month in which credit is claimed

(b) From the due date for filing GSTR-02 of the month in which credit is claimed

(c) From the due date for filing GSTR-03 of the month in which credit is claimed

(d) From the date of utilization of credit.

Ans. (c) From the due date for filing GSTR-03 of the month in which credit is claimed

Tax deduction at source (Section 51)

Section 51 of the CGST Act, 2017 made applicable to IGST *vide* Section 20 of the IGST Act, 2017 and UTGST *vide* Section 21 of the UTGST Act, 2017

Q17. What is the rate of TDS?

(a) 1%

(b) 4%

(c) 5%

(d) 18%

Ans. (a) 1%

Q18. On what value TDS needs to be deducted?

(a) Contract value

(b) Contract value excluding tax

(c) Invoice value including tax

(d) Invoice value excluding tax

Ans. (d) Invoice value excluding tax

Q19. What is the due date for payment of TDS?

(a) Last day of the month to which payment relates

(b) Within 10 days of the subsequent month

(c) Within 20 days of the subsequent month

(d) Within 15 days of the subsequent month

Ans. (b) Within 10 days of the subsequent month

Q20. What is the due date for issue of TDS Certificate?

(a) The date of payment of TDS

(b) Within 10 days from the date of payment of TDS

(c) Within 20 days from the date of payment of TDS

(d) Within 05 days from the date of payment of TDS

Ans. (d) Within 05 days from the date of payment of TDS

Q21. Every registered person required to deduct tax at source under section 51 shall furnish return, in ……., for the month in which such deductions have been made within 10 days after the end of such month.

(a) Form GSTR-5

(b) Form GSTR-6

(c) Form GSTR-7

(d) Form GSTR-8

Ans. *(c) Form GSTR-7*

Electronic Commerce – Collection of tax at source (Section 52)

Section 52 of the CGST Act, 2017 made applicable to IGST *vide* Section 20 of the IGST Act, 2017 and UTGST *vide* Section 21 of the UTGST Act, 2017

Q22. What is e-commerce?

(a) Supply of goods and/or on an on an electronic platform for commerce other than the e-commerce operator himself

(b) Supply of goods and/or services on an on an electronic platform for commerce including the e-commerce operator

(c) Supply of goods and/or services on an electronic platform for commerce

(d) Supply of goods or services or both including digital products over digital or electronic network.

Ans. (d) Supply of goods or services or both including digital products over digital or electronic network

Q23. A person who _____ digital or electronic facility or platform for electronic commerce shall be considered as an e-commerce operator.

(a) Owns

(b) Operates

(c) Manages

(d) Any of the above

Ans. (d) Any of the above

Q24. At what rate should the tax be collected at source?

(a) Not exceeding 0.5%

(b) Not exceeding 1%

(c) Not exceeding 2%

(d) Not exceeding 3%

Ans. (c) Not exceeding 2% (1% under CGST and 1% under SGST)

Q25. Is there any threshold limit for applying the provisions of Section 52 for collecting tax at source?

(a) TCS applies if net value of taxable supplies exceeds ₹ 10,00,000/-

(b) TCS applies if net value of taxable supplies exceeds ₹ 15,00,000/-

(c) TCS applies if net value of taxable supplies exceeds ₹ 20,00,000/-

(d) No such limit prescribed, tax should always be collected at source if the conditions envisaged u/s 52 are met.

Ans. (d) No such limit prescribed, tax should always be collected at source if the conditions envisaged u/s 52 are met

Q26. When will Section 52 apply? Or when should the e-commerce operator be liable to collect tax at source?

(a) E-commerce operator shall collect tax at source in respect of all supplies made through it.

(b) E-commerce operator should collect tax at source only if the supplier of the goods and is registered

(c) E-commerce operator shall collect tax at source on the net taxable value of supplies made through it by other supplier where the consideration with respect to such supply is to be collected by the E-commerce operator.

(d) E-commerce operator shall collect tax at source only if the net value of taxable supplies exceeds the prescribed threshold limit.

Ans. (c) E-commerce operator shall collect tax at source on the net taxable value of supplies made through it by other supplier where the consideration with respect to such supply is to be collected by the E-commerce operator

Q27. What is net value of taxable supplies?

(a) Aggregate value of all the supplies of goods and/or services made during any month by all registered taxable persons through the e-commerce operator

(b) Aggregate value of taxable supplies of goods and/or services made during any month by all registered taxable persons through the e-commerce operator reduced by value of taxable supplies returned to the suppliers during the said month

(c) Aggregate value of taxable supplies of goods and/or services, excluding the services notified u/s 9(5) made during any month by all registered persons through the e-commerce operator reduced by the aggregate value of taxable supplies returned to the suppliers during the said month.

(d) Aggregate value of all the supplies of goods and/or services, excluding the services notified u/s 9(5) made during any month by a registered taxable person.

Ans. (c) Aggregate value of taxable supplies of goods and/or services, excluding the services notified u/s 9(5) made during any month by all registered persons through the e-commerce operator reduced by the aggregate value of taxable supplies returned to the suppliers during the said month

Q28. When can a supplier making supplies through E-commerce operator opt not to register?

(a) Always

(b) When the e-commerce operator is not required to collect tax at source u/s 52

(c) When the supplier doesn't cross the threshold, limit specified under section 22.

(d) Option (b) and (c), cumulatively fulfilled

Ans. (d) Option (b) and (c), cumulatively fulfilled

Q29. When an e-commerce operator is required to register under GST?

(a) When he is required to collect tax at source u/s 52

(b) When his aggregate turnover exceeds the threshold limit

(c) When he is required to discharge tax on the taxable supply or services made by the supplier through him u/s 9(5)

(d) It is mandatory to register irrespective of the threshold limit.

Ans. (d) It is mandatory to register irrespective of the threshold limit

Q30. Is every supplier on e-commerce platform covered under Section 52 required to charge

GST from Re. 1?

(a) Yes, since he is the registered taxable person.

(b) No

Ans. (a) Yes, since he is the registered taxable person

Q31. When should the e-commerce operator collect tax at source?

(a) When he collects the consideration on behalf of the supplier in respect of such supply

(b) On the date when the other supplier makes supplies through operator

(c) Day on which the supplier remits the consideration to the supplier

(d) Option (a) or (b) whichever is earlier

(e) Option (a) or (b) whichever is later

Ans. (a) When he collects the consideration on behalf of the supplier in respect of such supply

Q32. When should the e-commerce operator remit the amount of TCS to government and file the necessary returns with the government?

(a) Within 10 days after the end of the month in which such amount was collected

(b) Within 10 days after the end of the month in which such amount was collected, but no time limit for filing the return

(c) Within 10 days after the end of the month in which such amount was collected, but no time limit for paying the money

(d) No time limit for both

Ans. (a) Within 10 days after the end of the month in which such amount was collected

Q33. Can a supplier take credit of the TCS?

(e) Yes

(f) No

(g) Yes, on the basis of the valid return filed

(h) Yes, on the basis of a valid return filed by the e-commerce operator and there is no discrepancy in the returns

Ans. (d) Yes, on the basis of a valid return filed by the e-commerce operator and there is no discrepancy in the returns

Q34. Is there any matching to be done with the returns filed?

(a) Yes, return of e-commerce operator should be matched with every return of supplier

(b) No, no such requirement mandated

(c) Yes, return of e-commerce operator should be matched with every return of supplier but no consequences if the returns do not match

(d) Yes, return of e-commerce operator should be matched with every return of supplier and if the returns do not match then the amount of discrepancy will be added to the outward tax liability of the concerned supplier, where the value of outward supplies furnished by the operator is more than the value of outward supplies furnished by the supplier, in his return for the month succeeding the month in which the discrepancy is communicated.

Ans. (d) Yes, return of e-commerce operator should be matched with every return of supplier and if the returns do not match then the amount of discrepancy will be added to the outward tax liability of the concerned supplier, where the value of outward supplies furnished by the operator is more than the value of outward supplies furnished by the supplier, in his return for the month succeeding the month in which the discrepancy is communicated.

Q35. Every electronic commerce operator required to collect tax at source under section 52 shall furnish a statement in ……., containing details of supplies effected through such operator and the amount of tax collected as required under section 52(1) of the CGST Act.

(a) Form GSTR-5

(b) Form GSTR-6

(c) Form GSTR-7

(d) Form GSTR-8

Ans. (d) Form GSTR-8

Chapter IX
Refunds

FAQ's

Refund of Tax (Section 54)

Q1. Is the word refund defined in the CGST Act?

Ans. Yes, the word refund is defined in explanation to Section 54 of the CGST Act, 2017. As per the said definition, refund includes refund of tax and interest paid on:

1. Zero-rated supplies of goods or services or both; or
2. Inputs or input services used in the effecting such zero-rated supplies of goods or services or both; or
3. Supply of goods regarded as deemed exports; or
4. Refund of unutilized input tax credit at the end of any tax period in case the rate of output tax is less than the rate of input tax.

Q2. Is there any time limit to claim refund under Section 54?

Ans. Yes, as per Section 54, refund application is to be filed before the expiry of two years from the relevant date.

Q3. What is relevant date for calculating the two years' time limit?

Ans. The relevant date is different for each situation and the same is provided below:

Situation	Relevant date
Refund is in respect of goods exported outside India (or on inputs/ input services used in such goods)	
(i) By sea	Date on which the ship or the aircraft in which such goods are loaded, leaves India
(ii) By Air	
(iii) By land	Date on which such goods pass the frontier
(iv) By post	Date of dispatch of goods by the concerned Post Office to a place outside India

Refund in respect of deemed exports	Date on which the return relating to such deemed exports is filed	
Refund is in respect of services exported (or on inputs/ input services used in such services)	Where supply of service completed prior to receipt of payment	Date of receipt of payment in convertible foreign exchange
	Where payment for service received in advance	Date of issue of invoice
Tax becomes refundable as a consequence of: (i) Judgment (ii) Decree (iii) Order (iv) Direction of Appellate Authority, Appellate Tribunal or any Court	Date of communication of such judgment, decree, order or direction	
Refund of unutilized input tax credit	End of the financial year in which such claim for refund arises	
Tax is paid provisionally under this Act or the rules made thereunder	Date of adjustment of tax after the final assessment thereof.	
In case of a person other than the supplier	Date of receipt of goods or services by such person	
In any other case	Date of payment of tax	

Q4. Is there any form for claiming refund under Section 54?

Ans. Yes, the person claiming refund has to make an application in Form GST RFD-01 (as per Chapter X-Refund of the CGST Rules, 2017)

Q5. To whom should the claim for refund be made?

Ans. The refund application is to be made before the proper officer of IGST/CGST/SGST.

Q6. Are SEZ Units liable to pay taxes on their inward supplies? Who will be eligible for refund of taxes paid on supplies to SEZ?

Ans. No. SEZ units shall not be charged with taxes for supplies made to them.

In respect of supplies to a SEZ unit or a SEZ developer, the application for refund shall be filed by the –

(a) supplier of goods after such goods have been admitted in full in the SEZ for authorised operations,

(b) supplier of services along with such evidence regarding receipt of services forauthorised operations; as endorsed by the specified officer of the Zone.

Q7. Can the refund of balance in cash or credit ledger be claimed?

Ans. Yes, as per provisions of Section 49(6), the balance of cash or credit after payment of tax, interest, penalty, fee or any other amount payment refund can be claimed as per provisions of Section 54.Once the refund is claimed, the amount of credit of CGST/SGST/ IGST (as the case may be) would be reduced to that extent.

Q8. Can any registered person claim the refund under Section 54?

Ans. No. Refund can only be claimed under specified circumstances: -

(a) zero rated supplies made without payment of tax

(b) where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies), except supplies of goods or services or both as may be notified by the Government on the recommendations of the Council

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

Provided also that no refund of input tax credit shall be allowed, if the supplier of goods or services or both avails of drawback in respect of central tax or claims refund of the integrated tax paid on such supplies.

Q9. Can United Nations Organisation claim refund?

Ans. Yes. UNOs are entitled to claim refund of IGST/CGST/SGST paid on inward supplies (notified) of goods and/or services.

Q10. Is there any time limit for claiming refund by UNOs?

Ans. Yes, the refund application is required to be made before the expiry of 6 months from the last day of the Quarter in which such supply was received.

Q11. Can any person claim refund of any unutilised ITC at the end of the tax period?

Ans. Any person, except the persons covered under notification issued under section 55,claiming refund of any tax, interest, penalty, fees or any other amount paid by him, other than refund of integrated tax paid on goods exported out of India, may file an application, either electronically in FORM GST RFD-01through the common portal, either directly or through a Facilitation Centre notified by the Commissioner OR manually in FORM GST RFD-1A [Rule 89(1) of the CGST Rules]

No, only the following registered persons can claim refund of unutilised ITC:

1. Persons undertaking exports (including other zero-rated supplies). Exception: No refund will be allowed on the goods exported out of India where such goods are subjected to export duty [second proviso to Section 54(3)];

2. Credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on outward supplies (other than cases of nil-rated or fully exempted supplies) except supply of goods or services or both as may be notified by the Government.

Q12. Is there any condition to claim refund of unutilised ITC?

Ans. Yes, and the condition is that supplier of goods or services has not - availed drawback in respect of CGST or claimed refund of IGST paid on such supplies.

In other words, no refund of input tax credit shall be allowed if the supplier of goods or services avails drawback in respect of CGST or claims refund of IGST paid on such supplies

Q13. Is there any document to be enclosed along with refund claim? If yes, what are the documents to be submitted?

Ans. Yes, the following documents are required to be enclosed along with the refund application:

1. Documentary evidence to establish that a refund is due to the applicant (prescribed under Rule 89(2) of the CGST Rules, 2017, and

2. Documentary evidence to prove that incidence of tax and interest had not been passed on to any other person.

Q14. Is there any exemption for submitting the documents required for claiming refund?

Ans. Yes, if the refund claimed is less than 2 lakh rupees, then documentary evidence would not be required to be submitted. However, the applicant may file a declaration based on the documentary or other evidence available with him, certifying that the incidence of such tax and interest is not passed on to any other person.

Q15. Is any acknowledgement made available to applicant on filing of claim of refund?

Ans. Yes, an acknowledgement in FORM GST RFD-02 shall be made available to the applicant through the common portal electronically, clearly indicating the date of filing of the claim for refund and the time period of 60 days for issuance of order specified in Section 54(7) shall be counted from such date of filing.

Q16. Is there any way of obtaining a provisional sanction of refund claimed by the taxable person?

Ans. Yes, the proper officer may sanction refund to a person on a condition that during any period of five years immediately preceding the tax period to which the claim for refund relates, not been prosecuted for any offence under the Act or under an erstwhile law where the amount of tax evaded exceeds two hundred and fifty lakh rupees. The proper officer, after scrutiny of the claim and the evidence submitted in support thereof and on being prima facie satisfied that the amount claimed as refund is due to the applicant, in accordance with section 54(6) ,shall make an order in FORM GST RFD-04, sanctioning the amount of refund due to the said applicant on a provisional basis within a period not exceeding seven days from the date of acknowledgement.

Q17. Is there any time limit on proper officer to pass final order after accepting the refund application?

Ans. Yes, the proper officer shall issue the order within sixty days from the date of receipt of refund application.

Q18. Under what circumstances would refund be paid to the applicant?

Ans. On receipt of application, where the proper officer is satisfied as regards the refund application filed, he would pass an order sanctioning the refund.

In the following situations, the refund sanctioned would be paid to applicant, -

1. refund of tax paid on zero-rated supplies of goods and/or services or on inputs or input services used in making such zero-rated supplies;
2. refund of unutilized input tax credit under Section 54(3);
3. refund of tax paid on a supply which is not provided, either wholly or partially, and for which invoice has not been issued, or where a refund voucher has been issued;
4. refund of tax in pursuance of Section 77;
5. 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
6. 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.

In all other cases, the amount sanctioned shall be credited to the Fund.

Q19. Can amount of refund sanctioned be adjusted towards any tax payable by the taxable person?

Ans. Yes, the refund due to the applicant can be adjusted towards tax, interest, penalty or any other amount which the applicant is liable to pay but which remains unpaid under the Act or under any earlier law.

Q20. Can refund sanctioned be withheld?

Ans. Yes, refund can be withheld until the applicant has furnished the required return or paid the tax, interest or penalty.

Q21. Is there a minimum amount specified below which no refund can be claimed?

Ans. Yes, if the amount of refund is less than ₹ 1,000/-, then no refund can be paid.

Q22. Is there any provision of providing provisional refund under GST?

Ans. In terms of Section 54(6) of the CGST Act read with Rule 91 of the CGST Rules, the proper officer may, in the case of any claim for refund on account of zero-rated supply of goods or services or both made by registered persons, other than such category of registered persons as may be notified by the Government on the recommendations of the Council, refund on a provisional basis, 90%. of the total amount so claimed, excluding the amount of input tax credit provisionally accepted. Such provisional refund will be granted within 10 days of making of application or within 7 days of issuance of acknowledgement of the application.

Refund of the balance 10% will be granted after verification of documents furnished by the applicant

Q23. Whether separate applications need to be filed for refund in case of export of goods and export of services?

Ans. Yes, there shall be separate application and different procedure for refund of export of goods and export of services.

Q24. What is the procedure for claim and grant of refund of IGST paid on goods exported out of India?

Ans. In terms of Rule 96 of the CGST Rules , shipping bill filed by an exporter shall be deemed to be an application for refund of IGST tax paid on the goods exported out of India, when

(a) person in charge of the conveyance carrying the export goods duly files an export manifest or an export report covering no. and date of shipping bills or bills of export; and

(b) the applicant has furnished a valid return in FORM GSTR-3 or FORM GSTR- 3B, as the case may be.

In this regard, the details of the relevant export invoices contained in FORM GSTR-1 shall be transmitted electronically by the common portal to the system designated by the Customs ("Custom System") and said system will revert the confirmation of export of goods. In case where, date of furnishing FORM GSTR-1 for a tax period has been extended, the supplier shall furnish the information relating to exports as specified in Table 6A of FORM GSTR-1 (auto-drafted for the said tax period) after the return in FORM GSTR-3B has been furnished and the same shall be transmitted electronically to Custom System. [Refer Notification No. 51/2017 – Central Tax dated 28.102.017]

Upon the receipt of the information regarding the furnishing of a valid return in FORM GSTR-3 or FORM GSTR- 3B, the Custom System shall process the claim for refund and an amount equal to the IGST paid in respect of each shipping bill or bill of export, shall be electronically credited to the bank account of the applicantmentioned in his registration particulars and as intimated to the Customs authorities.

[*Note: Steps Table 6A will be auto populated as:*

File GSTR-3B for a Tax Period

a. *Fill Table 6A of Form GSTR-1 available in the Common Portal. Refund will be processed based on this Table 6A*

b. *As and when Form GSTR-1 is filed, the data relating to exports will be auto-populated from the above Table 6A*]

Q25. Is there any priori requirement to be met for persons making zero rated supplies to claim refund of taxes paid in relation to supply of goods or services under bond or Letter of Undertaking?

Ans. Yes, as per Rule 96A of CGST Rules, 2017,any registered person availing the option to make a zero rated supply of goods or services without payment of integrated tax shall furnish a bond or a Letter of Undertaking in FORM GST RFD-11 prior to execution of such supply.

This has been explicty stated in *Circular No. 14/14 /2017 – GST dated 6.11.2017*, which states that:

"*LUT/Bond is a priori requirement for export, including exports to a SEZ developer or a SEZ unit, the LUT/bond should be processed on top most priority. It is clarified that LUT/bond should be accepted within a period of three working days of its receipt along with the self-declaration as stated in para 2(d) above by the exporter. If the LUT / bond is not accepted within a period of three working days from the date of submission, it shall deemed to be accepted*"

Q26. Who can is eligible for submitting a Letter of Undertaking (LUT) in place of a Bond?

Ans. In terms of *Notification No. 37/2017 – Central Tax dated 04-10-2017*,all registered persons, who intend to supply goods or services for export without payment of

integrated tax shall be eligible to furnish a LUT in place of a bond except those who have been prosecuted for any offence under the CGST Act, SGST Act, IGST Act or any of the existing laws in force in a case where the amount of tax evaded exceeds two hundred and fifty lakh rupees

A self-declaration by the exporter that he has not been prosecuted is sufficient for the purposes of *Notification No. 37/2017- Central Tax dated 4-10-2017*. Department may verify the claim after acceptance of the LUT, unless Department has any specific information otherwise regarding the prosecution. (*Circular No. 8/8/2017-GST dated 4-10- 2017*)

LUT shall be furnished on the letter head of the registered person, in duplicate, for a financial year in the annexure to FORM GST RFD – 11 referred to in Rule 96A(1) and it shall be executed by the working partner, the Managing Director or the Company Secretary or the proprietor or by a person duly authorised by such working partner or Board of Directors of such company or proprietor

Further, any person who is prosecuted for an evasion more than ₹ 2,50,000 shall execute a Bond. The Bond shall be accompanied by Bank Guarantee for 15% of the Bond amount. (*Circular No. 8/8/2017-GST dated 04-10-2017*)

The LUT facility is also extended to Supplies made to SEZ unit/developer.

Note : The eligibility criteria for submitting a LUT in place of a Bond has been relaxed from 04th October, 2017 *vide Notification No. 37/2017 – Central Tax dated 4-10-2017*. Before that such criteria was stipulated in Notification No. 16/2017 - Central Tax dated July 7, 2017

Q27. When the facility of export without payment of integrated tax will be deemed to have been withdrawn in terms of *Notification No. 37/2017 – Central Tax dated 04-10-2017.*

Ans. Where the registered person fails to pay the tax due along with interest (under Section 50(1) of the CGST Act within:

- 15 days after the expiry of 3 months or such further period as may be allowed by the Commissioner, from the date of issue of the invoice for export, if the goods are not exported out of India; or
- 15 days after the expiry of 1 year, or such further period as may be allowed by the Commissioner, from the date of issue of the invoice for export, if the payment of such services is not received by the exporter in convertible foreign exchange.

the facility of export without payment of integrated tax will be deemed to have been withdrawn. However, if the amount mentioned in Rule 96A of the CGST Rules is paid, the facility of export without payment of integrated tax shall be restored.

Q28. What will be the amount of bond furnished for exports and how will the bond be secured?

Ans. The bond would cover the amount of tax involved in the export based on estimated tax liability as assessed by the exporter himself. FORM RFD -11 under Rule 96A of the CGST Rules requires furnishing a bank guarantee with bond as a security. A bond, in all cases, shall be accompanied by a bank guarantee of 15% of the bond amount.

Please Note- Since the facility of export under LUT has been extended to all registered persons, bond will be required to be furnished by those persons who have been prosecuted for cases involving an amount exceeding Rupees two hundred and fifty lakhs *[Refer Circular No. 8/4/2017-GST October 4,2017]*

Q29. What will be the validity period of bond or LUT furnished for exports?

Ans. 1. A bond is valid till the outstanding tax liability on exports is within the bond amount.

2. As regards LUT, it shall be valid for the whole financial year in which it is tendered.

Q30. Whether refund can be filed manually?

Ans. Yes, the refunds may be filed manually and the processing of refund with respect to any notice, reply or order, among others, can also be issued / filed manually. in terms of Rule 97A has been inserted in the CGST Rules, 2017 vide *Notification No. 55/2017 – Central Tax dated 15-11-2017*.

In terms of Rule 97A, any reference to this Chapter (i.e., Chapter X- Refund under CGST Rules) any reference to electronic filing of an application, intimation, reply, declaration, statement or electronic issuance of a notice, order or certificate on the common portal shall, in respect of that process or procedure, include manual filing of the said application, intimation, reply, declaration, statement or issuance of the said notice, order or certificate in such Forms as appended to these rules.

Q31. What is deemed export?

Ans. Deemed Exports are defined as "Supplies" as may be notified under Section 147 of the CGST Act, where goods supplied do not leave India, and payment for such supplies is received either in Indian rupees or in convertible foreign exchange, if such goods are manufacture in India

The Central Government vide *Notification No. 48/2017 – Central Tax dated 18-10-2017* has notified the following items as "Deemed Exports"

- ✓ Supply of goods by a registered person against Advance Authorisation
- ✓ Supply of capital goods by a registered person against Export Promotion Capital Goods Authorisation (EPCG)

- ✓ Supply of goods by a registered person to Export Oriented Unit (EOU). EOU refers to
  - Export Oriented Unit (EOU)
  - Electronic Hardware Technology Park Unit (EHTP) or
  - Software Technology Park Unit (STP) or
  - Bio-Technology Park Unit (BTP).

  [The Government vide Circular No. 14/14 /2017 – GST dated 6.11.2017, has issued detailed guidelines on the procedure to be adopted for Supply of goods to EOU, EHTP, STP and BTP]
- ✓ Supply of gold by a bank or Public Sector Undertaking specified in the *Notification No. 50/2017-Customs, dated 30.06.2017* (as amended) against Advance Authorisation.

It is imperative to state here that, The Foreign Trade Policy (2015-2020) in terms of Para 7.02 has provided a list of Supply which are Deemed Supplies under the FTP.

However, only the aforesaid four supplies have been covered under Deemed Export under GST. Therefore, other Deemed Export under FTP but not covered above are liable for GST. However, the recipient is eligible to take Input Tax Credit of the tax paid by the Supplier subject to restrictions / blocking of credits as Section 16, 17 of the CGST Act and rules there under.

Q32. State the procedure of procedure to be adopted for Supply of goods to EOU, EHTP, STP and BTP

Ans. In terms of the guidelines on the procedure to be adopted for Supply of goods to EOU, EHTP, STP and BTP issued *vide Circular No. 14/14 /2017 – GST dated 6.11.2017,*the procedure is as under:

Steps	Particulars	Form No, if any / Due Date	Explanation
Step 1	Issuance of Prior Intimation	Form-A	The EOU shall give Prior Intimation of Goods to be procured from the Supplier in Form-A. The Intimation must be serially number and must prepared in Triplicate and sent to:

			(1) the Registered Supplier undertaking the Supply (2) the jurisdictional GST Officer in charge of the Supplier (3) the jurisdictional GST Officer in charge of the EOU
Step 2	Supply of goods by the Supplier		The registered supplier thereafter will supply goods under tax invoice to the recipient EOU / EHTP / STP / BTP unit.
Step 3	Endorsement of Invoice by EOU on receipt of goods		On receipt of such supplies, the EOU, shall endorse the tax invoice and send a copy of the endorsed tax invoice to – (1) the Registered Supplier undertaking the Supply (2) the jurisdictional GST Officer in charge of the Supplier. (3) the jurisdictional GST Officer in charge of the EOU. Such endorsement is the Proof of Deemed Export Supplies by a registered person to the EOU
Step 4	EOU shall maintain records for receipt, use and removal of Goods	Form-B	EOU shall maintain the record of Receipt, use and Removal of Goods in Form-B The data is required to be maintained in Digital form. The Record must be updated immediately and accurately and open for Verification by the Proper office
Step 5	Monthly submission of Form-B to the GST Officer	Due date - 10th of the Following month	A digital copy of Form – B containing transactions for the month, shall be provided to the jurisdictional GST officer, each month in a CD or Pen drive, as convenient to the said unit.

Q33. Who can file an application for refund in case of deemed export?

Ans. In terms of third proviso to Rule 89 inserted vide *Notification No. 47/2017 – Central Tax dated 10.10.2017*, application for refund in case of deemed export can be filed by:

(a) the recipient of deemed export supplies; or

(b) the supplier of deemed export supplies in cases where the recipient does not avail of input tax credit on such supplies and furnishes an undertaking to the effect that the supplier may claim the refund

Q34. State the evidences which are required to be produced by the supplier of deemed export supplies for claiming refund

Ans. Rule 89 (2) of the CGST Rules interalia specifies the documentary evidences to be accompanied in Annexure 1 of Form GST RFD-01, an application of refund of tax ,interest ,penalty or any other amount made under Rule 89(1) filed .

As per Rule 89(1(g) in case of refund is on account of deemed exports, a statement containing the number and date of invoices along with such other evidence as may be notified are to be submitted. In this regard Central government *vide Notification No. 49/2017-Central Tax dated 18.10.2017* has notifies the certain evidences which are required to be produced by the supplier of deemed export supplies for claiming refund:

1. Acknowledgment by the jurisdictional Tax officer of the Advance Authorisation holder or Export Promotion Capital Goods Authorisation holder ("Holder"), as the case may be, that the said deemed export supplies have been received by the Holder, or

   Copy of the tax invoice under which such supplies have been made by the supplier, duly signed by the recipient EOU that said deemed export supplies have been received by it.:

2. An undertaking by the recipient of deemed export supplies that :

   - No input tax credit on such supplies has been availed of by him.
   - He shall not claim the refund in respect of such supplies and the supplier may claim the refund.

Note: Though not stated but It is prudent for the Recipient to obtain an undertaking from the Supplier that Supplier has not claimed refund of the GST paid on the Deemed Exports the refund and the recipient may claim the refund.

Q35. Is there any manual filing and processing of refund claims on account of inverted duty structure, deemed exports and excess balance in electronic cash ledger provided ("REFUND")?

Ans. Yes. manual filing and processing of refund claims on account of inverted duty structure, deemed exports and excess balance in electronic cash ledger provided is

provided vide *Circular No.24/24/2017-GST dated 21-10-2017.* This Circular interalia provides that provisions *of Circular No. 17/17/2017-GST dated 15.11.2017* shall also be applicable to aforesaid REFUND [inverted duty structure, except those supplies which are notified by the Government] inasmuch as they pertain to the method of filing of the refund claim and its processing which is consistent with the relevant provisions of the CGST Act and Rules , 2017

Such REFUND and also refund claims in respect of zero-rated supplies shall be filed for a tax period on a monthly basis in FORM GST RFD-01A. In case registered persons having aggregate turnover of up to ₹1.5 crore in the preceding financial year or the current financial year are opting to file FORM GSTR-1 quarterly (*Notification No. 57/2017-Central Tax dated 15.11.2017* refers), such persons shall apply for refund on a quarterly basis.

Further, refund claim for a tax period may be filed only after filing the details in FORM GSTR-1 for the said tax period and a valid return in FORM GSTR-3B has been filed for the last tax period before the one in which the refund application is being filed. Due to extensions provided in filing return for July month, has been decided by the competent authority can sanction provisional refund. And an undertaking (manually with FORM GST RFD-01) to the effect that the amount of refund sanctioned would be paid back to the Government with interest must be submitted by registered persons applying for refund

Q36. Whether intra/ inter State supply of taxable goods by a registered supplier to a registered recipient for export are exempt?

Ans. In terms of *Notification No. 40/2017-Central Tax (Rate) dated 23-10-2017* and *Notification No. 41/2017--Integrated Tax (Rate) dated 23-10-2017*, the Central Government exempts the intra-State supply of taxable goods in excess of the amount calculated @0.05 % by a registered supplier to a registered recipient w.e.f. 23-10-2017 for export is subject to fulfilment of the following conditions namely:

i. Supplier shall supply the goods to the Recipient on a tax invoice.

ii. Recipient shall export the said goods within a period of 90 days from the date of issue of a tax invoice by the Supplier.

iii. Recipient shall indicate the GSTIN of the Supplier and the tax invoice number issued by the Supplier in respect of the said goods in the shipping bill or bill of export.

iv. Recipient shall be registered with an Export Promotion Council or a Commodity Board recognized by the Department of Commerce.

v. Recipient shall place an order on Supplier for procuring goods at concessional rate and a copy of the same shall also be provided to the jurisdictional tax officer of the Supplier.

vi. Recipient shall move the said goods from place of Supplier –

a. directly to the Port, Inland Container Deport, Airport or Land Customs Station from where the said goods are to be exported; or

b. directly to a warehouse from where the said goods shall be move to the Port, Inland Container Deport, Airport or Land Customs Station from where the said goods are to be exported;

vii. If the Recipient intends to aggregate supplies from multiple Suppliers and then export, the goods from each Supplier shall move to a warehouse and after aggregation, the Recipient shall move goods to the Port, Inland Container Deport, Airport or Land Customs Station from where they shall be exported;

viii. In case of situation referred to in condition (vii), the Recipient shall endorse receipt of goods on the tax invoice and also obtain acknowledgement of receipt of goods in the warehouse from the warehouse operator and the endorsed tax invoice and the acknowledgment of the warehouse operator shall be provided to the Supplier as well as to the jurisdictional tax officer of such supplier; and

ix. When goods have been exported, the Recipient shall provide copy of shipping bill or bill of export containing details of Goods and Services Tax Identification Number (GSTIN) and tax invoice of the Supplier along with proof of export general manifest or export report having been filed to the Supplier as well as jurisdictional tax officer of such supplier.

(Terms referred in above conditions shall be read as Supplier – Registered Supplier, Recipient – Register Recipient, Warehouse – Registered Warehouse)

Further, the Supplier shall not be eligible for the above-mentioned exemption if the registered recipient fails to export the said goods within a period of 90 days from the date of issue of tax invoice.

Refund in certain cases (Section 55)

Q37. Is there any other case apart from those covered in Section 54, wherein refund can be claimed under GST?

Ans. Yes, as per Section 55 of the CGST Act, the Government may, on the recommendations of the Council, by notification, specify any specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries and any other person or class of persons as may be

specified in this behalf, who shall, subject to certain conditions and restrictions, be entitled to claim a refund of taxes paid on the notified supplies of goods or services or both received by them

Interest on delayed refunds (Section 56)

Q38. Would interest be paid on the amount of refund sanctioned?

Ans. Yes, in terms of section 56, interest would be paid at a rate not exceeding 6%, if the refund is not sanctioned with 60 days from the receipt of refund application.

It is pertinent to note that the Government *vide Notification No. 13/2017 – Central Tax dated 28-6-2017* has prescribed the rate of interest @ 6%

Q39. How would the interest be computed and paid?

Ans. Interest would be computed and paid for the period after expiry of 60 days from the receipt of refund application till the date of actual refund of tax.

Q40. If refund is made based on the order of appellant authority, then would interest be paid?

Ans. Yes, interest (at a rate not exceeding 9%) would be computed and paid for the period starting from expiry of 60 days from the date of application consequent to the order till the date of actual refund of tax.

It is pertinent to note that the Government *vide Notification No. 13/2017 – Central Tax dated 28-6-2017*, has prescribed the rate of interest @ 9%

Consumer welfare fund (Section 57)

Q41. Is there any consumer welfare fund under GST?

Ans. Yes, this would be established by the Central/ State Government.

Q42. Can the amount of tax sanctioned as refund be credited to fund?

Ans. Yes, an amount of tax under Section 54(5) or 54(6) can be credited to fund account.

Q43. Can amount credited to fund account be invested?

Ans. Yes, such amount can be invested by the Central/State Government or the authorised persons.

Utilisation of fund (Section 58)

Q44. Can amount credited to fund be utilised?

Ans. Yes, the fund can be utilised by the Central/ State Government for the welfare of the consumers.

Q45. Whether details of amount credited /debited to fund is required to be maintained?

Ans. Yes, the Central/State Government shall maintain, or specify the authority who shall maintain proper and separate accounts and other relevant records in this regard.

MCQ's

Refund of tax (section 54)

Q1. Refunds will not be allowed in cases of:-

(a) Exports made on which export duty is levied

(b) Exports made without payment of tax

(c) Inverted duty structures where tax on inputs are higher than tax on outputs

(d) None of the above

Ans. *(a) Exports made on which export duty is levied*

Q2. Refund application is to be filed before the expiry of _____ from the relevant date.

(a) Two years

(b) One year

(c) 180 days

(d) 260 days

Ans. *(a) Two years*

Q3. A specialised agency of the UNO can claim refund of tax paid on…

(a) Intra-State supply of goods and/or services

(b) Inter-state supply of goods and/or services

(c) Inward supply of goods and/or services

(d) All of the above

Ans. *(c) Inward supply of goods and/or services*

Q4. What is the time limit for filing of refund application by a specialised agency of the UNO?

(a) Before the expiry of eight months from the last day of the quarter in which such inward supply received

(b) Before expiry of eight months from the last day of the month in which such inward supply received

(c) Before expiry of six months from the last day of the month in which such inward supply was received

(d) Before expiry of six months from the last day of the quarter in which such inward supply was received

Ans. *(d) Before the expiry of six months from the last day of the quarter in which such inward supply was received*

Q5. A registered person claiming refund of balance in electronic cash ledger may make such a claim in: -

(a) Application for refund

(b) Annual Return

(c) Returns filed at the end of tax periods

(d) None of the above

Ans. *(c) Returns filed at the end of tax periods*

Q6. Refunds would be allowed on a provisional basis in case of refund claims on account of zero-rated supplies of goods and/or services made by registered persons. At what percentage, would such provisional refunds be granted?

(a) 70%

(b) 65%

(c) 80%

(d) 90%

Ans. *(d) 90%*

Q7. Order sanctioning the amount of refund due to the said applicant on a provisional basis shall be made within_____ from the date of the acknowledgement.

(a) 7 days

(b) 15 days

(c) 30 days

(d) 2 months

Ans. *(a) 7 days*

Q8. The applicant is not required to furnish documentary evidence if the amount of refund claimed is less than: -

(a) ₹6 lacs

(b) ₹ 2 lac

(c) ₹ 10 lac

(d) ₹ 20 lac

Ans. *(b) ₹ 2 lac*

Q9. Refund shall not be paid to the applicant if the amount of refund is less than

(a) ₹ 1000

(b) ₹ 5000

(c) ₹ 7000

(d) ₹10000

Ans. *(a) ₹ 1000*

Q10. The sanctioned refund amount can be adjusted against the payments which the assessee is liable to pay but remains unpaid under the erstwhile law.

(a) Tax

(b) Penalty

(c) Interest and other amounts

(d) All of the above

Ans. *(d) All of the above*

Q11. The time limit to proper officer to pass final order after accepting the refund application is -

(a) Within sixty days from the date of receipt of application.

(b) Within eighty days from the date of receipt of application.

(c) Within ninety days from the date of receipt of application.

(d) Within thirty days from the date of receipt of application.

Ans. *(a) Within sixty days from the date of receipt of application.*

Q12. The SEZ developer or SEZ unit exporting goods and / or services shall not be eligible to claim refund of IGST paid by the registered taxable person on such supply. Is this statement -

(a) True

(b) False

Ans. *(b) False*

Q13. A SEZ developer or SEZ unit shall not be eligible to claim refund of taxes in respect of its inward supplies. Is this statement-

(a) True

(b) False

Ans. *(a) True*

Interest on delayed refunds (Section 56)

Q14. Interest on refund amount is required to be paid after expiry of ……. from the date of receipt of the application

(a) 60 days

(b) 90 days

(c) 180 days

(d) 240 days

Ans. *(a) 60 days*

Q15. What is the rate of interest to be payable in case of delay in sanctioning the refund claimed?

(a) Not exceeding 6%

(b) Not exceeding 8%

(c) Not exceeding 10%

(d) Not exceeding 12%

Ans. *(a) Not exceeding 6%*

Note: The Government vide Notification No. 13/2017 – Central Tax dated 28-6-2017 has prescribed the rate of interest @ 6%

Q16. Whether a manufacture of fabrics will be eligible for refund of unutilized input tax credit of GST paid on inputs [other than the input tax credit of GST paid on capital good] in respect of fabrics manufactured and exported by him [i.e., exporter of fabric].

(e) Yes

(f) No

Ans. *(a) Yes [*in Circular No. 18/18 /2017 – GST dated 16.11.2017*]*

Chapter X
Assessment

FAQ's

Provisional Assessment (Section 60)

Q1. How is the assessment made if the taxable person is not able to determine the value of goods and/or services or determine the rate of tax?

Ans. Where the taxable person is unable to determine the value of goods or services or both 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 shall pass an order, within a period not later than ninety days from the date of receipt of such request, allowing payment of tax on provisional basis at such rate or on such value as may be specified by him.

Q2. Whether Self-Assessment and provisional assessment are mutually exclusive?

Ans. Yes, if the taxable person opts for self-assessment, he cannot opt for provisional assessment for the same period for same supply. However, he can opt for provisional assessment if he is unable to determine taxable value / tax liability/ (rate of tax) for any subsequent periods.

Q3. What conditions needs to be satisfied by a taxable person for assessment of taxes on provisional basis?

Ans. The proper officer may allow for payment of tax on provisional basis subject to execution of bond in prescribed form along with surety / security as the proper officer may deem fit binding the taxable person for differential tax if any.

Q4. What is the time limit for passing final assessment order in case of provisional assessment?

Ans. The proper officer shall, within a period of six months from the date of communication of the provisional assessment order, pass the final assessment order after taking into account such information as may be required for finalizing the assessment. However, the time limit of six months can be further extended on sufficient cause being shown and for reasons to be recorded in writing in the following manner:

(a) by the Joint / Additional Commissioner for a further period of six months;

(b) by the Commissioner for such further period not exceeding four years.

Q5. What are the consequences on conclusion of provisional assessment by way of passing final assessment order in so far as short / excess remittance of tax is concerned?

Ans. The consequences on concluding the provisional assessment by way of passing final assessment order would be as follows:

(a) Additional tax liability: In case of short remittance of taxes in terms of final assessment order, the additional tax liability, if any should be remitted along with interest at the rate prescribed under Section 50(1) for delay in remittance of taxes viz., from the first day after the due date of remittance of taxes as prescribed under Section 39(7) till the date of actual payment;

(b) Excess remittance of tax on provisional basis: In case of excess remittance of taxes in terms of final assessment order, the registered person is entitled to refund of such excess remittance in the manner as provided in Section 54(8) along with interest as provided under Section 56.

Q6. Is there any form prescribed for furnishing application for provisional assessment?

Ans. Every registered person requesting for payment of tax on a provisional basis in accordance with the provisions of Section 60(1) shall furnish an application along with the documents in support of his request, in FORM GST ASMT-01 (in terms of Chapter XI- Assessment And Audit of the CGST Rules).

Q7. Can proper officer require the registered person to furnish additional documents before issuing order for provisional assessment?

Ans. On receipt of the application, the proper officer may issue a notice in FORM GST ASMT-02 requiring the registered person to furnish additional information or documents in support of his request and the applicant shall file a reply to the notice in FORM GST ASMT-03, and may appear in person before the said officer if he so desires.

Q8. What will be the amount of bond and security to be furnished for provisional assessment?

Ans. The proper officer shall issue an order in FORM GST ASMT-04 allowing the payment of tax on a provisional basis indicating the following:

(a) the value or the rate or both on the basis of which the assessment is to be allowed on a provisional basis

(b) the amount for which the bond is to be executed

(c) security to be furnished not exceeding 25% of the amount covered under the bond.

The "amount" shall include the amount of IGST, CGST, SGST, UTGST and cess payable in respect of the transaction.

Q9. Is there any form prescribed for execution of the bond?

Ans. The registered person shall execute a bond in accordance with the provisions of Section 60(2) in FORM GST ASMT-05 along with a security in the form of a bank guarantee for an amount as determined by the proper officer in his order.

Q10. What will be the procedure of finalization of assessment made on provisional basis?

Ans. The proper officer shall issue a notice in FORM GST ASMT-06, calling for information and records required for finalization of assessment under Section 60(3) and shall issue a final assessment order, specifying the amount payable by the registered person or the amount refundable, if any, in FORM GST ASMT-07.

Q11. What will be the time limit and procedure for the release of security furnished with bond?

Ans. The applicant may file an application in FORM GST ASMT-08 for the release of the security furnished after issue of the final assessment order.

The proper officer shall release the security furnished, after ensuring that the applicant has paid the amount specified in the final assessment order and issue an order in FORM GST ASMT–09 within a period of 7 working days from the date of the receipt of such application.

Scrutiny of Returns (Section 61)

Q12. What does scrutiny of returns mean under CGST Act, 2017?

Ans. The CGST Act, 2017 empowers proper officer to scrutinize the return and related particulars furnished by the taxable person to verify the correctness of the return and inform him of the discrepancies noticed, if any, in a manner as may be prescribed.

In case of any discrepancies, the proper officer should seek explanation from registered person. On receipt of satisfactory explanation, the proper officer is not required to take any further action.

In the event, after accepting the discrepancies, no satisfactory explanation is furnished within a period of thirty days or such further extended time. If the taxable person fails to take the corrective measures in the return for the month in which discrepancy is accepted, the proper officer may initiate audit under Section 65 or special audit under Section 66 or inspection, search and seizure under Section 67 or proceed to determine the tax and other dues under Section 73 or Section 74.

Q13. Whether any time limit has been specified to issue notice for scrutiny?

Ans. No, the provisions relating to scrutiny assessments do not specify time limit for issuing notice for scrutiny of assessments.

Q14. What action may be taken by the proper officer in case no satisfactory explanation is sought after the discrepancies are bought to the notice of the registered person?

Ans. In case, after accepting the discrepancies, no satisfactory explanation is furnished within a period of thirty days or such further period as may be permitted, proper officer may:

(a) Initiate Audit of accounts by the tax authorities under Section 65; or

(b) Initiate special audit under Section 66; or

(c) Initiate inspection, search and seizure under Section 67; or

(d) proceed to determine the tax and other dues under Section 73 or Section 74.

Q15. How will a return under scrutiny be processed and what will be the mode of intimation of discrepancies?

Ans. Where any return furnished by a registered person is selected for scrutiny, the proper officer shall scrutinize the same in accordance with the provisions of section 61 with reference to the information available with him, and in case of any discrepancy, he shall issue a notice to the said person in FORM GST ASMT-10, informing him of such discrepancy and seeking his explanation and where possible quantifying the amount of tax, interest and any other amount payable in relation to such discrepancy.

Q16. Is there any form and time limit prescribed for furnishing the explanation for discrepancies noticed during scrutiny?

Ans. The registered person shall furnish an explanation for the discrepancy in FORM GST ASMT-11 to the proper officer within such time, not exceeding thirty days from the date of service of the notice or such further period as may be permitted by the proper officer.

Where the explanation furnished by the registered person or the information submitted thereby is found to be acceptable, the proper officer shall inform him accordingly in FORM GST ASMT-12.

Assessment of non-filers of returns (Section 62)

Q17. Whether, The CGST Act, 2017 provides for assessment in case of taxable person who does not furnish returns under Section 39 and 45?

Ans. In terms of Section 62(1) of the CGST Act, 2017, the proper officer is empowered to assess the tax liability on such registered person to the best of his judgment taking into account all the relevant materials which is available, or which is gathered and issue an assessment order in FORM GST ASMT-13 within a period of five years from the date specified under Section 44 for furnishing of the annual return for the financial year to which the tax not paid relates.

Q18. Is there any additional opportunity provided for taxable person to submit a return even after passing an assessment order under Sec 62(1)?

Ans. Yes, if the registered person furnishes a valid return within thirty days from the date of service of best judgment assessment order under Section 62 (1), the said assessment order shall be deemed to have been withdrawn.

Q19. Whether the registered person will get immunity from interest & late fee leviable if assessment order passed under Section 60(1) is withdrawn?

Ans. No, registered person will still be liable for interest under section 50(1) and late fee under Section 47 of CGST Act.

Assessment of unregistered persons (Section 63)

Q20. Whether, The CGST Act, 2017 provides for assessment of taxes on the unregistered taxable person who fails to take registration even though liable to do so? What will be the procedure of such assessment?

Ans. If a taxable person fails to obtain registration even though liable to do so or whose registration has been cancelled under section 29(2) but who was liable to pay tax, the proper officer may assess the tax liability to the best of his judgement after providing opportunity of being heard to such person.

The proper officer shall issue a notice to a taxable person in FORM GST ASMT-14 containing the grounds on which the assessment is proposed to be made on best judgment basis.

The registered person will be allowed a time of fifteen days to furnish his reply.

Q21. What is the Time limit for passing the assessment order on the unregistered person?

Ans. The proper officer, in relation to assessment of taxes on the unregistered taxable person, shall issue the assessment order in FORM GST ASMT-15 within 5 years from the date specified under Section 44 for furnishing of the annual return for the financial year to which the tax not paid relates.

Summary assessment in certain special cases (Section 64)

Q22. Whether proper officer can proceed suo-moto to assess the tax liability of any person on possession of relevant evidence?

Ans. No, the proper officer has to obtain prior permission of Additional/Joint Commissioner to proceed to assess the tax liability.

Q23. Whether the summary assessment can be initiated based on mere change in opinion of proper officer?

Ans. No, mere change in opinion cannot be treated as evidence for initiation of summary assessment.

Q24. Whether summary assessment can only be initiated on previously filed return (u/s 34 and u/s 40)?

Ans. Summary assessment can be initiated on any taxable person. Submission of return u/s 39 and u/s 45 is not prerequisite.

Q25. Is there any form prescribed for order of summary assessment?

Ans. The order of summary assessment under Section 64(1) shall be issued in FORM GST ASMT-16.

Q26. What is the remedy available to the taxable person if the order passed u/s 64 is erroneous?

Ans. On an application made in FORM GST ASMT–17 within 30 days by taxable person from the date of receipt of order passed summary assessment order the Additional/Joint Commissioner may withdraw such order and follow the procedure laid down in Section 73 or 74 which provides for determination of tax liability on account of tax not paid other than fraud, wilful mis-statement etc., or otherwise.

Q27. Whether the Additional / Joint Commissioner can withdraw the summary assessment order only on application by the taxable person?

Ans. The Additional / Joint Commissioner can, on his own motion may withdraw the summary assessment order in the event such order is erroneous and thereafter may follow the procedure laid down in Section 73 or 74 which provides for determination of tax liability on account of tax not paid other than fraud, wilful mis-statement etc., or otherwise .

The order of withdrawal or, rejection of the application under Section 64(2) shall be issued in FORM GST ASMT-18.

MCQ's

Provisional Assessment (Section 60)

Q1. A taxable person may apply for provisional assessment:

(a) when the taxable person is not able to determine the value of goods and/or services

(b) when the taxable person is not able to determine the rate of tax.

(c) (a) or (b)

(d) (a) and (b)

Ans. *(c) (a) or (b)*

Q2. The provisional assessment sought by a taxable person can be used by:

(a) The taxable person who has sought the provisional assessment.

(b) The friends and relatives of the taxable person who has sought the provisional assessment.

(c) The holding/subsidiary company of the taxable person who has sought the provisional assessment.

(d) None of the above.

Ans. *(a) The taxable person who has sought the provisional assessment*

Q3. The payment of tax on provisional basis may be allowed, if the taxable person:

(a) executes a bond in such form as may be prescribed in this behalf

(b) with such surety or security as the proper officer may deem fit, binding the taxable person for differential tax if any.

(c) (a) or (b)

(d) (a) & (b)

Ans. *(d) (a) & (b)*

Q4. What is the time period within which the final assessment order should be passed?

(a) Six months from the date of the provisional assessment.

(b) Nine months from the date of the provisional assessment.

(c) Three months from the date of the provisional assessment.

(d) One months from the date of the provisional assessment.

Ans. *(a) Six months from the date of the provisional assessment*

Q5. If final order is not passed within six months, time period specified in 60(1) may, on sufficient cause being shown and for reasons to be recorded in writing, be extended:

(a) by the Joint/Additional Commissioner for a further period of 6 months and by the Commissioner for such further period not exceeding 4 years.

(b) by the Commissioner for a further period of 6 months.

(c) by the Joint/Additional Commissioner for a further period of 1 year.

(d) by the Joint/Additional Commissioner for a further period of 1 year and by the Commissioner for a further period of 6 months.

Ans. *(a) by the Joint/Additional Commissioner for a further period of 6 months and by the Commissioner for such further period not exceeding 4 years*

Q6. Whether any additional interest/penalty/prosecution will be leviable for non-payment of tax determined under provisional assessment?

(a) Only interest specified under Section 50 will be liable.

(b) Interest u/s 50 + Penalty of ₹ 10,000.

(c) Only Penalty @ 50% of the default amount.

(d) No Penalty, only Prosecution.

Ans. *(a) Only interest specified under Section 50 will be liable*

Q7. What shall be interest payable to the taxable person if he is entitled to a refund consequent to the order for final assessment?

(a) Interest shall be payable only after 6 months after the final Assessment.

(b) Interest shall be payable only after 3 months after the final Assessment.

(c) Interest shall be paid on such refund as provided in Section 56.

(d) No interest shall be payable on the refund.

Ans. *(c) Interest shall be paid on such refund as provided in Section 56*

Q8. What will be the consequences when tax payable under final order passed under sub-section (3) is more than tax paid based on provisional assessment?

(a) Only Differential tax payable has to be paid on determination of final assessment.

(b) Differential tax payable has to be paid on determination of final assessment along with interest specified under Section 50.

(c) Differential tax payable has to be paid on determination of final assessment along with interest specified under Section 50 and penalty of ₹ 20,000.

(d) Differential tax payable has to be paid on determination of final assessment along with penalty of ₹ 20,000.

Ans. *(b) Differential tax payable has to be paid on determination of final assessment along with interest specified under Section 50*

Scrutiny of Returns (Section 61)

Q9. Whether all the returns submitted under Section 39 will be scrutinised?

(a) No, 50% of the returns submitted under Section 39 will be scrutinised.

(b) Yes, all the returns submitted under Section 39 will be scrutinised.

(c) No, Returns submitted under Section 39 will be self-assessed and proper officer may select any return for scrutiny under this Section.

(d) No, 35% of the returns submitted under Section 39 will be scrutinised.

Ans. *(c) No, Returns submitted under Section 39 will be self-assessed and proper officer may select any return for scrutiny under this Section*

Q10. Whether any time limit has been specified to issue notice for scrutiny?

(a) Six months from the end of the respective financial year.

(b) No time limit has been prescribed as of now, however same may be prescribed in the rules.

(c) One Year from the end of the respective financial year.

(d) 3 Years from the end of the respective financial year.

Ans. *(b) No time limit has been prescribed as of now, however same may be prescribed in the rules*

Note: As per Rule 99 of the CGST Rules, the proper officer shall inform an assessee of any discrepancy and seek his explanation thereto within such time, not exceeding 30 days from the date of service of the notice or such further period as may be permitted by such officer.

Q11. In case no satisfactory explanation is furnished for the discrepancies within a period of thirty days of being informed by the proper officer or such further period as may be permitted proper officer may initiate appropriate action:

(a) Under Section 65 (Audit)

(b) Section 66 (Special Audit)

(c) Section 67, (Inspection, Search Seizure)

(d) Proceed to determine the tax and other dues under Section 73 or Section 74.

(e) Any of the above.

Ans. *(e) Any of the above*

Assessment of non-filers of returns (Section 62)

Q12. Is there any time limit specified to furnish the return after serving of assessment order?

(a) Yes, Return has to be filed by registered person who has failed to submit return under Section 39 or Section 45 within 15 days from service the assessment order.

(b) Yes, Return has to be filed by registered person who has failed to submit return under Section 39 or Section 45 within 30 days from service the assessment order.

(c) Yes, Return has to be filed by registered person who has failed to submit return under Section 39 or Section 45 within 45 days from service the assessment order.

(d) No time limit has been specified.

Ans. *(b) Yes, Return has to be filed by registered person who has failed to submit return under Section 39 or Section 45 within 30 days from service the assessment order*

Q13. What are the consequences, where a registered person fails to furnish the return required under Section 39 or Section 45, even after the service of a notice under Section 46?

(a) The proper officer may proceed to assess the tax liability of the said person to the best of his judgement.

(b) issue an assessment order within a period of five years from the date specified under Section 44

(c) (a) or (b)

(d) (a) and (b)

Ans. *(d) (a) and (b)*

Q14 What is the time limit for issuing order under section 62?

(a) 9 months from the end of financial year.

(b) 3 years for cases covered U/s 73 or 5 years for cases covered under 74

(c) 5 years for cases covered U/s 73 or 3 years for cases covered under 74

(d) 5 years from the due date of filing annual return.

Ans. *(d) 5 years from the due date of filing annual return*

Q15. If the registered person furnishes a valid return within ……..of the service of the assessment order u/s 62 (1), the said assessment order shall be deemed to have been withdrawn.

(a) 30 days

(b) 60 days

(c) 1 month

(d) 2 months.

Ans. *(a) 30 days*

Q16. Whether the registered person will get immunity from interest & late fee leviable if assessment order passed u/s 62(1) is withdrawn?

(a) Taxable person will get immunity only from late fee u/s 47.

(b) No, taxable person will still be liable for interest u/s Section 50 and late fee u/s Section 47. Therefore, no immunity has been provided for the same.

(c) Taxable person will get immunity from late fee u/s 47 as well as interest u/s 50.

(d) Taxable person will get immunity only from interest u/s 50.

Ans. *(b) No, taxable person will still be liable for interest u/s Section 50 and late fee u/s Section 47. Therefore, no immunity has been provided for the same.*

Assessment of unregistered persons (Section 63)

Q17. What is the consequence, where a taxable person fails to obtain registration even though liable to do so?

(a) Proper officer may assess the tax liability to the best of his judgement.

(b) Issue a show cause notice and pass assessment order after providing opportunity of being heard.

(c) (a) or (b)

(d) (a) and (b)

Ans. *(d) (a) and (b)*

Q18. What are the pre requisites for proper officer to pass assessment order under Section 63?

(a) Period selected for assessment has to be within 5 years from the end of due date for filing annual return of relevant period.

(b) Show cause notice has to be issued before passing assessment order.

(c) Opportunity of being heard has to be given before passing assessment order.

(d) All of the above.

Ans. *(d) All of the above*

Summary assessment in certain special cases (Section 64)

Q19. Whether proper officer can proceed Suo-moto in assessing the tax liability of a taxable person on possession of relevant evidence?

(a) No, the proper officer has to obtain prior permission of [Additional/Joint Commissioner] to proceed to assess the tax liability.

(b) No, the proper officer has to obtain prior permission of Chief Commissioner to proceed to assess the tax liability.

(c) No, the proper officer has to obtain prior permission of Principle Chief Commissioner to proceed to assess the tax liability.

(d) Yes, the proper officer can proceed Suo-moto in assessing the tax liability of a taxable person on possession of relevant evidence.

Ans. *(a) No, the proper officer has to obtain prior permission of [Additional/Joint Commissioner] to proceed to assess the tax liability.*

Q20. The order u/s 64 may be withdrawn:

(a) On an application made by taxable person,

(b) If the Additional/Joint Commissioner considers that such order is erroneous.

(c) (a) or (b)

(d) The order passed u/s 64 cannot be withdrawn.

Ans. *(c) (a) or (b)*

Chapter XI
Audit

FAQ's

Audit by Tax Authorities (Section 65)

Q1. Who is authorised to undertake the audit of a registered person?

Ans. 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 any registered person for such period, at such frequency and in such manner as may be prescribed. Rule 101 of the CGST Rules *inter alia* provides, the period of audit under Section 65(1) shall be a financial year or multiples thereof

Q2. Whether any reason to believe or evidence is required for initiate audit under Section 65?

Ans. No, Section 65 does not specify any such requirements. Commissioner can initiate audit on any taxable person for such period, at such frequency and in such manner as may be prescribed.

Q3. Should the registered person be informed in advance, prior to conduct of audit?

Ans. The registered person shall be informed, by way of a notice, in Form GST ADT-01 (as per Chapter XI- Assessment and Audit of the CGST Rules) sufficiently in advance, not less than 15 working days, prior to the conduct of audit in the manner prescribed.

Q4. What is the time limit for completion of the audit under Section 65(1) and whether the same can be extended?

Ans. The audit under Section 65(1) shall be completed within a period of 3 months from the date of commencement of audit. The period of completion of audit can be further extended by a period not exceeding 6 months by the Commissioner for reasons recorded to be in writing.

Q5. What are the powers of the authorised officer in the course of audit?

Ans. During the course of audit, the authorised officer may require the registered person,

(i) to afford him the necessary facility to verify the books of account or other documents as he may require

(ii) to furnish such information as he may require and render assistance for timely completion of the audit.

Q6. Whether the findings of audit communicated to the registered person, whose audit is done?

Ans. Yes. As per section 65(6) of the CGST Act, read with Rule 101(5) of the CGST Rules, on conclusion of audit, the proper officer shall within 30 days, in FORM GST ADT-02, inform the registered person, whose records are audited about the findings, his rights, obligations and the reasons for such findings.

Q7. What action will be initiated when the audit conducted u/s 65(1) results in a demand?

Ans. Where the audit u/s 65(1) results in detection of tax not paid or short paid or erroneously refunded, or input tax credit wrongly availed or utilised, the proper officer may initiate action under Section 73 or Section 74.

Special Audit (Section 66)

Q8. In what cases, special audit under Section 66 can be directed?

Ans. Special audit can be directed if at any stage of scrutiny, enquiry, investigation or any other proceedings before him, any officer not below the rank of Assistant Commissioner, having regard to the nature and complexity of the case, is of the opinion that the value has not been correctly declared or the credit availed is not within the normal limits, with the prior approval of Commissioner.

Q9. Whether Special audit can be initiated after completion of scrutiny, enquiry, and investigation?

Ans. No, special audit can be initiated during the process of scrutiny, enquiry, investigation and not after completion of the same.

Q10. Who can direct the registered person to get his records audited under Section 66?

Ans. An officer not below the rank of Assistant Commissioner may, with the prior approval of the Commissioner, shall issue a direction in FORM GST ADT-03 to such registered person.to get his records including books of account examined and audited by a Chartered Accountant or a Cost Accountant specified in the said direction.

Q11. Whether the proper officer nominated by Commissioner will be authorised to conduct the audit including books of account under Section 66?

Ans. No, only Chartered Accountant or a Cost Accountant as may be nominated by the Commissioner in this behalf will be authorised to conduct audit under Section 66.

Q12. What is the time limit to submit a report of the audit?

Ans. The Chartered Accountant or Cost Accountant nominated to conduct the audit under Section 66, shall submit a report, within a period of 90 days from the date of communication in writing by an officer not below the rank of Assistant Commissioner to

get the audit of records of such registered person. The said period of ninety days can be extended by another period of 90 days on an application made in this behalf by the registered person or the Chartered Accountant or Cost Accountant or for material and sufficient reason.

Q13. Is the taxable person relieved from audit under Section 66 if the accounts of the taxable person have already been audited under any other provision of this Act or any other law?

Ans. The provision of Section 66(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.

Q14. How are the expenses of audit determined and paid?

Ans. The expenses of, and incidental to, the examination and special audit of records under Section 66(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.

Q15. What action will be initiated when the special audit conducted under Section 66(1) results in a demand?

Ans. On conclusion of special audit conducted under Section 66(1), the registered person shall be informed of the findings in FORM GST ADT-04. Where such special audit results in detection of tax not paid or short paid or erroneously refunded, or input tax credit wrongly availed or utilised, the proper officer may initiate action under Section 73 or 74, as the case may be.

MCQ's

Audit (Section 65 to 66)

Q1. Who is authorised to undertake the audit of a registered person?

(a) The Commissioner of CGST/Commissioner of SGST

(b) Any officer authorised by Commissioner of CGST/Commissioner of SGST by way of a general or a specific order.

(c) Only (a)

(d) (a) or (b)

Ans. *(d) (a) or (b)*

Q2. Whether any reason to believe or evidence is required for initiation of audit u/s 65?

(a) Reason to believe is a prerequisite for initiation of audit u/s 65.

(b) Proper evidence is a prerequisite for initiation of audit u/s 65.

(c) (a) & (b)

(d) No, Sec 65 does not specify any such requirements.

Ans. *(d) No, Section 65 does not specify any such requirements*

Q3. The tax authorities may conduct audit u/s 65 at:

(a) the place of business of the registered person

(b) the place of residence of the registered person.

(c) the office of the tax authorities.

(d) (a) or (c)

Ans. *(d) (a) or (c)*

Q4. Prior to the conduct of audit u/s 65 the registered person shall be informed, by way of a notice, sufficiently in advance:

(a) not less than fifteen working days

(b) not less than thirty working days

(c) not less than ten working days

(d) No prior intimation required

Ans. *(a) not less than fifteen working days*

Q5. The time limit for completion of the audit u/s 65(1) is:

(a) six months from the date of commencement of audit

(b) three months from the date of commencement of audit

(c) One year from the date of commencement of audit

(d) None of the above.

Ans. *(b) three months from the date of commencement of audit*

Q6. Where the Commissioner is satisfied that audit u/s 65 in respect of such registered person cannot be completed within three months from the date of commencement of audit the time limit can be extended:

(a) by a further period not exceeding six months

(b) by a further period not exceeding six months

(c) by a further period not exceeding six months

(d) no extension of time limit is permissible

Ans. *(a) by a further period not exceeding six months*

Q7. During the course of audit, the authorised officer may require the registered person:

(a) to afford him the necessary facility to verify the books of account or other documents as he may require

(b) to furnish such information as he may require and render assistance for timely completion of the audit

(c) (a) and/or (b)

(d) Only a)

Ans. *(c) (a) and/or (b)*

Q8. Special audit u/s 66 can be directed at any stage of scrutiny, enquiry, investigation or any other proceedings having regard to nature and complexity of the case if, any officer not below the rank of Assistant Commissioner:

(a) is of the opinion that the value has not been correctly declared

(b) the credit availed is not within the normal limits

(c) assessee does no co-operate

(d) (a) or (b)

Ans. *(d) (a) or (b)*

Q9. Who can direct the registered person to get his records audited u/s 66?

(a) An officer not below the rank of Assistant Commissioner, with the prior approval of the Commissioner

(b) An officer not below the rank of Joint/Additional, with the prior approval of the Chief Commissioner

(c) An officer not below the rank of Chief Commissioner, with the prior approval of the Principle Chief Commissioner

(d) None of the above.

Ans. *(a) An officer not below the rank of Assistant Commissioner, with the prior approval of the Commissioner*

Q10. Who is authorised to conduct the audit including books of account u/s 66?

(a) Chartered Accountant as may be nominated by the Commissioner.

(b) Cost Accountant as may be nominated by the Commissioner.

(c) (a) or (b)

(d) Any officer as may be nominated by the Additional Director.

Ans. *(c) (a) or (b)*

Q11. The time limit to submit a report of the audit u/s 66 is:

(a) within the period of ninety days without any extension of time

(b) within the period of sixty days without any extension of time

(c) within the period of ninety days. The Assistant Commissioner may, on an application made to him in this behalf or for any material and sufficient reason, extend the said period by another ninety days.

(d) None of the above.

Ans. *(c) within the period of ninety days. The Assistant Commissioner may, on an application made to him in this behalf or for any material and sufficient reason, extend the said period by another ninety days*

Q12. The expenses of audit u/s 66 is determined and paid by:

(a) the Commissioner.

(b) the Deputy/ Assistant Commissioner with prior approval of the Commissioner.

(c) the registered person.

(d) Any of the above.

Ans. *(a) the Commissioner*

Chapter XII
Inspection, Search, Seizure and Arrest

FAQ's

Power of inspection, search and seizure (Section 67)

Q1. What is the meaning of the term "Search"?

Ans. The term 'search', in simple language, denotes an action of a government machinery to go, look through or examine carefully a place, area, person, object etc. in order to find something concealed or for the purpose of discovering evidence of a crime. The search of a person or vehicle or premises etc. can only be done under proper and valid authority of law.

Q2. What is the meaning of the term "Inspection"?

Ans. It is a softer provision than search to enable officers to access any place of business of a taxable person and also any place of business of a person engaged in transporting goods or who is an owner or an operator of a warehouse or godown.

Q3. What is the meaning of the term "Seizure"?

Ans. In Law Lexicon Dictionary, 'seizure', is defined as the act of taking possession of property by an officer under legal process. It generally implies taking possession forcibly contrary to the wishes of the owner of the property or who has the possession and who was unwilling to part with the possession.

Q4. Who can authorize the act of carrying out 'Inspection' and under what circumstances?

Ans. As per Section 67(1), Inspection can be carried out by any officer of Central tax only upon a written authorization in Form GST INS-01 given by a proper officer not below the rank of Joint Commissioner. Such proper officer can give such authorization only if he has reasons to believe that the person concerned has –

(a) suppressed any transaction of supply;

(b) suppressed stock of goods in hand;

(c) claimed excess input tax credit;

(d) contravened any provisions of this Act or rules made thereunder to evade tax;

(e) a transporter or an owner or operator of a warehouse or godown or any other place, has kept goods which have escaped payment of tax or has kept his accounts or goods in a manner that is likely to cause evasion of tax.

Q5. Which are the places of business / premises which can be inspected by the CGST officer under this section?

Ans. CGST officer authorized by the proper officer not below the rank of Joint Commissioner shall have the powers to carry out inspection of any of the following places / premises:

(a) any place of business of a taxable person;

(b) any place of business of a person engaged in the business of transporting goods;

(c) any place of business of an owner or an operator of a warehouse or godown;

(d) any other place

Q6. Who can order for search and seizure and under what circumstances?

Ans. Proper officer not below the rank of Joint Commissioner can himself or authorize any other CGST officer in FORM GST INS-01 (Chapter-XVII-Inspection, Search and Seizure of the CGST Rules) to carry out search and seize goods, documents, books or things. Such authorization can be given only where the proper officer 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 / hidden in any place. Where any goods, documents, books or things are liable for seizure, the proper officer or an authorised officer shall make an order of seizure in FORM GST INS-02.

Q7. What is meant by 'reasons to believe'?

Ans. Reason to believe is to have knowledge of facts which, although not amounting to direct knowledge, would cause a reasonable person, knowing the same facts, to reasonably conclude the same thing. As per Section 26 of the IPC, 1860, *"A person is said to have 'reason to believe' a thing, if he has sufficient cause to believe that thing but not otherwise."* '*Reason to believe*' contemplates an objective determination based on intelligent care and evaluation as distinguished from a purely subjective consideration. It has to be and must be that of an honest and reasonable person based on relevant material and circumstances.

Q8. Is it mandatory that such 'reasons to believe' has to be recorded in writing by the proper officer, before issuing authorization for Inspection or Search and Seizure?

Ans. Although the officer is not required to state the reasons for such belief before issuing an authorization for search, but he should disclose the material on which his belief was formed. 'Reason to believe' need not be recorded invariably in each case.

Q9. What powers can be exercised by an officer during search?

Ans. An officer carrying out a search has the power to search for and seize goods (which are liable to confiscation) and documents, books or things (relevant for any proceedings under the Act) from the premises searched. During search, the officer has the power to

seal or break open the door of the any premises authorized to be searched if access to the same is denied. Similarly, while carrying out search within the premises, he can break open any almirah, electronic devices, box, receptacle if access to such almirah, electronic devices, box, receptacle is denied and in which any goods, account, registers or documents are suspected to be concealed.

Q10. What measures can be taken by the Proper officer when the goods are not practicable to seize?

Ans. Where it is not practicable to seize any goods, the Proper officer may serve a prohibitory order in FORM GST INS-03 on the owner or the custodian of the goods that he shall not remove, part with or otherwise deal with the goods except with the prior permission

Q11. Whether goods seized can be released on a provisional basis?

Ans. Yes. The seized goods can be released on provisional basis upon execution of a bond for the value of goods in FORM GST INS-04 and furnishing of security in the form of a bank guarantee equivalent to the amount of applicable tax, interest and penalty payable, or on payment of applicable tax, interest and penalty.

Q12. What are the safeguards provided in section 67 in respect of search and seizure?

Ans. The following are the safeguards provided in section 67 in respect of search and seizure:

(a) Seized goods or documents should not be retained beyond the period necessary for their examination.

(b) Photocopies of the documents can be taken by the person from whose custody documents are seized.

(c) In respect of seized goods, if a notice is not issued within 6 months of its seizure, such goods shall be returned to the person from whose possession it was seized. This period of six months can be extended on justified grounds up to a further period not exceeding 6 months.

(d) An inventory of seized goods shall be prepared by the seizing officer.

(e) Certain notified categories of goods such as perishable or hazardous nature, depreciation in value of the goods with the passage of time etc. can be disposed of immediately after seizure. However, if the taxable person pays an amount equivalent to the market price of such goods or things or the amount of tax, interest and penalty that is or may become payable, whichever is lower, on proof of such payment, the Proper officer shall order for release such goods or things, in FORM GST INS-05.

(f) Provision of Code of Criminal Procedure 1973 relating to search and seizure shall be applicable to the GST Laws and in section 165(5) thereof, the word 'Magistrate' should be read as 'Commissioner '.

Q13. What is the procedure for conducting search?

Ans. Section 67(10) prescribes that search must be carried out in accordance with the provisions of the Code of Criminal Procedure, 1973.Section 100 of the Code of Criminal Procedure describes the procedure for search

Inspection of goods in movement (Section 68)

Q14. Is there any special document required to be carried during transportation of taxable goods?

Ans. Yes. The person in charge of a conveyance carrying any consignment of goods of value exceeding a specified amount to carry with him such documents and devices as may be prescribed by the Government. On interception of the conveyance, the person in charge shall produce the prescribed documents and devices for verification and allow inspection of goods by the proper officer.

Power to arrest (Section 69)

Q15. What is meant by the term "arrest"?

Ans. The term 'arrest' has not been defined in the CGST/SGST Act. However, as per judicial pronouncements, it denotes 'the taking into custody of a person under some lawful command or authority'. In other words, a person is said to be arrested when he is taken and restrained of his liberty by power or colour of lawful warrant

Q16. What is a cognizable offence?

Ans. Generally, cognizable offence means serious category of offences in respect of which a police officer has the authority to make an arrest without a warrant and to start an investigation with or without the permission of a Court.

Q17. What is a non-cognizable offence?

Ans. Non-cognizable offence means an offence in respect of which a police officer does not have the authority to make an arrest without a warrant and an investigation cannot be initiated without the permission of a Court.

Q18. When can, the proper officer authorize arrest of any person under section 69?

Ans. The Commissioner of CGST, by order, can authorize any CGST officer to arrest a person, if he has reasons to believe that such person has committed an offence specified in clause (a) or (b) or (c) or (d) of section 132(1) which is punishable under

clause (i) or (ii) of section 132(1) or section 132(2) of the Act. This essentially means that a person can be arrested only when the amount of tax evaded or the amount of input tax credit wrongly availed or utilized or the amount of refund wrongly taken exceeds ₹ 2 Crores or where a person has earlier been convicted for an offence under section 132 of the CGST Act.

Q19. What are the safeguards provided for a person who is placed under arrest?

Ans. The following are the safeguards provided for a person who is placed under arrest:

(a) If a person is arrested for a cognizable offence, he must be informed in writing of the grounds of arrest and he must be produced before a Magistrate within 24 hours of his arrest;

(b) If a person is arrested for a non-cognizable and bailable offence, the Deputy/ Assistant Commissioner 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

All arrest must be in accordance with the provisions of the Code of Criminal Procedure, 1973 relating to arrest.

Power to summon persons to give evidence and produce documents (Section 70)

Q20. When can the proper officer issue summons?

Ans. Section 70(1) gives powers to the proper officer to call upon any person by issuing a summon to be physically present before him to either give evidence or produce a document or any other thing in any inquiry in the same manner, as provided in the case of a civil court under the provisions of the Code of Civil Procedure, 1908.

Q21. What are the responsibilities of the person so summoned?

Ans. A person who is issued summon is legally bound to attend either in person or by an authorized representative and he is bound to state the truth before the officer who has issued the summon upon any subject, which is the subject matter of examination and to produce such documents and other things as may be required.

Q22. What can be the consequences of non-appearance to summons?

Ans. The proceeding before the proper officer who has issued summons is deemed to be judicial proceedings. If a person does not appear on the date when summoned without any reasonable justification, he can be prosecuted under section 174 of the Indian Penal Code (IPC). If he absconds to avoid service of summons, he can be prosecuted under section 172 of the IPC and in case he does not produce the documents or

electronic records required to be produced, he can be prosecuted under section 175 of the IPC. In case he gives false evidence, he can be prosecuted under section 193 of the IPC.

Access to business premises (Section 71)

Q23. Can the proper officer access business premises of a registered taxable person?

Ans. Yes. An audit party of CGST or a cost accountant or chartered accountant nominated under section 66 have access to any business premises without issuance of a search warrant for the purposes of revenue carrying out any audit, scrutiny, verification and checks as may be necessary to safeguard the interest of. Further, in terms of Section 70(1), an officer authorised by a proper officer not below the rank of Joint Commissioner can also have access business premises of a registered person.

Q24. What is the distinction in law between 'Seizure' and 'Detention'?

Ans. Denial of access to the owner of the property or the person who possesses the property at a particular point of time by a legal order/notice is called detention. Seizure is taking over of actual possession of the goods by the department. Detention order is issued when it is suspected that the goods are liable to confiscation. Seizure can be made only on the reasonable belief which is arrived at after inquiry/investigation that the goods are liable to confiscation.

Officers required to assist proper officers (Section 72 of the CGST Act, 2017 and Section 11 of the UTGST Act, 2017)

Q25. Are there any other class of officers who are required to assist proper officers in implementation of the CGST Act,2017?

Ans. Under Section 72 of the CGST Act,2017, the following officers are required to assist proper officers in the implementation this Act. The categories specified in Act are as follows:

(a) Police

(b) Railways

(c) Customs

(d) Officers of State/Union Territory engaged in collection of GST

(e) Officers of State/Central Government engaged in collection of land revenue

(f) All village officers

(g) Any other class of officers as may be notified by the Government.

MCQ's

Power of inspection, search and seizure (Section 67)

Q1. Initiation of action under this section is by a Proper Officer not below the rank of ……..

(a) Superintendent

(b) Inspector

(c) Joint Commissioner

(d) Commissioner

Ans. *(c) Joint Commissioner*

Q2. Which are the places of business / premises which can be inspected by the proper officer under this section?

(a) Any places of business of a taxable person

(b) Any places of business of a taxable person engaged in the business of transporting goods

(c) Any places of business of an owner or an operator of a warehouse or godown

(d) Any other place

(e) All of the above

Ans. *(e) All of the above*

Q3. Is it mandatory that 'reasons to believe' must exist before issuing authorization for Inspection or Search and Seizure by the proper officer?

(a) Yes

(b) No

Ans. *(a) Yes*

Q4. Can the seized goods be released on provisional basis upon execution of a bond and furnishing of security or on payment of applicable tax, interest and penalty?

(a) Yes

(b) No

(c) At proper officer's discretion

(d) None of the above

Ans. *(a) Yes*

Power to arrest (Section 69)

Q5. All arrests should be made as per the provisions of ……..

(a) Code of Criminal Procedure, 1973

(b) Civil Procedure Code

(c) Indian Penal Code

(d) Foreign Exchange Management Act

Ans. *(a) Code of Criminal Procedure, 1973*

Power to summon persons to give evidence and produce documents (Section 70)

Q6. When can the proper officer issue summons to call upon a person?

(a) To give evidence

(b) Produce a document

(c) Produce any other thing in an enquiry

(d) All of the above

Ans. *(d) All of the above*

Q7. What can be the consequences of non-appearance to summons?

(a) Prosecution under section 172, 174, 175 and 193 of the Indian Penal Code as the case may be

(e) Arrest under Code of Criminal Procedure, 1973

(b) Arrest under Foreign Exchange Management Act

(c) None of the above

Ans. *(a) Prosecution under section 172, 174, 175 and 193 of the Indian Penal Code as the case may be*

Access to business premises (Section 71)

Q8. The documents called for should be provided within……..

(a) 20 working days

(b) 15 working days

(c) 5 working days

(d) 45 working days

Ans. *(b) 15 working days*

Officers required to assist proper officers (Section 72 of the CGST Act, 2017 and 11 of the UTGST Act, 2017)

Q9. The …… Officer is empowered to assist the proper officer.

(a) Police/Customs

(b) Health

(c) CBI

(d) State Excise

Ans. *(a) Police/Customs*

Chapter XIII
Demands and Recovery

FAQ's

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 (Section 73)

Q1. Under what circumstances, the proper officer shall invoke provisions of section 73(1) to serve show cause notice on the person chargeable with tax?

Ans. The proper officer shall serve notice under the provisions of Section 73(1) along with a summary, electronically in Form GST DRC-01 (as per Chapter XVIII-Demands and Recovery of the CGST Rules) on the person chargeable with tax for any reason other than:

- fraud
- willful misstatement
- suppression of facts,

when he has reasons to believe that tax has not been paid or short paid or erroneously refunded or input tax credit has been wrongly availed or utilized.

Q2. What is the time limit for issue of show cause notice by the proper officer under section 73(2)?

Ans. The proper officer shall issue show cause notice at least 3 months prior to the time limit of 3 years for issuance of order i.e.

- Before completion of 3 years from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilized relates to, or
- within 3 years from the date of erroneous refund, as the case may be.

Q3. Whether proper officer can issue similar show cause notice for any periods other than those covered under section 73(1)?

Ans. Yes. The proper officer may serve a statement under section 73(3) along with a summary electronically in Form GST DRC-02 containing details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized where the

grounds relied upon by the proper officer for such periods are the same as are mentioned in the earlier notice issued under section 73(1). The service of such statement shall be deemed to be service of show cause notice on the person chargeable with tax.

Q4. Can the person chargeable with tax pay the amount of demand along with interest before the service of show cause notice under sub-section 73(1) or statement under section 73(3)?

Ans. Yes. The person chargeable with tax can pay the amount of tax along with interest under section 50 based on 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 in Form GST DRC-03. On receipt of such information, the proper officer shall issue an acknowledgement for accepting the payment made by the said person in Form GST DRC-04 and shall not serve any notice or statement with respect to the tax so paid.

Q5. Whether the proper officer can proceed to issue show cause notice in case of any shortfall in payment under section 73(5) by the person chargeable with tax?

Ans. Where the proper officer is of the opinion that the amount paid under section 73(5) falls short of the actual amount payable, he shall proceed to issue show cause notice under section 73(1) for such shortfall.

Q6. If the show cause notice is issued under section 73(1) or 73(3) and thereafter the person chargeable with tax makes payment, is there any need to adjudicate the case?

Ans. No. Where the person chargeable with tax pays the tax along with interest under section 50 within 30 days of issue of such show cause notice, no penalty shall be payable The person chargeable with tax shall inform the proper officer of such payment in Form GST DRC-03 and the proper officer shall issue an order in Form GST DRC-05 concluding the proceedings in respect of the said notice. Please note that on such payment, all proceedings in respect of such notice except for proceedings under section 132 shall be deemed to be concluded.

Q7. What is the maximum penalty leviable under section 73?

Ans. Penalty equivalent to 10% of the tax or ₹10,000/- whichever is higher.

Q8. What is the time limit for issue of order under section 73 (9) of the CGST Act?

Ans The proper officer after considering the representation in FORM GST DRC-06, if any, made by the person chargeable with tax and determined the amount of tax, interest and penalty due from such person and issue an order along with, a summary of such order which shall be uploaded electronically in FORM GST DRC-07, specifying therein the amount of tax, interest and penalty payable by the person chargeable with tax.

The proper officer shall pass such order within a period of 3 years from the due date for filing of annual return for the financial year to which the short payment or non-payment or input tax credit wrongly availed or utilised relates or within 3 years from date of erroneous refund.

Q9. Whether any penalty is payable, if the self-assessed tax or any amount collected as tax is not remitted?

Ans. Yes. Penalty shall be leviable under section 73(11), where the self-assessed tax or any amount collected as tax is not paid within 30 days from the due date of payment of such tax. Quantum of penalty leviable shall be 10% of the tax or ₹ 10,000/-, whichever is higher.

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 (section 74)

Q10. Under what circumstances, the proper officer shall invoke provisions of section 74(1) to serve show cause notice on the person chargeable with tax?

Ans. The proper officer shall serve notice under the provisions of Section 74(1) along with a summary electronically in Form GST DRC-01 on the person chargeable with tax for any reason of :

- Fraud
- willful misstatement
- suppression of facts

when he has reasons to believe that tax has not been paid or short paid or erroneously refunded or input tax credit has been wrongly availed or utilized.

Q11. What is the time limit for issue of show cause notice by the proper officer under section 74(2)?

Ans. The proper officer shall issue show cause notice at least 6 months prior to the time limit of 5 years for issuance of order i.e.:

- Before completion of 5 years from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input tax wrongly availed or utilized relates to or
- within 5 years from the date of erroneous refund, as the case may be.

Q12. Whether proper officer can issue similar show cause notice for any periods other than those covered under section 74(1)?

Ans. Yes. The proper officer may serve a statement under section 74(3) along with a summary electronically in Form GST DRC-02 containing details of tax not paid or short

paid or erroneously refunded or input tax credit wrongly availed or utilized, where the grounds relied upon by the proper officer for periods other than those covered in Section74(1) are the same as are mentioned in the earlier notice issued under section 73 (1), except the ground of fraud or any willful-misstatement or suppression of facts with the intention to evade tax. The service of such statement [under Section 74(3)] shall be deemed to be service of show cause notice [under Section 73(1)]on the person chargeable with tax.

Q13. Can the person chargeable with tax pay the amount of demand along with interest and reduced penalty before the service of show cause notice under section 74(1) or as the case may be, the statement under section 74(3)?

Ans. Yes. The person chargeable with tax can pay the amount of tax along with interest under section 50 and a penalty equivalent to 15% of such tax based on 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. in Form GST DRC-03. On receipt of such information, the proper officer shall issue an acknowledgement for accepting the payment made by the said person in Form GST DRC-04 and he shall not serve any notice in respect of tax so paid or any penalty payable under the provisions of this Act or rules made thereunder.

Q14. Can the person chargeable with tax pay the amount of demand along with interest and reduced penalty after the issue of notice under section 74(1) or 74(3) , but before the adjudication and issue of order under section 74?

Ans. Yes. The person chargeable with tax under section 74(1) or the statement under section 74(3) can pay the amount of tax along with interest under section 50 and a penalty equivalent to 25% of such tax within 30 days from the issue of notice [Section 74(8)]. The person chargeable with tax shall inform the proper officer of such payment in Form GST DRC-03 and the proper officer shall issue an order in Form GST DRC-05 concluding the proceedings in respect of the said notice. Please note that on such payment, all proceedings in respect of the said notice except for proceedings under section 132 shall be deemed to be concluded.

Q15. Where a case is adjudicated under section 74 and order issued confirming tax demand and penalty, does the Noticee have any option to pay reduced penalty?

Ans. Yes. The person served with order under section 74(9) along with a summary electronically in Form GST DRC-07, shall pay the tax along with interest under section 50 and a penalty equivalent to 50% of such tax within 30 days of the communication of the order [Section 74(11)]. On such payment, all proceedings in respect of the said notice except for proceedings under section 132 shall be deemed to be concluded.

Q16. Whether the proper officer can proceed to issue notice in case of shortfall in payment under section 74(5) by the person chargeable with tax?

Ans. Where the proper officer is of the opinion that the amount paid under section 74(5) falls short of the actual amount payable, he shall proceed to issue show cause notice under section 74(1) for such shortfall.

Q17. If the show cause notice is issued under section 74(1) or 74(3) and thereafter the person chargeable with tax makes payment, is there any need to adjudicate the case?

Ans. No. Where the person chargeable with tax, pays the tax along with interest under section 50 and applicable penalty within 30 days of communication of the order, all proceedings in respect of such notice except for proceedings under section 132 shall be deemed to be concluded.

Q18. What is the maximum penalty leviable under section 74?

Ans. Penalty equivalent to 100% of the tax.

Q19. What is the time limit for issue of order under section 74 (9) of the CGST Act?

Ans The proper officer after considering the representation in FORM GST DRC-06, if any, made by the person chargeable with tax and determined the amount of tax, interest and penalty due from such person and issue an order along with, a summary of such order which shall be uploaded electronically in FORM GST DRC-07.

The proper officer shall pass such order within a period of 5 years from the due date for filing of annual return for the financial year to which the short payment or non-payment or input tax credit wrongly availed or utilised relates or within 5 years from the date of erroneous refund.

Q20. What is 'Suppression'?

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

Q21. Where the show cause notice is issued to main person liable to pay tax and some other persons under the same proceedings, what will happen to penalty proceedings initiated against other persons on conclusion of proceedings against the main person under section 73 or 74?

Ans. The penalty proceedings against all other persons under sections 122, 125, 129 and 130 are deemed to be concluded on conclusion of proceedings against the main person liable to pay tax.

General provisions relating to determination of tax (Section 75)

Q22. Where the service of Notice or issuance of order is stayed by an order of a Court or Appellate Tribunal, can the period of such stay be excluded in computing the period specified in sub-sections (2) and (10) of section 73 or and sub-sections (2) and (10) of section 74?

Ans. Yes. The period of stay would be excluded for the computing the time limit for issuance of show cause notice or order under Section 73 and Section 74.

Q23. What happens when the Notice issued under Section 74(1) is held not sustainable by any Appellate Authority or Tribunal or Court for the reason that the charges of fraud or any willful misstatement or suppression of facts to evade tax has not been established?

Ans. The proper officer shall determine the tax payable by such person deeming as if the Notice were issued under section 73(1).

Q24. What is the time limit for issue of order in pursuance of the direction of the Appellate Authority or Appellate Tribunal or a Court?

Ans. The order shall be issued within 2 years from the date of communication of the said direction.

Q25. Whether opportunity of personal hearing shall be granted to the person chargeable with tax or penalty or any adverse decision without any written request during adjudication proceedings?

Ans. No. An opportunity of personal hearing shall be granted, only if a request is made in writing.

Q26. How many times adjournments can be sought by the person chargeable with tax during the proceedings?

Ans. If sufficient cause is shown by the person chargeable with tax, the proper officer shall grant time and adjourn the hearing on recording reasons in writing. However, the proper officer shall have the power to grant maximum 3 adjournments during the proceedings.

Q27. Whether the amount of tax, interest and penalty demanded in the order can exceed the amount specified in the Notice?

Ans. No. 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 the grounds other than the grounds specified in the notice

Q28. What happens in cases where Notice is issued but order has not been passed within 3 years (Section 73) or 5 years (Section 74)?

Ans. The adjudication proceedings shall be deemed to be concluded if the order is not issued within the limitation period of 3 years under section 73(10) or 5 years under section 74(10), as the case may be.

Q29. How to compute period of limitation referred to in section 73(10) or section 74(10) where an issue on which the Appellate Authority or the Appellate Tribunal or the High Court has given its decision which is prejudicial to the interest of the revenue in some other proceedings and an appeal to the Appellate Tribunal or the High Court or the Supreme Court against such decision is pending?

Ans. While computing the period of limitation referred to in section 73(10) or section 74(10), the period spent between the date of the decision of the Appellate Authority / Appellate Tribunal / High Court and the date of the decision of the Appellate Tribunal / the High Court / the Supreme Court as the case may be, shall be excluded.

Q30. Whether penalties under any other provisions of the Act be imposed in respect of adjudication proceedings under section 73 or 74?

Ans. No. Where any penalty is imposed under section 73 or 74, no penalty for the same act or omission shall be imposed on the same person under any other provisions of the Act.

Q31. Whether interest is payable on the tax short paid or not paid even if it is not specified in the order determining the tax liability?

Ans. Yes.

Q32. While filing the return under GST, if any amount of tax or any interest on such tax remains unpaid, whether proper officer shall issue notice for recovering this amount?

Ans. No, proper officer shall not issue any notice for such unpaid tax or unpaid interest on tax. This shall be recovered from such person in accordance with provisions of Section 79.

Tax collected but not paid to Government (Section 76)

Q33. Whether any amount representing as tax is collected from any other person be retained and not paid to Government?

Ans. Every person who has collected from any other person any amount representing as tax under this Act shall forthwith pay the said amount to Government, regardless of whether the supplies in respect of which such amount was collected are taxable or not.

Q34. In case the person does not deposit tax collected in contravention of Section 76, what is the course of action available to the proper officer?

Ans. The proper officer shall issue notice requiring him to show cause as to why the amount so collected as tax should not be paid by him to the Government and why a penalty equivalent to the amount specified in the notice should not be imposed on him under the provisions of the Act. The proper officer shall adjudicate the matter and issue order within one year from the date of issue of the show cause notice.

Q35. In case the person does not deposit tax collected in contravention of Section 76, is the same recoverable with interest?

Ans. Yes. In addition to the amount payable by him, the person is required to pay interest under Section 50 on the same from the date of collection of the amount till the date such amount is paid to the Government.

Q36. Is there any time limit for issue of notice under section 76 in cases where tax collected but not paid to Government?

Ans. No. Notice can be issued on detection of such cases without any time limit. Once show cause notice is issued, the proper officer shall pass the order within 1 year from the date of issue of such notice.

Q37. Whether the person who has borne the incidence of amount apply for refund of surplus left after adjustment towards tax collected, but not paid under section 76?

Ans. Yes. The person who has borne the incidence of the amount may apply for the refund of the same in accordance with the provisions of section 54.

Tax wrongfully collected and paid to Central Government or State Government (Section 77 of the CGST Act, 2017; Section 19 of the IGST Act, 2017 and Section 12 of the UTGST Act, 2017)

Q38. What happens if a registered person has paid CGST and SGST or, as the case may be, CGST and UTGST on a transaction considered by him to be an intra-state supply but which is subsequently held to be an inter-state supply?

Ans. Refund of CGST and SGST or, as the case may be, CGST and UTGST shall be granted in such manner and subject to such conditions as may be prescribed.

Q39. What happens if a registered person 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?

Ans. Refund of IGST (in IGST Act) shall be granted in such manner and subject to such conditions as may be prescribed.

Q40. Whether a registered 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 is required to pay interest?

Ans. No. Such registered person shall not be required to pay any interest on the amount of CGST and SGST or CGST and UTGST payable, as the case may be.

Q41. Whether a taxable person who has paid CGST and SGST or, as the case may be, CGST and UTGST on a transaction considered by him to be an intra-state supply, but which is subsequently held to be an inter-state supply is required to pay interest?

Ans. No. A registered person shall not be required to pay any interest on the amount of IGST payable.

Initiation of recovery proceedings (Section 78)

Q42. Is there any time limit for payment of tax demand in pursuance of an order passed under this Act?

Ans. Yes. The demand shall be payable by the taxable person within a period of 3 months from the date of service of the order.

Q43. What happens if the tax demand is not paid within the time limit prescribed under section 78?

Ans. The proper officer shall initiate recovery proceedings if the tax demand is not paid within 3 months from the date of service of the order.

Q44. Whether the proper officer can require a taxable person to make payment of tax demand within shorter period lesser than 3 months?

Ans. Yes. If it is expedient in the interest of the revenue, the proper officer, after recording reasons in writing, may require taxable person to make such payment within shorter period as may be prescribed by him.

Recovery of tax (Section 79 of the CGST Act, 2017 and Section 13 of the UTGST Act, 2017)

Q45. What are the modes of recovery of tax available to the proper officer?

Ans. The following options are available to the proper officer:

(a) The proper officer may deduct or may require any other specified officer in Form GST DRC-09 to deduct the amount so payable from any money owing to such person - *Refund adjustment.*

(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.

The goods shall be sold through a process of auction including e-auction, for which a notice shall be issued in FORM GST DRC-10 clearly indicating the goods to be sold and the purpose of sale. The proper officer shall issue a notice to the successful bidder in FORM GST DRC-11 requiring him to make the payment within a period of 15 days from the date of auction. On payment of the full bid amount the possession of the said goods shall be transferred to the successful bidder and issue a certificate in FORM GST DRC-12. –*Detaining and selling of goods*.

(c) The proper officer may, by a notice in Form GST DRC-13, 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.Where the third person makes

the payment of the amount specified in the notice in FORM GST DRC-13, then the proper officer shall issue a certificate in FORM GST DRC-14 to the third person clearly indicating the details of the liability so discharged. – *Recovery from third parties.*

(d) Where any amount is payable to the defaulter in the execution of a decree of a civil court for the payment of money or for sale in the enforcement of a mortgage or charge, the proper officer shall send a request in FORM GST DRC-15 to the said court and the court shall, subject to the provisions of the Code of Civil Procedure, 1908, execute the attached decree, and credit the net proceeds for settlement of the amount recoverable. -- *Recovery through execution of a decree, etc*.

(e) The proper officer may, on an authorization by the competent authority, 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. Thereby issue an order of attachment or distrain and a notice for sale in FORM GST DRC-16 prohibiting any transaction with regard to such movable and immovable property as may be required for the recovery of the amount due

If the due remains unpaid for a period of 30 days after any such distress, he may cause the said property to be sold.The property attached or distrained shall be sold through auction, including e-auction, for which a notice shall be issued in FORM GST DRC- 17 clearly indicating the property to be sold and the purpose of sale. With the proceeds of such sale, proper officer may satisfy the amount payable and the costs including cost of sale remaining unpaid and pay the surplus amount, if any, to such person – *Detaining / attachment of movable or immovable property and adjustment of tax dues from sale proceeds*.

(f) The proper officer may prepare a certificate signed by him specifying the amount due from such person and send such certificate to the Collector of the District in FORM GST DRC-18 in which such person owns any property or resides or carries on his business and on receipt of such certificate, the Collector shall proceed to recover from such person the amount specified as if it were an arrear of land revenue – *Recovery of tax dues as arrears of land revenue*.

(g) Where an amount is to be recovered as if it were a fine imposed under the Code of Criminal Procedure, 1973, the proper officer shall make an application before the appropriate Magistrate in FORM GST DRC-19 to recover from the defaulter, the amount specified there under as if it were a fine imposed by him -- *Recovery through Court.*

(h) Where the company is under liquidation, the Commissioner shall notify the liquidator for the recovery of any amount representing tax, interest, penalty or any other amount due under the Act in FORM GST DRC-24 -- *Recovery from Company in liquidation*.

Q46. Whether notice can be issued to post office, banking company or any insurer for recovery of amount (Recovery from third parties)?

Ans. Yes. Proper officer may issue notice to post office, banking company or any insurer and they are required to comply with the same without insisting on production of any passbook, deposit receipt, policy or any other document.

Q47. Whether the proper officer of the State tax or Union Territory tax has the power to recover any amount of tax, interest or penalty payable and which remains unpaid to Government under CGST Act?

Ans. Yes. During the course of recovery of tax arrears, the proper officer of the State tax or Union Territory tax may recover such amount from a taxable person as if were an arrear of State tax or Union Territory tax and credit the amount so recovered to the account of the Government.

Q48. Whether the proper officer of the Central tax has the power to recover any amount of tax, interest or penalty payable and which remains unpaid to Government under UTGST Act?

Ans. Yes. During the course of recovery of tax arrears, the proper officer of the Central tax may recover such amount from a taxable person as if were an arrear of Central tax and credit the amount so recovered to the account of the Government.

Q49. How to distribute the arrears of tax so recovered by the proper officer, if it is less than the amount due to Central Government, State Government and Union Territory?

Ans. The arrears of tax recovered by the proper officer shall be distributed to the respective Governments in proportion to the amount due to each such Government.

Payment of tax and other amount in installments (Section 80)

Q50. What are the remedies available to taxpayer after making the application to Commissioner in respect of payment of tax and other amount in instalment?

Ans. Commissioner may either extend the time limit for payment of tax or allow the taxpayer to make the payment of tax in installments.

Q51. Can the proper officer allow payment of tax dues in installments?

Ans. Yes. On receipt of application filed by a taxable person in Form GST DRC-20, the Commissioner, after recording reasons in writing, shall issue an order in Form GST DRC-21 extending the time for payment or allowing payment of any amount due under the Act in monthly instalments not exceeding 24, subject to payment of interest under section 50 with such restrictions and conditions as may be prescribed.

Q52. Under what circumstances proper officer cannot allow payment of tax dues in installments?

Ans. The facility of payment of tax dues in installments shall not be allowed where:

(a) The taxable person has already defaulted in payment of any amount under the CGST Act or IGST Act or UTGST Act or any SGST Act for which recovery process in on;

(b) The taxable person has not been allowed to make payment in installments in the preceding financial year under the CGST Act or IGST Act or UTGST Act or any SGST Act;

(c) The amount for which installment facility is sought is less than ₹ 25,000/-.

Q53. Whether proper officer can allow payment of self-assessed tax in instalments?

Ans. No. The proper officer shall have the power to allow payment of any amount due under this Act in instalments on tax other than the self-assessed tax.

Q54. What will be the recourse available to the proper officer in case of default in payment of any instalment on its due date by the taxable person?

Ans. Where there is default in payment of any one instalment on its due date by the taxable person, the whole outstanding balance payable on such date shall become due and payable forthwith, without any further notice. The proper officer can initiate recovery of dues.

Transfer of property to be void in certain cases (Section 81)

Q55. What happens if a person after any amount 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, 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?

Ans. Such charge or transfer shall be void against any claim in respect of any tax or any other sum payable by the said person. However, such charge or transfer shall not be void, if it is made for adequate consideration and without notice of the pendency of such proceedings under the Act, or without notice of such tax or other sum payable by the said person, or with the previous permission of the proper officer.

Tax to be first charge on property (Section 82)

Q56. Whether any amount payable by the taxable person under this Act is a first charge on his property?

Ans. Yes. Notwithstanding anything to the contrary contained in any law for the time being

force, save as otherwise provided in the Insolvency and Bankruptcy Code, 2016, first charge shall be on –

(a) the property of taxable person in respect of any amount payable by such taxable person, or

(b) the property of any other person on account of tax, interest or penalty which he is liable to pay to the Government.

Provisional attachment to protect the revenue in certain cases (Section 83)

Q57. Whether property of a taxable person can be provisionally attached to protect the revenue?

Ans. Yes. During the pendency of any proceedings under section 62, 63, 64, 67, 73 or 74, the Commissioner shall pass an order in Form GST DRC-22 to attach any property including bank account belonging to a taxable person provisionally for the purpose of protecting the interest of the Government revenue.

Q58. Under what circumstances the property of a taxable person provisionally attached be released?

Ans. The property of a taxable person provisionally attached be released under the following circumstances:

(a) Where the property attached is of perishable or hazardous nature, and if the taxable person pays an amount equivalent to the market price of such property or the amount that is or may become payable by him, whichever is lower, then such property shall be released forthwith by an order in Form GST DRC-23, on proof of payment.

(b) Any person whose property is attached may, within 7 days of such attachment, file an objection to the effect that the property attached was or is not liable to be attached, and the Commissioner may, release the said property by an order in Form GST DRC-23 after giving an opportunity of personal hearing to the person filing the objection.

(c) The Commissioner may, upon being satisfied that the property was, or is no longer liable for attachment, release such property by issuing an order in Form GST DRC-23.

Q59. Is there an expiry for the provisional attachment order issued under section 83?

Ans. Yes. Every provisional attachment order shall cease to have effect after the expiry of one year from the date of such order.

Continuation and validation of certain recovery proceedings (Section 84)

Q60. What happens in cases where the tax demand confirmed is enhanced in appeal / revision proceedings?

Ans. The Commissioner shall issue order for enhancement of any demand in Form GST DRC-25. In so far as the amount already confirmed prior to disposal of appeal/revision, the recovery proceedings may be continued from the stage at which such proceedings stood immediately before such disposal.

Q61. What happens in cases where the tax demand confirmed is reduced in appeal / revision proceedings?

Ans. The Commissioner shall issue order for reduction of any demand in Form GST DRC-25 to the taxable person and the appropriate authority with whom the recovery proceeding is pending. The recovery proceedings already initiated prior to the disposal of such appeal/revision may be continued in relation to the amount so reduced from the stage at which such proceedings stood immediately before such disposal.

MCQ's

Section 73 & Section 74

Q1. What is the time limit for issue of order in case of fraud, misstatement or suppression?

(a) 30 months

(b) 18 months

(c) 5 years

(d) 3 years

Ans. *(c) 5 years*

Q2. What is the time limit for issue of order in case of other than fraud, misstatement or suppression?

(a) 30 months

(b) 18 months

(c) 5 years

(d) 3 years

Ans. *(d) 3 years*

Q3. Is it obligatory on the part of the Department to take on record the assessee's representation during adjudication and issue of order?

(a) Yes

(b) No

(c) At proper officer's discretion

(d) If requested by notice

Ans. *(a) Yes*

Q4. What is the maximum amount of demand for which the officer can issue an order under section 73 in case of other than fraud, misstatement or suppression?

(a) Amount of tax + interest + penalty of 10% of tax

(b) Amount of tax + interest + penalty of 10% of tax or ₹ 10,000/- whichever is higher

(c) ₹ 10,000/-

(d) Amount of tax + interest + 25% penalty

Ans. *(b) Amount of tax + interest + penalty of 10% of tax or ₹ 10,000/- whichever is higher*

Q5. What is the maximum amount of demand for which the officer can issue an order under section 74 in case fraud, misstatement or suppression?

(a) Amount of tax + interest + penalty of 15% of tax

(b) Amount of tax + interest + penalty of 25% of tax

(c) Amount of tax + interest + penalty of 50% of tax

(d) Amount of tax + interest + penalty of 100% of tax

Ans. *(d) Amount of tax + interest + penalty of 100% of tax*

General provisions relating to determination of tax (Section 75)

Q6. Where the service of Notice or issuance of order is stayed by a Court order, can the period of such stay be excluded in computing the period specified in sub-sections (2) and (10) of section 73 or in sub-sections (2) and (10) of section 74?

(a) Yes

(b) No

(c) At proper officer's discretion

(d) None of the above

Ans. *(a) Yes*

Q7. What is the maximum number of times a hearing can be adjourned?

(a) 1

(b) 3

(c) 5

(d) None of the above

Ans. *(b) 3*

Q8. Whether the amount of tax, interest and penalty demanded in the order can exceed the amount specified in the Notice?

(a) Yes

(b) No

(c) At proper officer's discretion

(d) None of the above

Ans. *(b) No*

Q9. Whether penalties under any other provisions of the Act be imposed in respect of adjudication proceedings under section 73 or 74?

(a) Yes

(b) No

(c) At proper officer's discretion

(d) None of the above

Ans. *(b) No*

Q10. What is the time limit for issue of order in pursuance of the direction of the Appellate Authority or Appellate Tribunal or a Court, from the date of communication of the said direction?

(a) 30 months

(b) 18 months

(c) 2 years

(d) 5 years

Ans. *(d) 2 years*

Q11. Whether interest is payable on the tax short paid or not paid even if it is not specified in the order determining the tax liability?

(a) Yes

(b) No

(c) Only if concluded by an order later

Ans. *(a) Yes*

Tax collected but not paid to Government (Section 76)

Q12. Any amount of tax collected shall be deposited to the credit of the Central or State Government:

(a) Only when the supplies are taxable

(b) Regardless of whether the supplies in respect of which such amount was collected are taxable or not

(c) Only when the supplies are not taxable

(d) None of the above

Ans. *(b) Regardless of whether the supplies in respect of which such amount was collected are taxable or not*

Q13. Is there any time limit for issue of notice under section 76 in cases where tax collected but not paid?

(a) No time limit

(b) 1 year

(c) 3 years

(d) 5 years

Ans. *(a) No time limit*

Q14. Within how many years should the proper officer issue an order from the date of issue of notice?

(a) 1 year

(b) 2 years

(c) 3 years

(d) 4 years

Ans. *(a) 1 year*

Q15. Whether the person who has borne the incidence of amount apply for refund of surplus left after adjustment towards tax collected but not paid under section 76?

(a) Yes

(b) No

(c) At proper officer's discretion

(d) None of the above

Ans. *(a) Yes*

Q16. In case the person does not deposit tax collected in contravention of Section 76, is the same recoverable with interest?

(a) Yes

(b) No

(c) At proper officer's discretion

(d) None of the above

Ans. *(a) Yes*

Tax wrongfully collected and paid to Central Government or State Government (Section 77 of the CGST Act, 19 of IGST Act and 12 of UTGST Act)

Q17. What happens if a taxable person has paid CGST & SGST or, as the case may be, CGST & UTGST (in SGST / UTGST Act) on a transaction considered by him to be an intra-state supply but which is subsequently held to be an inter-state supply?

(a) Seek refund

(b) Adjust against future liability

(c) Take re-credit

(d) File a suit for recovery

Ans. *(a) Seek refund*

Q18. What happens if a taxable person has paid IGST (in IGST Act) on a transaction considered by him to be an inter-state supply but which is subsequently held to be an intra-state supply?

(a) Seek refund

(b) Adjust against future liability

(c) Take re-credit

(d) File a suit for recovery

Ans. *(a) Seek refund*

Q19. Whether 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 is required to pay interest?

(a) Yes

(b) No

(c) At proper officer's discretion

(d) None of the above

Ans. *(b) No*

Q20. Whether a taxable person who has paid CGST& SGST or, as the case may be, CGST & UTGST on a transaction considered by him to be an intra-state supply, but which is subsequently held to be an inter-state supply is required to pay interest?

(a) Yes

(b) No

(c) At proper officer's discretion

(d) None of the above

Ans. *(b No*

Initiation of recovery proceedings (Section 78)

Q21. The time limit for payment of tax demand is ……..from the date of service of the order,

(a) 3 months

(b) 90 days

(c) 6 months

(d) 1 year

Ans. *(a) 3 months*

Q22. If it is expedient in the interest of the revenue, can the proper officer after recording reasons in writing, require a taxable person to make payment of tax demand within shorter period as may be specified by him?

(a) Yes

(b) No

(c) With prior permission of not below the rank of Joint Commissioner

(d) None of the above

Ans. *(a) Yes*

Recovery of Tax (Section 79 of the CGST Act, 2017 & 13 of UTGST Act, 2017)

Q23. Recovery of amount payable by a defaulter can be made from:

(a) Customer

(b) Bank

(c) Post Office

(d) All of the above

Ans. *(d) All of the above*

Q24. After how many days, the proper officer may cause the sale of distressed property?

(a) 30 days

(b) 60 days

(c) 90 days

(d) 120 days

Ans. *(a) 30 days*

Payment of tax and other amount in installments (Section 80)

Q25. The following amounts due cannot be paid through installments,

(a) Self-assessed tax shown in return

(b) Short paid tax for which notice has been issued

(c) Arrears of tax

(d) Concealed tax

Ans. *(a) Self-assessed tax shown in return*

Q26. Maximum number of monthly installments permissible under section 80 is:

(a) 36

(b) 12

(c) 48

(d) 24

Ans. *(d) 24*

Q27. Which officer/s has the power to grant permission for payment of tax through installment?

(a) Commissioner

(b) Principal Commissioner

(c) Assistant Commissioner

(d) Both (a) and (b)

Ans. *(d) Both (a) and (b)*

Transfer of property to be void in certain cases (Section 81)

Q28. Which of the following acts by a person are treated as void when it is done after any amount has become due from him?

(a) Creates charge on property

(b) Parts with the property belonging to him

(c) Parts with the property in his possession

(d) All of the above

Ans. *(d) All of the above*

Q29. What all modes of transfers covered under section 81

(a) Sale

(b) Mortgage

(c) Any other mode of transfer

(d) All of the above

Ans. *(d) All of the above*

Q30. When transfer of property would be considered void?

(a) Transaction is done to defraud the Government revenue

(b) Transaction is done without the intention to defraud the Government revenue

(c) Any of the above

Ans. *(a) Transaction is done to defraud the Government revenue*

Q31. When transfer of property would not be considered void?

(a) Transaction is done for adequate consideration and without the notice of the pendency of proceedings under the Act

(b) Transaction is done without the notice of such tax or other sum payable

(c) With previous permission of the proper officer

(d) All of the above

Ans. *(d) All of the above*

Tax to be first charge on property (Section 82)

Q32. Whether any amount payable under this Act by the taxable person is a first charge on his property?

(a) Yes

(b) No

(c) None of the above

Ans. *(a) Yes*

Q33. What liabilities can be recovered on account of first charge on the property of such taxable person or such person as per section 82 of the CGST Act,2017?

(a) Tax

(b) Interest

(c) Penalty

(d) All of the above

Ans. *(d) All of the above*

Provisional attachment to protect the revenue in certain cases (Sec. 83)

Q34. Whether property of a taxable person be provisionally attached to protect the revenue?

(a) Yes

(b) No

(c) None of the above

Ans. *(a) Yes*

Q35. Who is competent authority for passing an order for provisional attachment?

(a) The Deputy Commissioner

(b) The Commissioner

(c) The GST Council

(d) The Assistant Commissioner

Ans. *(b) The Commissioner*

Q36. Till what period does the order passed for provisional attachment is valid?

(a) Infinite period

(b) Ten years

(c) One year

(d) Till the end of such proceedings

Ans. *(c) One year*

Q37. Provisional attachment can be done under section 83:

(a) Before completion of proceedings

(b) After completion of proceedings

(c) After 3 attempts to recover dues

(d) Only if there is risk of delinquency in payment of dues

Ans. *(a) Before completion of proceedings*

Continuation and validation of certain recovery proceedings (Sec. 84)

Q38. The Commissioner shall issue a fresh notice to recover the Government dues, if:

(a) Demand amount is enhanced

(b) Demand amount is reduced

(c) Both (a) and (b)

(d) Neither (a) nor (b)

Ans. *(a) Demand amount is enhanced*

Q39. When Commissioner is not required to serve fresh notice to recover the Government dues?

(a) Demand amount is reduced

(b) Already proceedings of recovery of Government dues is served before disposal of appeal, revision of application or other proceedings

(c) Demand amount is enhanced

(d) Both (a) and (b)

Ans. *(d) Both (a) and (b)*

Q40. Who can issue fresh notice for enhanced demand by appeal, revision of application or other proceedings:

(a) Commissioner

(b) Assistant Commissioner

(c) Joint Commissioner

(d) Any of above

Ans. *(a) Commissioner*

Q41. In terms of Rule 142 (7) of the CGST Rules, any rectification of order, in accordance with the provisions of section 161, shall be made by the proper officer in :

(a) Form GST DRC -07

(b) Form GST DRC -08

(c) Form GST DRC -09

(d) Form GST DRC -10

Ans. *(b) Form GST DRC-08*

Chapter XIV
Liability to pay in certain cases

FAQ's

Liability in case of transfer of business (Section 85)

Q1. In case of transfer of business, the transferor will be liable for the payment of tax, interest and penalty?

Ans. Yes, the transferor and the transferee shall be jointly and severally, be liable to wholly or to the extent of such transfer, to pay the tax, interest or penalty which was due for the period prior to the date of transfer. Such tax liability, interest and penalty may be determined either prior to the date of transfer or thereafter.

Q2. Whether the transferor of business is liable to pay tax / interest / penalties even in respect of the transactions undertaken after the transfer of business?

Ans. No. The transferor of business is liable to pay tax / interest / penalties arisen (whether determined prior to transfer or post transfer) up to the date of transfer of business.

Liability of agent and principal (Section 86)

Q3. Whether agent is liable for tax in case of transaction made by him on behalf of the principal?

Ans. Yes. When an agent supplies or receives any taxable goods on behalf of the principal both agent and principal are jointly and severally liable in respect of tax payable on such goods.

Q4. Whether an agent can only be held liable for payment of tax on transactions effected on behalf of principal?

Ans. No. Both agent and principal are jointly and severally liable to pay the tax on such transactions.

Liability in case of amalgamation /merger of Companies (Section 87)

Q5. In case of an amalgamation, supplies effected for the period from effective date till the date of order of the Court between the companies inter-se is liable to tax?

Ans. Yes. In terms of Section 87(1) of the CGST Act, 2017, the supplies between the companies inter-se for the period starting from effective date and ending with the date of order of the Court is liable to tax and supply and receipt shall be included in the turnover of supply or receipt of the respective Companies.

Q6. Whether in an amalgamation, the companies shall be treated as separate entities for the period starting from effective date and ending on the date of order of the Court?

Ans. Yes, for the purposes of this Act, the two or more companies amalgamated or merged in pursuance of an order of Court or of Tribunal or otherwise, 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 with effect from the date of the said order.

Liability in case of Company in liquidation (Section 88)

Q7. What is the responsibility of the liquidator in the course of winding up the Company?

Ans. The receiver of assets / liquidator shall within 30 days from the date of appointment intimate the Commissioner of his appointment. Thereafter, the Commissioner may provide the details that the Company may be liable to pay tax, interest or penalty.

Q8. Liability in case of winding up of private limited company?

Ans. Every director of the private company shall be jointly and severally be liable to pay tax, interest or penalty.

Liability of directors of private company (Section 89)

Q9. Whether the director of a private limited company is liable for the payment of tax in respect of the supply made by or to such private company?

Ans. Yes. Every director of the private company during the period for which. tax, interest or penalty due in respect of any supply of goods or services or both, is not recovered shall jointly and severally be liable for the payment of such tax, interest or penalty, unless he proves that the non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the Company.

Q10. Whether the liability of the director still exists if such private limited company is converted into public limited company?

Ans. No. If a private limited company is converted into a public limited company, then the provisions of this section does not apply. However, any other personal penalty could be imposed on the Director.

Liability of partners of Firm to pay tax (Section 90)

Q11. Whether the retiring partner of a firm is liable to pay tax?

Ans. Yes. Retiring partner shall be liable to pay tax, interest or penalty upto the date of his retirement whether determined prior to his retirement or otherwise.

Q12. Whether the retiring partner is liable in respect of the transactions taken place after his retirement?

Ans. No. The Retiring partner is not liable for the transactions taken place after his retirement

provided he or the firm intimates to the Commissioner by a notice in writing of his retirement within one month from the date of retirement.

Liability of guardians, trustees etc. (Section 91)

Q13. Whether the guardian/ the trustee/ the agent is liable for tax dues etc., in case of a business of minor or incapacitated person?

Ans. Yes. The Guardian, or the Trustee, or the Agent as the case may be who is conducting the business for the benefit of minor or incapacitated person is liable for payment of tax dues.

Liability of Court of Wards etc. (Section 92)

Q14. Whether Court of Wards controlling the estate of a taxable person is liable for the payment of tax dues in respect of the estate?

Ans. Yes. The Court of Wards is liable for the payment of tax dues in respect of the estate, as if they were conducting the business themselves.

Special provisions regarding liability to pay tax, interest or penalty in certain cases (Section 93)

Q15. Who will be held liable for payment of tax, interest or penalty after the death of the taxable person?

Ans. In terms of Section 93(1) of the CGST Act, 2017, after the death of the taxable person, the tax, interest or penalty remaining unpaid either determined before the death or otherwise, shall be recovered in the following manner:

1. 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

2. 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, interest or penalty due from such person under this Act.

Q16. Liability in case where HUF / AOP/ firm where the property is partitioned/dissolved amongst the members?

Ans. In case where the property of HUF/AOP 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 tax, interest or penalty pertaining to the period prior to the date of partition. Similarly, all the partners of the partnership firm shall be jointly and severally

liable to pay tax, interest or penalty for the period prior to the date of dissolution. Such unpaid amount of tax, interest or penalty is determined either prior to partition / dissolution or otherwise.

Liability in other cases (Section 94)

Q17. Liability in case of discontinuation of business by HUF / AOP / firm?

Ans. 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—

1. the tax, interest or penalty 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
2. every person who, at the time of such discontinuance, was a partner of such firm, or a member of such association or family, shall, notwithstanding such discontinuance, jointly and severally, be liable 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.

Q18. In case of reconstitution of partnership firm who will be liable to pay tax, interest or penalty?

Ans. Without prejudice to the provisions of section 90, all the partners of the firm prior to the date of reconstitution and after the date of reconstitution shall jointly and severally, be liable to pay tax, interest or penalty due from firm which is reconstituted, for any period before its reconstitution

MCQ's

Liability of agent and principal

(Section 86)

Q1. Who is liable to pay the tax in case of Principal and Agent?

(a) Principal

(b) Agent

(c) Both jointly and severally

(d) Jointly

Ans. *(c) Both jointly and severally*

Liability in case of amalgamation /merger of Companies (Section 87)

Q2. When two or more companies are amalgamated, the liability to pay tax on supplies between the effective date of amalgamation order and date of amalgamation order would be on -

(a) Transferee;

(b) Respective companies;

(c) Any one of the companies;

(d) None of the above.

Ans. *(d) Respective Companies.*

Q3. In case of amalgamation between two companies, such companies shall be treated as two distinct companies till –

(a) Till the date of the Court order

(b) Till the effective date of merger

(c) Till the date of cancellation of registration

(d) None of the above

Ans. *(a) Till the date of the Court order*

Liability in case of Company in liquidation (Section 88)

Q4. Intimation regarding appointment of liquidator should be given to the Commissioner within 30 days of

(a) Liquidation

(b) Cancellation of registration

(c) Appointment of Liquidator

(d) Order of Court

Ans. *(c) Appointment of Liquidator*

Q5. Commissioner will notify the amount of liability within how many days of intimation

(a) 3 months

(b) 30 days

(c) 60 days

(d) 6 months

Ans. *(a) 3 months*

Q6. When shall the Director be not liable to pay the tax dues if the company is not able to pay?

(a) Liquidator refuses to pay

(b) Auditor refuses to pay

(c) If the non-recovery is not due to gross neglect of the Director

(d) None of the above

Ans. *(c) If the non-recovery is not due to gross neglect of the Director*

Liability of directors of private company (Section 89)

Q7. When shall the Director of a private limited company be not liable to pay the tax, interest or penalty, if the company is not able to pay?

(a) In all cases

(b) Company refuses to pay

(c) If the non-recovery is not due to gross neglect misfeasance or breach of duty of the Director

(d) None of the above

Ans. *(c) If the non-recovery is not due to gross neglect misfeasance or breach of duty of the Director*

Liability of partners of Firm to pay tax (Section 90)

Q8. Retiring partner should intimate the retirement to

(a) Department

(b) Government

(c) Commissioner

(d) All of the above

Ans. *(c) Commissioner*

Q9. Intimation to the Commissioner has to be given within……

(a) 1 month

(b) 60 days

(c) 90 days

(d) 45 days

Ans. *(a) 1 month*

Q10. If the intimation is delayed to the Commissioner, then the retiring partner is liable to pay tax, interest or penalty till:

(a) The intimation of the date of retirement of partner is received by the Commissioner

(b) Till the date of acceptance of intimation by the Department

(c) Till the date of retirement

(d) Till the date of show cause notice

Ans. *(a) The intimation of the date of retirement of partner is received by the Commissioner*

Liability of guardians, trustees etc. (Section 91)

Q11. In case of business carried on by minor or other incapacitated person through Guardian/ Agent who is liable to pay tax?

(a) Guardian

(b) Friend

(c) Business Partner

(d) None

Ans. *(a) Guardian*

Q12. The dues recoverable under this section includes

(a) Only Interest

(b) Any dues which are recoverable under this Act

(c) Only tax

(d) Only Penalty

Ans. *(b) Any dues which are recoverable under this Act*

Liability of Court of Wards etc. (Section 92)

Q13. If the estate or any portion of the estate of a taxable person is under the control of the Court of Wards, Administrative General etc., and the tax due from such taxable person is liable to be paid by -

(a) Court of Wards.

(b) Taxable Person

(c) Legal representative of taxable person

(d) None of the above

Ans. *(a) Court of Wards*

Q14. The Court of Wards, Administrative General, etc., must be appointed by

(a) Supreme Court

(b) High Court

(c) Any court

(d) None of the above

Ans. *(c) Any Court*

Q15. The dues recoverable under this section includes

(a) Only Interest

(b) Any dues which are recoverable under this Act

(c) Only tax

(d) Only Penalty

Ans. *(b) Any dues which are recoverable under this Act*

Special provision regarding liability to pay tax, interest or penalty in certain cases (Section 93)

Q16. Who is liable to pay tax if the business of an individual is discontinued before his death?

(a) Board of Directors or Manager

(b) Any member of his person who is willing to pay

(c) Legal representative of taxable person

(d) Employee

Ans. *(c) Legal representative of taxable person*

Q17. The legal representative or any other person of an individual who is dead is liable to pay tax, only if -

(a) The business has been carried on by the legal representative

(b) The business has been carried by the legal representative or any other person

(c) The business has been carried by any other person

(d) None of the above.

Ans. *(b) The business has been carried on by the legal representative or any other person*

Q18. The dues recoverable under this section includes

(a) Only Interest

(b) Any dues which are recoverable under this Act

(c) Only tax

(d) Only Penalty

Ans. *(b) Any dues which are recoverable under this Act*

Q19. As per this section, the member or group of members of HUF or AOP is/are liable to pay tax on taxable supplies -

(a) Even after its partition

(b) Upto the time of partition

(c) Both (a) and (b)

(d) None of the above

Ans. *(b) Upto the time of partition*

Liability in other cases (Section 94)

Q20. In case of discontinuance of HUF business, the liability would arise till the date of

(a) Discontinuance

(b) Court verdict

(c) As mutually agreed upon by the HUF members

(d) Determination of liability by the Department.

Ans. *(a) Discontinuance*

Q21. The expression 'firm' would include a _____

(a) Company

(b) LLP

(c) HUF

(d) AOP

Ans. *(b) LLP*

Q22. In case of discontinuance of the AOP, the liability of the member exists in respect of the tax dues imposed _____

(a) Prior to the date of discontinuance

(b) After the date of discontinuance

(c) Both prior and after the date of discontinuance

(d) None of the above

Ans. *(c) Both prior and after the date of discontinuance.*

Chapter XV
Advance Ruling

FAQ's

Chapter-XVII of the CGST Act, 2017 (Section 95 to Section 106) read with Chapter – XII - Advance Ruling of the CGST Rules, 2017 and Chapter-VII of the UGST Act, 2017(Section 14 to Section 16)

Q1. What is the meaning of Advance Ruling?

Ans. As per Section 95 of the CGST Act, 'advance ruling' means a decision provided by the authority or the Appellate Authority to an applicant on matters or on questions specified in section 97(2) or 100(1) of the CGST Act as the case may be, in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant.

Q2. What is the objective of having a mechanism of Advance Ruling?

Ans. The broad objective for setting up such an authority is to:

(i) provide certainty in tax liability in advance in relation to an activity proposed to be undertaken by the applicant; ii. attract Foreign Direct Investment (FDI);

(ii) reduce litigation;

(iii) pronounce ruling expeditiously in transparent and inexpensive manner.

Q3. Is Advance Ruling authority treated as Adjudicating Authority?

Ans. The definition of "Adjudicating Authority" as defined in Section 2 (4) of CGST ACT, 2017 excludes Advance Ruling Authority (Both the Authority for Advance Ruling and the Appellate Authority for Advance Ruling).

Q4. What are the matters on which clarification can be obtained?

Ans. The Advance Ruling can be obtained on the following matters:

(a) classification of any goods or services or both;

(b) applicability of a notification issued under provisions of the Act;

(c) determination of time and value of the supply of goods or services or both;

(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 or services or both;

(f) whether applicant is required to be registered;

(g) whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.

Q5. What are the matters on which advance ruling cannot be sought?

Ans. No advance ruling can be sought on any matters other than those specified in response to Q4. Additionally, if the matter on which clarification is sought is already pending or decided in any proceedings in the applicant's case under any of the provisions of the Act, then the application of advance ruling will not be admitted.

Q6. Can a taxable person proposing to undertake any new activity seek an advance ruling?

Ans. Yes. Advance ruling for any proposed activity to be undertaken by any registered person or desirous of obtaining registration under the Act can be sought for.

Q7. Can a taxable person already undertaking an activity seek an advance ruling on the same?

Ans. Yes. Advance ruling on an existing activity undertaken by any registered person or desirous of obtaining registration under the Act can be sought for.

Q8. Where will the Advance Ruling Authority be located?

Ans. The Authority for advance ruling constituted under the provisions of a State Goods and Services Tax Act or Union Territory Goods and Services Tax Act shall be deemed to be the Authority for advance ruling in respect of that State or Union territory.

However, the Government may, on the recommendation of the Council, notify any Authority located in another State / Union territory to act as the Authority for the State or the Union territory where Authority for Advance Ruling is not constituted

Q9. What will be composition of Advance Ruling Authority?

Ans. The Advance Ruling Authority will comprise of two members – one member from amongst the officers of central tax and one member from amongst the officers of State / Union Territory tax, to be appointed by Central Government. The qualification, method of appointment of the members and the terms and conditions of their service will be prescribed. As per Rule 103 of the CGST Rules, the Government shall appoint officers not below the rank of Joint Commissioner as member of the Authority for Advance Ruling.

Q10. What is the procedure of Advance Ruling?

Ans. The following procedure needs to be adopted for obtaining advance ruling

(a) Applicant to file application for Advance Ruling under section 97(1) of the Act shall be made on the common portal in FORM GST ARA-01 and shall be accompanied

by a fee of ₹ 5,000/- to be deposited in the manner specified in section 49 of the Act.

The application, the verification contained therein and all the relevant documents accompanying such application shall be signed in the manner specified in Rule 26 of CGST Rules.

(b) On receipt of an application, the Authority shall cause a copy thereof to be forwarded to the concerned officer and, if necessary, call upon him to furnish the relevant records. Such records to be returned as soon as possible.

(c) Then, the Authority will decide on admission or rejection of the application and send the copy of the order (admission or rejection) to the applicant and to the concerned officer. Reasons in case of rejection to be stated in the order.

However, the Authority shall not be admit the application, where the question raised in the application is already pending or decided in any proceedings in the case of an applicant under any of the provisions of this Act

(d) If, the Authority decides to admit the matter then the Authority shall pronounce the advance ruling within 90 days from the date of receipt of the application

A copy of the advance ruling so pronounced by the Authority duly signed by the members and certified to be a true copy of its original by any member of the Authority for Advance Ruling, shall be sent to the applicant, the concerned officer and the jurisdictional officer after such pronouncement.

Both in case of rejection of the application and pronouncing of the ruling, the Authority will provide an opportunity to be heard to the applicant and the department authorities or their authorised representatives.

However, due to unavailability of the requisite forms on the portal, provisions for manual submission of the application has been provided vide Notification No. 55/2017-Central Tax, dated 15.11.2017 read with *Circular No. 25/25/2017-GST dated 21.12.2017*. Accordingly, duly signed application Form GST ARA-01 is to be submitted in quadruplicate. All the documents and correspondences are also will be manual but fees has to be paid online. The fee of ₹ 5000 shall be paid electronically using "Generate User ID for Advance Ruling" under "User Services". After entering the email id and mobile number, One Time Password (OTP) shall be sent to the email id. Upon submission of OTP, Systems shall generate a temporary ID and send it to the declared email and mobile number of the applicant. On the basis of this ID, the applicant can make the payment of the fee of ₹ 5,000/- each under the CGST and the respective SGST Act. The applicant is then required to download and take a print of the challan and file the application with the Authority for Advance Ruling.

Q11. Is there a time limit within which the application needs to be disposed off?

Ans. The Advance ruling should be pronounced in writing within 90 days of receipt of application.

Q12. What if, the members of Advance Ruling Authority have different viewpoints on the advance ruling sought?

Ans. 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.

Q13. Can the applicant / department file an appeal against the ruling pronounced by the Advance Ruling Authority?

Ans. Yes. An appeal can be filed before the Appellate Authority of Advance Ruling within 30 days of communication of the advance ruling to the concerned officer, jurisdictional officer and the applicant. Further, Appellate authority may extend this period by further period not exceeding 30 days, if satisfied that the appellant was prevented by a sufficient cause from presenting the appeal within the said period of 30 days.

Further, an appeal against advance ruling issued under Section 98(6) shall be made by an applicant on the common portal in Form GST ARA-02 along with a fees of ₹ 10,000/- to be deposited in the manner specified in section 49 of the Act. But , an appeal against advance ruling issued under Section 98(6) or 100 shall be made by the concerned officer or jurisdictional officer on the common portal in Form GST ARA-03 and no fees shall be payable.

Since, the required forms are not made available in the portal, manual filing of appeal to Appellate Authority of Advance Ruling is provided in the CGST Rules. The Manual filing of appeals before Appellate Authority for Advance Ruling can be file subject to adherence of conditions and procedure as prescribed in *Circular No. 25/25/2017-GST dated 21.12.2017.* This Circular *interalia* provides that filling an appeal against the Advance Ruling Authority to the Appellate Authority for Advance Ruling be made in quadruplicate, in FORM GST ARA-02 (physical form) along with fees of ₹ 10,000/- to be paid online. Department (the concerned officer or the jurisdictional officer referred to in section 100 of the CGST Act and the rules made thereunder) can also file appeal in Form GST ARA-03 and no fee shall be payable by the said officer for filing the appeal. Further, the appeal, the verification contained therein and all the relevant documents accompanying such appeal shall be signed by authorized person.

Q14. What will be composition of Appellate Authority for Advance Ruling?

Ans. The Appellate Authority for Advance Ruling will comprise of – Chief Commissioner of Central tax as designated by the Board and Commissioner of State / Union Territory tax having jurisdiction over the applicant.

Q15. Where will the Appellate Authority for Advance Ruling be located?

Ans. The Appellate Authority for Advance Ruling constituted under the provisions of a State Goods and Services Tax Act or a Union Territory Goods and Services Tax Act shall be deemed to be the Appellate Authority in respect of that State or Union territory.

However, the Government may, on the recommendation of the Council, notify any Appellate Authority located in another State / Union territory to act as the Appellate Authority for the State or the Union territory where Appellate Authority for Advance Ruling is not constituted

Q16. What if, the Appellate Authority is not able to decide on the matters referred to them by the advance authority or in appeal?

Ans. In this case, it will be deemed that no advance ruling can be issued on the matter under the appeal or reference.

Q17. Can the ruling issued by the authority or order passed by the appellate authority be modified?

Ans. In case there is any error apparent on the face of the records then the Advance Ruling Authority or Appellant Authority for the Advance Ruling, as the case may be, can amend the Original Order passed by it within a period of 6 months from the date of said Order.

Q18. Is the advance ruling binding for all the tax payers?

Ans. Advance Ruling will be binding only on the applicant who has sought for advance ruling.

Q19. Is the advance ruling binding on all the department officers?

Ans. No – Advance ruling will be binding only on the concerned officer or the jurisdictional officer in respect of the applicant.

Q20. From when will the advance ruling be applicable?

Ans. Advance ruling will be applicable from the date of issue i.e. prospectively.

Q21 Whether the advance ruling have precedent value of a judgment of the High Court or the Supreme Court?

Ans. No, the advance ruling is binding only in respect of the matter referred. It has no precedent value. However, even for persons other than applicant, it does have persuasive value.

Q22. What are the powers of Advance Ruling Authority and the Appellate Authority for Advance Ruling?

Ans. The Advance Ruling Authority and the Appellate Authority for Advance Ruling shall have all the powers of the Civil Court regarding;

(a) discovery and inspection;

(b) enforcing the attendance of any person and examining him on oath;

(c) issuing commissions and compelling production of books of accounts and other records.

Further, the Authority or 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, and every proceeding before the Authority or the Appellate Authority shall be deemed to be a judicial proceedings within the meaning of sections 193 and 228, and for the purpose of section 196 of the Indian Penal Code.

Further, if the Advance Ruling Authority and the Appellate Authority for Advance Ruling finds that advance ruling has been obtained by the applicant or appellant by fraud or suppression of material facts or misrepresentation of facts, it can declare such ruling or Order to be Void ab-initio.

Q23. Can the Advance Ruling pronounced under Section 98 or 101 be rectified?

Ans. Yes. The Authority or the Appellate Authority may amend any order passed by it under section 98 or section 101, so as to rectify any error apparent on the face of the record, if such error is noticed by:

- the Authority or
- the Appellate Authority on its own accord, or
- is brought to its notice by the concerned officer,
- the jurisdictional officer,
- the applicant or
- the appellant

within a period of six months from the date of the order:

However, 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 applicant or the appellant has been given an opportunity of being heard.

MCQ's

Advance ruling (Section 95 to Section 106)

Q1. What is the meaning of applicant?

(a) Person registered under the Act.

(b) Person desirous of obtaining registration under the Act.

(c) Tourist as defined under section 15 of IGST Act, 2017.

(d) (a) or (b).

Ans. *(d) (a) or (b)*

Q2. Where shall the Advance Ruling Authority be located?

(a) The Authority shall be located in each state / Union Territory.

(b) The Authority shall be located in Centre.

(c) The Authority shall be located in both Centre & State.

(d) None of the above

Ans. *(a) The Authority shall be located in each state / Union Territory*

Q3. The Advance Ruling Authority shall comprise of

(a) One member from amongst the officers of Central tax.

(b) One member from amongst the officers of State tax or Union Territory tax as the case may be.

(c) (a) & (b)

(d) None of the above

Ans. *(c) (a) & (b)*

Q4. The Appellant Authority for Advance Ruling shall comprise of

(a) Chief Commissioner of Central tax as designated by the board

(b) Commissioner of State tax or union Territory tax, as the case may be, having jurisdiction over the applicant

(c) (a) & (b)

(d) (a) or (b)

Ans. *(c) (a) & (b)*

Q5. Who shall make an application for advance ruling?

(a) Applicant

(b) Department

(c) Appellate Authority

(d) None of the above

Ans. *(a) Applicant*

Q6. What procedure should follow if the members of the Authority differ on any question on which the advance ruling is sought?

(a) The members of the authority 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.

(b) The Authority will not take any decision and reject the application

(c) The Authority will remand the case to jurisdictional officer

(d) None of the above

Ans. *(a) The members of the authority 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*

Q7. Within how many days the Authority shall pronounce its decision on advance ruling from the date of receipt of application

(a) 30 days

(b) 60 days

(c) 90 days

(d) 120 days

Ans. *(c) 90 days*

Q8. Whether the ruling pronounced under Section 98 of CGST Act, 2017 have prospective or retrospective effect?

(a) Prospective effect

(b) Retrospective effect

(c) Prospective/Retrospective effect based on case to case

Ans. *(a) Prospective effect*

Q9. Who can appeal to the Appellate Authority?

(a) Jurisdictional CGST/SGST officer or the applicant

(b) Any Taxable Person

(c) Any citizen concerned about the ruling passed

(d) All of the above

Ans. *(a) Jurisdictional CGST/SGST officer or the applicant*

Q10. Appeal before the appellate authority can be filed within how many days?

(a) 30 days

(b) 60 days

(c) 90 days

(d) 120 days

Ans. *(a) 30 days*

Q11. Under what circumstance the members of the Appellate Authority deem that no advance ruling can be issued in respect of the questions covered under the appeal

(a) If the members of the Appellate Authority differ on any point or points referred to in appeal

(b) If the members of the Advance Ruling Authority differ on any point or points referred to in appeal

(c) Applicant wants to withdraw the application

(d) Both A and C

Ans. *(a) If the members of the Appellate Authority differ on any point or points referred to in appeal*

Q12. Who has the power to amend the order issued under section 98 or 101, to rectify any error apparent from record?

(a) Advance Ruling Authority

(b) Appellate Authority for the Advance Ruling

(c) Authority or, as the case may be, the Appellate Authority.

(d) None of the above.

Ans. *(c) Authority or, as the case may be, the Appellate Authority*

Q13. Who can apply for rectification of error on record?

(a) Applicant

(b) Concerned officer or Jurisdictional Officer

(c) Advance Ruling Authority or the Appellate Authority on its own accord can rectify the error

(d) All of the above

Ans. *(d) All of the above*

Q14. When should the opportunity of being heard be given to applicant or the appellant for rectification of advance ruling?

(a) If the rectification has the effect of enhancing the tax liability.

(b) If the rectification has the effect of reducing the amount of admissible input tax credit.

(c) (a) or (b)

(d) None of the above

Ans. *(c) (a) or (b)*

Q15. The Advance Ruling pronounced by the Appellate Authority shall be binding on

(a) The applicant who sought the advance ruling.

(b) The jurisdictional officer in respect of the applicant

(c) (a) and (b)

(d) None of the above

Ans. *(c) (a) and (b)*

Q16. When can the Authority declare the advance ruling pronounced as void?

(a) If ruling is obtained by suppression of material facts

(b) If the applicant is in the business of supplies on which clarification has been sought

(c) If the applicant does not engage in the business of supplies after 6 months of obtaining the ruling

(d) If a Supreme Court judgement is pronounced on the same issue and the judgement is exactly the opposite of the clarification issued under the ruling

Ans. *(a) If ruling is obtained by suppression of material facts.*

Chapter XVI
Appeals and Revision

FAQ's

Appeals to Appellate Authority (Section 107)

Section 107 of the CGST Act, 2017 made applicable to IGST *vide* Section 20 of the IGST Act, 2017 and UTGST *vide* Section 21 of the UTGST Act, 2017

Q 1. What is the appeal mechanism provided under the CGST Act, 2017 against the order/ decision of the Adjudicating Authority?

Ans. Section 107 of the CGST Act, 2017 provides provisions for preferring an appeal against the order of the Adjudicating Authority to the Appellate Authority. However, some decisions or orders (as provided in sec. 121) are not appealable

Q 2. Who is an adjudicating authority?

Ans. Section 2(4) defines adjudicating authority to mean any authority appointed or authorized to pass any order or decision under this Act. However, following are not covered under the ambit of adjudicating authority:

(a) Central Board of Customs and Excise (Board),

(b) Revisional Authority,

(c) Authority for Advance Ruling,

(d) Appellate Authority for Advance Ruling,

(e) The Appellate Authority

(f) Appellate Tribunal

Therefore, an order passed by any officer other than the revisionary authority as well as other authorities mentioned above could be contested before the Appellate Authority

Q 3. Who could prefer an appeal before the Appellate Authority?

Ans. Following could prefer an appeal before the Appellate Authority:

(a) Any person aggrieved by the order or decision of the adjudicating authority [FORM GST APL-01→Chapter-XIII – Appeals and Revision of the CGST Rules]

(b) Any authorised officer on direction of the Commissioner (this is referred to as application and filed in FORM GST APL-03).

Q 4. Under what circumstances Commissioner could direct the Officer to prefer an appeal against the order of the adjudicating authority?

Ans. The Commissioner may, on of his own motion, or upon request from the Commissioner of State tax Commissioner of Union Territory tax, call for and examine the records of any proceeding in which an adjudicating authority has passed any decision or order under this Act or the SGST Act or the UTGST Act, for the purpose of satisfying himself as to the legality or propriety of the said decision or order. The Commissioner may by an order, direct any Officer subordinate to him to apply to the Appellate Authority within six months from the date of communication of the said decision or order for the determination of such points arising out of the said decision or order as may be specified by the Commissioner in his order.

Q 5. State the provisions pertaining to Appointment of Appellate Authority?

Ans. By virtue of *Notification No. 55/2017 – Central Tax dated 15.11.2017* provisions pertaining to Appointment of Appellate Authority has been inserted vide Rule 109A of CGST Rules which states that any person aggrieved by/ an officer directed under section 107(2) to appeal against any decision or order passed under CGST/SGST/UTGST Act may appeal to -

(a) the Commissioner (Appeals) where such decision or order is passed by the Additional or Joint Commissioner;

(b) the Additional Commissioner (Appeals) where such decision or order is passed by the Deputy or Assistant Commissioner or Superintendent,

within three / six months from the date of communication of the said decision or order.(to such person)

Q 6. Is there any time limit for filing appeal?

Ans. Yes. Time limit to file appeal before Appellate Authority, for an assessee (person aggrieved) is 3 months from the date of communication of the order. Whereas in case of an appeal filed by the department on the basis of the directions by the Commissioner shall have to be filed within 6 months from date of communication of the decision or order.

Q 7. Whether Appellate Authority has power to condone the delay in filing of appeal filed beyond 3 months / 6 months?

Ans. Yes. As per Section 107(4) of the CGST Act, 2017, Appellate Authority has powers to condone the delay beyond the period of 3 months or 6 months, upto a period of 1 month where sufficient cause for the delay is shown.

Q 8. Whether entire amount of tax, interest, penalty, fine or fee has to be remitted before preferring appeal?

Ans. For filing appeal following amounts shall have to be remitted:

Demands which are not contested	Entire amount of such demands (tax, interest and penalty) shall have to be remitted
Demands which are contested	a sum equal to 10% of the remaining amount of tax in dispute arising from the said order shall have to be remitted

Q 9. Whether payment of balance amounts demanded would be stayed?

Ans. Yes. In terms of Section 107(7) where the appellant has paid the required pre-deposit, the recovery proceedings for the balance amount shall be deemed to be stayed.

Q 10. Is it mandatory on the part of Appellate Authority to provide opportunity of hearing?

Ans. Yes. In terms of Section 107(8), Appellate Authority shall have to give opportunity of hearing to the appellant.

Q 11. Whether parties to an appeal could seek adjournment of the hearing?

Ans. Yes. The Appellate Authority may, grant adjournment of personal hearing 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. However, no such adjournment shall be granted more than three times to a party during hearing of the appeal.

Q 12. Whether a new ground could be taken up before Appellate Authority?

Ans. The Appellate Authority at the time of hearing of an appeal, may 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.

Q 13. What type of order could the Appellate Authority pass? Whether Appellate Authority could refer the case back to Adjudicating authority?

Ans. The Appellate Authority may pass such order, as he thinks just and proper, confirming, modifying or annulling the decision or order appealed against. The order shall be in writing giving details as to determination. The Appellate Authority shall, along with its order under section 107(11), issue a summary of the order in FORM GST APL-04 clearly indicating the final amount of demand confirmed. However, the Appellate Authority does not have power to refer the case back to the Adjudicating authority that passed the said decision or order.

Q 14. Whether the Appellate Authority can enhance the penalty or fee? If so under what circumstances?

Ans. Yes, the Appellate Authority could enhance the penalty. However, 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

Revisional Powers of Chief Commissioner or Commissioner (Section 108)

Section 108 of the CGST Act, 2017 made applicable to IGST *vide* Section 20 of the IGST Act, 2017 and UTGST *vide* Section 21 of the UTGST Act, 2017

Q 15. Whether review of the orders passed under this act is permissible? If so under what circumstances revisionary powers?

Ans. In terms of Section 2(99) "Revisional Authority" means an authority appointed or authorised for revision of decision or orders as referred to in section 108

The review authority either on his own motion or based on the information received by him or based on the request of the Commissioner of State Tax or Commissioner of Union Territory tax, could call for and examine the record of any proceeding, and if he considers that any decision or order passed under this CGST Act, or SGST Act or UTGST Act, by any officer subordinate to him is:

(a) erroneous in so far as it is prejudicial to the interest of the revenue and

(b) illegal or improper or has not taken into account certain material facts, whether available at the time of issuance of the said order or not; or

(c) in consequence of an observation by the Comptroller and Auditor General of India,

he may 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.

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 Revisional Authority.

Q 16. Whether order of Appellate Authority could also be reviewed by Revisional authority?

Ans. The order which has been subject to an appeal under before Appellate Authority

(section 107) as well as orders of Appellate Authority which are appealed before Tribunal cannot be reviewed by Review authority.

However, review authority could pass an order under revisionary power on any point which has not been raised and decided in an appeal before Appellate Authority. Such revision order could be passed within 1 year from the date of the order of Appellate Authority or 3 years from the date of the original order whichever is later.

Q 17. Which are the other orders or decision that a Revisional Authority cannot review?

Ans. Following orders or decisions cannot be reviewed by a revision authority

(a) order has been subject to an appeal under before Tribunal (under section 112) or High Court (under section 117) or Supreme Court (under section 118); or

(b) the period of 6 months as specified under 107(2) for preferring an appeal by department before Appellate Authority has not yet expired or

(c) where more than three years have expired after the passing of the decision or order sought to be revised.

(d) where the order has already been taken for revision under this section at any earlier stage.

(e) revisionary order passed under this section [i.e. section 108(1)]

Q 18. What are the powers conferred on the Revisional authority as regards passing of order?

Ans. 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. Review authority, may stay the operation of the order sought to be reviewed.

Q 19. Can the "Revisional Authority" order for staying of operation of any order passed by his subordinates pending such revision?

Ans Yes.

Q 20. Whether the assessee shall be given personal hearing before making the orders by review authority?

Ans. Yes, the person concerned with the order that is the subject matter of the review shall be given an opportunity of being heard.

Q 21. Whether the order of review authority is appealable?

Ans. Yes. In terms of Section 108(4) appeal against the revision orders could be preferred before the Tribunal.

Q 22. How to compute the time limit of 3 years (from the date of the order of lower authority) / 1 year within which the order shall be reviewed

Ans. Where the said decision or order 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 time 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 of 3 years, where notice for revision has been issued.

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 referred to in clause (b) of sub-section (2).

Constitution of Appellate Tribunal (Section 109)

Section 109 of the CGST Act, 2017 made applicable to IGST *vide* Section 20 of the IGST Act, 2017 and UTGST *vide* Section 21 of the UTGST Act, 2017

Q 23. What is the Constitution of National Appellate Tribunal and how the same is constituted?

Ans. The Central Government shall on the recommendation of the GST Council by Notification constitute Goods and Services Tax Appellate Tribunal (hereinafter referred to as the Appellate Tribunal) for hearing appeals against the orders passed by the Appellate Authority or the Revisional Authority.

Q 24. Where the National Bench and Regional Bench shall be located?

Ans. National bench shall be located at New Delhi. The Central Government on the recommendations of the Council, by notification, constitute such number of Regional Benches as may be required.

Q 25. What is the composition of National Bench and Regional Benches?

Ans. National Bench shall be headed by the National president along with one Technical member (Centre) and one Technical Member (State).

Regional Benches shall consist of a Judicial Member, one Technical Member (Centre) and one Technical Member (State).

Q 26. What is jurisdiction of National and Regional Benches?

Ans. National and Regional Benches shall have jurisdiction to hear appeals against the orders passed by the Appellate Authority or the Revisional Authority in the cases where

one of the issues involved relates to the place of supply.

Q 27. What is State Bench or Area Bench?

Ans. The Government, by notification, specify for each State or Union territory, a Bench of the Appellate Tribunal, exercising the powers of the Appellate Tribunal within the concerned State or Union territory.

Government shall, on receipt of a request from any State Government, constitute such number of Area Benches in that State, as may be recommended by the Council:

Q 28. What is jurisdiction of State Bench or Area Bench?

Ans. State Bench or Area Benches shall have jurisdiction to hear appeals against the orders passed by the Appellate Authority or the Revisional Authority in the cases involving matters other than those involving dispute relating to place of supply.

Q 29. What is the composition of State Bench and Area Benches?

Ans. Each State Bench and Area Benches shall consist of a Judicial Member, one Technical Member (Centre) and one Technical Member (State) and the State Government may designate the senior most Judicial Member in a State as the State President.

Q 30. Whether any matter could be heard by bench consisting of members less than 3 as set out above?

Ans. Yes, in the absence of a Member in any Bench due to vacancy or otherwise, any appeal may, with the approval of the President or, as the case may be, the State President, be heard by a Bench of two Members.

Further, 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 in any order appealed against, does not exceed ₹ 5 Lakhs and which does not involve any question of law may, with the approval of the President and subject to such conditions as may be prescribed on the recommendations of the Council, be heard by a bench consisting of a single member.

Q 31. What would be consequence where there is a difference of opinion on any issue among the members of the bench?

Ans. If the Members of the Bench (National/Regional/State/Area) differ in opinion on any point or points, it 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 the case shall be referred by the President or as the case may be, State President for hearing on such point or points to one or more of the other Members of the National Bench, Regional Benches, State Bench or Area Benches and such point or points shall be decided according to the opinion of the majority of

Members who have heard the case, including those who first heard it.

Q 32. Whether members of the Tribunal could be transferred from one bench to other bench?

Ans. Central Government in consultation with the President, may transfer Judicial Member or a Member Technical (State) from National Bench or one Regional Bench to other Regional Bench or to National Bench. Further, Member Technical (Centre) could be transferred from one Bench to another Bench, whether National, Regional, State or Area.

However, State Government could transfer member technical (state) from State Bench or one area bench to another area bench or to State Bench.

Qualification, appointment & condition of service of the President and the members of the Tribunal (Section 110)

Section 110 of the CGST Act, 2017 made applicable to IGST vide Section 20 of the IGST Act, 2017 and UTGST *vide* Section 21 of the UTGST Act, 2017

Q 33. What is the qualification to be appointed as President?

Ans. A person shall not be qualified for appointment as President unless:

(a) He has been a Judge of the Supreme Court or

(b) He is or has been the Chief Justice of a High Court, or

(c) He is or has been a Judge of a High Court for a period not less than five years;

Q 34. What is the qualification to be appointed as Judicial Member?

Ans. A person shall not be qualified for appointment as a Judicial Member, unless:

(i) He has been a Judge of the High Court; or

(ii) Is or has been a District Judge qualified to be appointed as a Judge of a High Court; or

(iii) Is or has been a Member of Indian Legal Service and has held a post not less than Additional Secretary for three years

Q 35. What is the qualification to be appointed as Member (Technical)?

Ans. *Member Technical (Centre):* A person shall not be qualified for appointment as a Member Technical (Centre), unless he is or has been a member of Indian Revenue (Customs and Central Excise) Service, Group A, and has completed at least fifteen years of service in Group A;

Member Technical (State) : A person shall not be qualified for appointment as a Technical Member (State) unless he is or has been an officer of the State Government

not below the rank of Additional Commissioner of Value Added Tax or the State goods and services tax or such rank as may be notified by the concerned State Government on the recommendations of the Council with at least three years of experience in the administration of an old law or the State Goods and Services Tax Act or in the field of finance and taxation.

Q 36. Who would appoint the President and Members?

Ans. *The President and the Judicial Members of the National Bench and the Regional Benches* shall be appointed by the Government after consultation with the Chief Justice of India or his nominee.

The Technical Member (Centre) and Technical Member (State) of the National Bench and Regional Benches shall be appointed by the Government on the recommendations of a Selection Committee consisting of such persons and in such manner as may be prescribed.

The Judicial Member of the State Bench or Area Benches shall be appointed by the State Government after consultation with the Chief Justice of the High Court of the State or his nominee

The Technical Member (Centre) of the State Bench or Area Benches shall be appointed by the Central Government and *Technical Member (State) of the State Bench or Area Benches* shall be appointed by the State Government in such manner as may be prescribed.

Q 37. For what period President and Members could hold the office?

Ans. The President of the Appellate Tribunal shall hold office for a term of three years from the date on which he enters upon his office, or until he attains the age of seventy years, whichever is earlier and shall be eligible for reappointment

The Judicial Member of the Appellate Tribunal and the State President shall hold office for a term of three years from the date on which he enters upon his office, or until he attains the age of sixty-five years, whichever is earlier and shall be eligible for reappointment.

The Technical Member (Centre) or Technical Member (State) of the Appellate Tribunal shall hold office for a term of five years from the date on which he enters upon his office, or until he attains the age of sixty-five years, whichever is earlier and shall be eligible for reappointment.

Q 38. Whether a President or member could be removed from the office?

Ans. Yes.

A. National President, Members of National or Regional Tribunal

The Central Government may, after consultation with the Chief Justice of India, in case of the President, Judicial Members and Technical Members of the National Bench, Regional Benches or Technical Members (Centre) of the State Bench or Area Benches, may remove from the office such President or Member, who—

(a) has been adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of such Government involves moral turpitude; or

(c) has become physically or mentally incapable of acting as such President, State President or Member; or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as such President, State President or Member; or

(e) has so abused his position as to render his continuance in office prejudicial to the public interest:

B. State president and members of the State or area Tribunal:

Similarly, the State Government may, after consultation with the Chief Justice of High Court, in case of the State President, Judicial Members, Technical Members (State) of the State Bench or Area Benches may remove the member under the circumstances discussed at (a) to (e) above.

However, the President, State President or the Member shall not be removed on any of the grounds specified in clauses (d) and (e), unless he has been informed of the charges against him and has been given an opportunity of being heard.

Procedure before Appellate Tribunal (Section 111)

Section 111 of the CGST Act, 2017 made applicable to IGST *vide* Section 20 of the IGST Act, 2017 and UTGST *vide* Section 21 of the UTGST Act, 2017

Q 39. Whether the Appellate Tribunal is bound by the procedures of Code of Civil Procedure

Ans. No. The Appellate Tribunal shall not, while disposing of any proceedings before it or an appeal before it, be bound by the procedure laid down in the Code of Civil Procedure, 1908, but shall be guided by the principles of natural justice and subject to the other provisions of this Act and the rules made thereunder, the Appellate Tribunal shall have power to regulate its own procedure.

Q 40. Whether the Appellate Tribunal has the same powers as that of Civil Court?

Ans. Yes, to some extent the Tribunal is conferred with the powers of a Civil Court. The

Appellate Tribunal shall, for the purposes of discharging its functions under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 while trying a suit in respect of the following matters, namely: -

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872, requisitioning any public record or document or a copy of such record or document from any office;

(e) issuing commissions for the examination of witnesses or documents;

(f) dismissing a representation for default or deciding it ex parte;

(g) setting aside any order of dismissal of any representation for default or any order passed by it *ex parte*; and

(h) any other matter which may be prescribed.

Q 41. Whether the orders of the Appellate Tribunal are enforceable and if yes how?

Ans. Any order made by the Appellate Tribunal may be enforced by it in the same manner as if it were a decree made by a court in a suit pending therein, and it shall be lawful for the Appellate Tribunal to send for execution of its orders to the court within the local limits of whose jurisdiction:

(a) in the case of an order against a company, the registered office of the company is situated; or

(b) in the case of an order against any other person, the person concerned voluntarily resides or carries on business or personally works for gain.

Q 42. Whether the proceedings before the Appellate Tribunal shall be deemed to be judicial?

Ans. Yes. All proceedings before the Appellate Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code, and the Appellate Tribunal shall be deemed to be civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

Appeals to the Appellate Tribunal (Section 112)

Section 112 of the CGST Act, 2017 made applicable to IGST *vide* Section 20 of the IGST Act, 2017 and UTGST *vide* Section 21 of the UTGST Act, 2017

Q 43. What are the orders against which an appeal could be preferred before the Tribunal?

Ans. Any person aggrieved by the order of the Appellate Authority or order of the review authority could prefer an appeal before the Appellate Tribunal (Tribunal) in FORM GST APL-05

Q 44. Can the Tribunal reject to entertain an appeal based on the monetary limits?

Ans. Yes. The Tribunal has been conferred with discretion to refuse to admit an 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 ₹ 50,000/-

Q 45. Whether the Department can also file an appeal before the Tribunal against the orders of Appellate Authority or review authority?

Ans. Yes. The department could also prefer an appeal before the Hon'ble Tribunal in FORM GST APL-07. The procedure is detailed below:

- The Commissioner may, on his own motion, or upon request from the Commissioner of State tax or Commissioner of Union territory tax, call for and examine the record of any order passed by the Appellate Authority or the Revisional Authority under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act for the purpose of satisfying himself as to the legality or propriety of the said order and
- He may, by order, direct any officer subordinate to him to apply to the Appellate Tribunal within six months from the date on which the said order has been passed for determination of such points arising out of the said order as may be specified by the Commissioner in his order.

Q 46. Whether other party could file cross objections against the appeal preferred by the assessee or by the department?

Ans. On receipt of notice that an appeal the other party could prefer an cross objection to the appeal even though he has not preferred an appeal. A Memorandum of Cross-Objections have to be filed within 45 days from the date of receipt of the notice of appeal in FORM GST APL-06. The Tribunal shall dispose of the cross objections as if it

is an appeal

Q 47. What is the time limit for filing appeal / cross objections?

Ans. *Appeal by Assessee*: 3 months from the date of receipt of the order against which the appeal is being preferred

Application by Department: 6 months from the date of receipt of the order against which the application is being preferred

Memorandum of Cross-Objections: 45 days from the date of receipt of notice of appeal

Q 48. Whether appeal / application / cross objections filed beyond the time limit would be entertained?

Ans. Tribunal has been conferred with powers to condone the delay upto 3 months, beyond the period of 3 months or 6 months in case of filing of appeals, where sufficient cause for the delay is shown.

Similarly, delay upto 45 days could be condoned by the Tribunal in filing the memorandum of cross objections where sufficient cause for the delay is shown.

Q 49. Whether entire amount of tax, interest, penalty, fine or fee has to be remitted before preferring appeal?

Ans. For filing appeal following amounts shall have to be remitted as pre-deposit.

(a) Where any part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him, entire such amount and

(b) a sum equal to 25% of the remaining amount of tax in dispute arising from the said order, in relation to which the appeal has been filed shall be paid. This amount (25%) is in addition to the pre-deposit paid while filing appeal before Appellate Authority.

Q 50. Whether payment of balance amounts of demand would be stayed?

Ans. Yes. In terms of Section 112(9) where the appellant has paid the required pre-deposit, the recovery proceedings for the balance amount shall be deemed to be stayed.

Q 51. Whether any fee shall have to be paid for filing appeals or application before the Tribunal?

Ans. Yes. There is a requirement to pay fee for filing appeals and applications. However, the amount of fee is to be prescribed.

Q 52. Whether interest becomes payable on refund of pre-deposit amount?

Ans Yes. As per sec 115 of the Act, where an amount deposited by the appellant under sub-

sec (6) of sec 107 or under sub-sec (8) of sec 112 is required to be refunded consequent to any order of the Appellate Authority or of the Appellate Tribunal, as the case may be. Interest at the rate specified under sec 56 shall be payable in respect of such refund from the date of payment of the amount till the date of refund of such amount.

Orders of Appellate Tribunal (Section 113-116)

Section 113-116 of the CGST Act, 2017 made applicable to IGST *vide* Section 20 of the IGST Act, 2017 and UTGST *vide* Section 21 of the UTGST Act, 2017

Q 53. Is it mandatory to give opportunity of hearing to the parties in appeal?

Ans. Yes, the Appellate Tribunal shall give opportunity of hearing to the parties before deciding the issue

Q 54. Whether the parties to an appeal could seek adjournment of the hearing?

Ans. The Hon'ble 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. However, no such adjournment shall be granted more than three times to a party during hearing of the appeal.

Q 55. What are the orders that could be passed by the Appellate Tribunal?

Ans. The Hon'ble Tribunal may 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 Appellate Authority, or the Revisional Authority or to the original adjudicating authority, with such directions as it may think fit, for a fresh adjudication or decision after taking additional evidence, if necessary.

Q 56. Whether Tribunal has power to rectify / amend the orders passed by it?

Ans. Yes, Tribunal may amend any order passed by it under in terms of Section 113(1) so as to rectify any mistake apparent from the record. Tribunal could undertake rectification on its own or on application by either of the parties to the appeal. The application for rectification shall be made within a period of three months from the date of the order sought to be rectified.

However, 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 Tribunal has given notice to him of its intention to do so and has allowed him a reasonable opportunity of being heard.

Q 57. Where an assessee gets a favourable decision either before Appellate Authority or the Tribunal, whether the pre-deposit would be refunded back? Whether any interest is paid?

Ans. Yes, where the assessee gets a favourable decision (fully or partially), the amount paid as pre-deposit would be refunded along with interest which is computed from the date of deposit till date of refund.

Further, Section 115 provides that interest at the rate specified under section 56 shall be payable in respect of such refund from the date of payment of the amount till the date of refund of such amount.

Q 58. Who could represent before GST officer of Appellate Authority or the Tribunal

Ans. Following persons could act an *authorized representative* and appeal before the officer or Appellate Authority or the Hon'ble Tribunal on behalf of an assessee

(a) relative or regular employee of the assessee; 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 certificate of practice and who has not been debarred from practice; or

(d) a retired officer of the Commercial Tax Department of any State Government or Union territory or of the Board who, during his service under the Government, had worked in a post not below the rank than that of a Group-B Gazetted officer for a period of not less than two years.

However, such officer shall not be entitled to appear before any proceedings under this Act for a period of one year from the date of his retirement or resignation; or

(e) any person who has been authorised to act as a goods and services tax practitioner on behalf of the concerned registered person.

Following shall *not be entitled to appear*:

(a) who has been dismissed or removed from Government service; or

(b) who is convicted of an offence connected with any proceedings under this Act, the State Goods and Services Tax Act, the Integrated Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, or under the old law 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 or services or both; or

(c) who is found guilty of misconduct by the prescribed authority;

(d) who has been adjudged as an insolvent, during the period in which he is insolvent.

Appeal to the High Court (Section 117)

Section 117 of the CGST Act, 2017 made applicable to IGST *vide* Section 20 of the IGST Act, 2017 and UTGST *vide* Section 21 of the UTGST Act, 2017

Q 59. What is the time limit within which appeal could be preferred before High Court?

Ans. Appeal before High Court shall be filed in FORM GST APL-08, within 180 days from the date on which the order appealed against is received by the Commissioner of GST or the other party

Q 60. Whether High Court could admit the appeal filed beyond 180 days?

Ans. Yes. Where the High Court is satisfied that that there was sufficient cause for not filing the appeal within that period, it may condone the delay.

Q 61. Whether a question involving factual disputes could be taken up before High Court?

Ans. Appeal before High Court, against an order of the Appellate Tribunal, could be preferred only where the High court is satisfied that the case involves a substantial question of law.

Q 62. Which are the matters on which the appeal against order of the Tribunal could be preferred before High Court?

Ans. Appeal shall lie to High Court against an order passed by the State Bench or Area Benches of Tribunal. In other words, the orders of the National or Regional Benches cannot not be challenged before the High Court

Q 63. Whether High Court can determine a issue which has not been determined by the Tribunal?

Ans. Yes. The High Court may determine any issue which has not been determined by the Appellate Tribunal. Further, High Court may also determine any issue which has been wrongly determined by the Appellate Tribunal, by reason of a decision on such question of law.

Q 64. Whether the appeal could be decided by a judge sitting singly?

Ans. No. Appeal filed before the High Court, 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.

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.

Appeal to Supreme Court (Section 118)

Section 118 of the CGST Act, 2017 made applicable to IGST *vide* Section 20 of the IGST Act, 2017 and UTGST *vide* Section 21 of the UTGST Act, 2017

Q 65. What are the orders against which appeal could be preferred before the Supreme Court?

Ans. Following orders could be challenged before the Supreme Court:

(a) Order passed by the National Bench or Regional Benches of the Appellate Tribunal; or

(b) Judgment or order passed by the High Court in an appeal made under section 117 in any case which, on its own motion or on an 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.

Sums due to be paid notwithstanding appeal, etc. (Section 119)

Section 119 of the CGST Act, 2017 made applicable to IGST *vide* Section 20 of the IGST Act, 2017 and UTGST *vide* Section 21 of the UTGST Act, 2017

Q 66. Whether amounts confirmed in terms of the order of Tribunal / High Court to be remitted even though appeal is preferred before High Court or Supreme Court?

Ans. Yes. 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 Tribunal or an order passed by the High Court, as the case may be, shall be payable in accordance with the order so passed.

Non appealable decision and orders (Section- 121)

Section 121 of the CGST Act, 2017 made applicable to IGST *vide* Section 20 of the IGST Act, 2017 and UTGST *vide* Section 21 of the UTGST Act, 2017

Q 67. Whether all decisions and orders can be appealed?

Ans. No. in terms of Section 121, orders listed below cannot be appeal against:

(a) An order of the Commissioner or other competent authority for transfer of proceeding from one officer to another officer; or

(b) an order pertaining to the seizure or retention of books of account, register and other documents; or

(c) an order sanctioning prosecution under this Act; or

(d) an order passed under section 80 relating to payment of tax, interest and other dues in installments.

Chapter XVII
Offences and Penalties

FAQ's

Penalty for certain offences (Section 122)

Section 122 of the CGST Act, 2017 made applicable to IGST *vide* Section 20 of the IGST Act, 2017 and UTGST *vide* Section 21 of the UTGST Act, 2017

Q1. Whether penalty is imposable for supply of goods or services without issue of any invoice or when an incorrect or false invoice is issued with regard to such supply?

Ans. Yes, in terms of Section 122(1)(i) of the CGST Act, 2017 the above supply of goods and services will be considered to be offence attracting penalty of ten thousand rupees or an amount equivalent to the tax evaded, whichever is higher.

Q2. I am collecting tax on supply of goods and services and did not remit the same within 3 months to the Government. Does the same attract penalty? If yes what is the amount of penalty?

Ans. Collection of tax and non-remittance of the same within 3 months to the Government from the due date for remittance is considered to be an offence under Section 122(1)(iii) of the CGST Act, 2017attracting penalty of an amount equal to the tax so collected or an ₹ 10,000/- whichever is higher

Q3. I have collected tax on supply of exempted goods and did not remit the tax so collected to the Government account. Would I be liable to penal and other consequences?

Ans. Yes, in terms of Section 122(1) (iv) of the CGST Act, 2017, collection of tax in contravention to the provisions of the CGST Act, 2017 and subsequent failure to remit the same to the credit of the Government beyond a period of 3 months from the date on which such payment becomes due is an offence attracting penalty of ₹ 10,000/- or amount equal to the amount of tax so collected, whichever is higher.

Further, in terms of Section 132(1) (d) read with Section 132(1) (*l*) of the CGST Act, 2017, the said offence attracts imprisonment which may extend from 1year to 5 years based on the quantum of tax evasion.

Q4. What are the other activities which would be considered to be offences under section 122(1) attracting penalty?

Ans. The other activities which would be considered to be offences attracting penalty are as under:

(a) failure to deduct tax in terms of provisions of Section 51 or short deduction of tax or failure to remit tax so deducted

(b) failure to collect tax by an E commerce operator in terms of Section 52 or short collection of tax or failure to remit tax so collected within

(c) taking or availment (or both) of input tax credit without actual receipt of goods or services in violation of the provisions

(d) fraudulently obtaining refund of any CGST/SGST under this Act

(e) takes or distributes input tax credit in violation of section 20, or the rules made thereunder;

(f) 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;

(g) failure to obtain registration even though liable to registration;

(h) furnishing of any false information with regard to registration particulars, either at the time of applying for registration, or subsequently;

(i) Obstruction or prevention of any officer in discharge of his duties under the GST provisions;

(j) Transports any taxable goods without the cover of documents as may be specified;

(k) Suppression of turnover leading to evasion of tax under this Act;

(l) Failure to keep, maintain or retain books of account and other documents in accordance with the provisions of this Act or the rules made thereunder;

(m) Failure 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;

(n) supplies, transports or stores any goods which he has reason to believe are liable to confiscation under this Act;

(o) issues any invoice or document by using the identification number of another taxable person;

(p) tampers with, or destroys any material evidence;

(q) disposes off or tampers with any goods that have been detained, seized, or attached under this Act;

Q5. What is the penalty that is imposable for the offences referred to in Q4?

Ans. ₹ 10,000/- 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 tax not collected under

section 52 or short collected or collected 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.

Q6. Whether failure to pay tax or short payment of tax or where refund has been erroneously granted, would also attract penalty even though there is no fraud or misrepresentation or suppression of facts on the part of the taxable person?

Ans. Yes. In terms of Section 122(2), the non-payment of tax or short payment of tax or erroneous refund without intention to evade (i.e. not involving fraud or any wilful misstatement or suppression of facts to evade tax) would attract a penalty of ₹ 10,000/- or 10% of the tax due, whichever is higher.

Q7. Is there any penalty on the persons who aids or abets in offences attracting penalty in terms of Section 122(1)?

Ans. Yes, any activity pertaining to aiding or abetting the offence would be an offence attracting a penalty to the extent of ₹ 25,000/-. Further, in terms of Section 122(3) following offences shall also be punishable with a penalty to the extent of ₹ 25,000/-:

(a) 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;

(b) 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;

(c) fails to appear before the officer of Central Tax, when issued with a summon for appearance to give evidence or produce a document in an enquiry;

(d) 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.

Penalty for failure to furnish information return; Fine for failure to furnish statistics (Section 123 and 124)

Section 123 and 124 of the CGST Act, 2017 made applicable to IGST vide Section 20 of the IGST Act, 2017 and UTGST vide Section 21 of the UTGST Act, 2017

Q8. Whether non-filing of information return or furnish statistics as required would attract penalty and what is the quantum of penalty?

Ans. Yes, If a person who is required to furnish an information return under section 150 fails to do so within the stipulated period of not exceeding 90 days from the date of issue of

show cause notice [section 150(3)] , the proper officer may direct that such person shall be liable to pay a penalty of ₹ 100 for each day of the period during which the failure to furnish such return continues. However, the penalty imposed under this section shall not exceed ₹ 5,000/-.

Similarly, if any person who is required to furnish any information or return under section 151,—

(a) without reasonable cause fails to furnish such information or return as may be required under that section, or

(b) wilfully furnishes or causes to furnish any information or return which he knows to be false,

then, he shall be punishable with a fine which may extend to ten thousand rupees and in case of a continuing offence to a further fine which may extend to ₹ 100 for each day after the first day during which the offence continues subject to a maximum limit of ₹ 25,000.

General Penalty; General disciplines related to penalty, Power to impose penalty in certain cases and Power to waive penalty or fee or both (Section 125-128)

Section 125 -128 of the CGST Act, 2017 made applicable to IGST *vide* Section 20 of the IGST Act, 2017 and UTGST *vide* Section 21 of the UTGST Act, 2017

Q9. What are the general guidelines to be followed while imposing penalties?

Ans. The general guidelines to be followed while imposing penalties are as under:

- Substantial penalties shall not be imposed for minor breaches of tax regulations or procedural requirements.
- 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.
- The penalty imposed shall depend on the facts and circumstances of the case and shall commensurate with the degree and severity of the breach

Q10. What are the acts which are considered as minor breach?

Ans. In terms of explanation to Section 126(1), a breach shall be considered a 'minor breach' if the amount of tax involved is less than five thousand rupees.

Q11. Where a person voluntarily disclosed information whether in such cases the same could be a factor to reduce the penalties?

Ans. In terms of Section 126(5) where 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 quantifying a penalty for that person.

Q12. When general penalty under Section 125 of CGST Act could be imposed?

Ans. Section 125 of the CGST Act, provides for general penalty which may extend to ₹ 25,000/- on any person, who contravenes any of the provisions of this Act or any rules made thereunder. This penalty would be applicable only where no penalty is separately provided for in this Act.

Q13. Whether penalties imposed under this Act could be waived?

Ans. In terms of Section 128 the Government may, by notification, waive in part or full, any penalty referred to in section 122 or section 123 or section 125 or any late fee referred to in section 47 for such class of taxpayers and under such mitigating circumstances as may be specified therein on the recommendations of the Council.

Pursuant to power conferred under Section 128, the Central Government *vide Notification No 28/2017 –Central Tax, dated 1.09.2017* and *Notification No. 50/2017 – Central Tax, dated 24.10.2017*, waives the late fee payable under section 47 of the CGST Act, for all registered persons who failed to furnish the return in FORM GSTR-3B for the month of July 2017; August and September, 2017 respectively by the due date.

Further, by virtue power under section 128, the Central Government *vide Notification No 64/ 2017 Central Tax- dated 15.11.2017*, waives the amount of late fee payable by any registered person for failure to furnish the return in FORM GSTR-3B for the month of October 2017 onwards by the due date under section 47 of the said Act, which is in excess of an amount of ₹ 25,000/- for every day during which such failure continues. But, where the total amount of central tax payable in the said return is nil, the amount of late fee payable shall stand waived to the extent which is in excess of an amount of ₹10/- for every day during which such failure continues

Detention, seizure and release of goods and conveyances in transit (Section 129)

Section 129 of the CGST Act, 2017 made applicable to IGST *vide* Section 20 of the IGST Act, 2017 and UTGST *vide* Section 21 of the UTGST Act, 2017

Q14. Whether officer appointed under GST law has power to detain / seize the goods? When such detention or seizure could be undertaken?

Ans. Where any person transports any goods or stores any goods while they are in transit in contravention of the provisions of the GST Act or rules made thereunder, all such goods and the conveyance used as a means of transport for carrying the said goods and documents relating to such goods and conveyances shall be liable to detention or seizure.

Q15. Under what circumstances the detained goods and conveyance seized could be released?

Ans. The goods/ conveyance could be released under the following circumstances:

(a) on payment of the applicable tax and penalty equal to 100% of the tax payable on such goods, and in case of exempted goods on payment of an amount equal to 2% of the value of goods or twenty-five thousand rupees, whichever is less where the owner of the goods comes forward for payment of such tax and penalty;

(b) on payment of the applicable tax and penalty equal to the fifty percent of the value of the goods reduced by the tax amount paid thereon, and, in case of exempted goods, on payment of an amount equal to five per cent. of the value of goods or twenty-five thousand rupees, where the owner of the goods does not come forward for payment of such tax and penalty;

(c) upon furnishing a security equivalent to the amount payable under clause (a) or clause (b) in such form and manner as may be prescribed.

Provided that no such goods or conveyance shall be detained or seized without serving an order of detention or seizure on the person transporting the goods.

Q16. What is the procedure to be followed for release of goods / conveyance or documents seized?

Ans. In order to release the goods / documents or conveyance the proper officer shall issue a notice specifying the tax payable and thereafter, pass an order for payment of tax and penalty as detailed above after giving reasonable opportunity of hearing to the concerned person.

On payment of the amount referred to above, all liabilities under this section shall stand discharged in respect of such goods and such conveyance.

Q17. Is there any time limit within which the release could be sought?

Ans. Tax and penalty as prescribed in Section 129(1) shall be paid within 7 days of the date of detention to get the goods released.

Q18. Is there any separate time limit for perishable goods?

Ans. Where the detained goods are perishable or hazardous in nature or are likely to depreciate in value with passage of time, the proper officer may reduce the said time period to period less than 7 days.

Q19. What are the consequences for non-payment of the tax and penalty amount for detained or seized?

Ans. Where the owner or the person transporting the goods does not pay the amounts prescribed (tax plus penalty) and get the goods released within 7 days then in such cases then the further proceedings shall be initiated in accordance with the provisions of section 130.

Confiscation of goods or conveyances and levy of penalty; Confiscation or penalty not to interfere with other punishments (Section 130-131)

Section 130 and 131 of the CGST Act, 2017 made applicable to IGST vide Section 20 of the IGST Act, 2017 and UTGST vide Section 21 of the UTGST Act, 2017

Q20. What are the circumstances under which the goods or conveyances could be confiscated?

Ans. Under following circumstances, goods / conveyance could be confiscated by the proper officer under GST provisions:

(i) supplies or receives any goods in contravention of any of the provisions of this Act or the rules made thereunder with intent to evade payment of tax; or

(ii) where a person does not account for any goods on which he is liable to pay tax under this Act; or

(iv) where a person supplies any goods which are liable to tax under this Act without having applied for registration; or

(v) where a person contravenes any of the provisions of this Act or rules made thereunder with intent to evade payment of tax; or

(vi) where a person uses any conveyance as a means of transport for carriage of taxable goods in contravention of the provisions of the Act or rules made thereunder 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.

Q21. Whether fine could be paid in lieu of confiscation of goods or conveyance for the purpose of release?

Ans. Under following circumstances, fine could be paid in lieu of confiscation of goods or conveyance:

- the officer adjudging the matter shall give to the owner of the goods an option to pay a fine in lieu of confiscation. The fine shall not exceed the market value of the goods confiscated, less the tax chargeable thereon
- where owner of goods is not known, such option could be given to the person from whose possession or custody such goods have been seized;
- The aggregate of such fine and penalty leviable shall not be less than the amount of penalty of 100% of the tax (if paid by owner) or 50% of the value of goods less tax (where it is paid by person other than owner in terms of Section 129(1))

- In case where conveyance is confiscated, and 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.
- Where any fine in lieu of confiscation of goods or conveyance is imposed, the person (owner or other person) shall be liable to pay any tax and charges payable in respect of such goods in addition to the fine.

Q22. How should the officer handle the goods / conveyance confiscated?

Ans.
- The title of goods and/or conveyance which are confiscated under CGST Act, shall vest in the Government.
- 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.
- The proper officer may, after satisfying himself that the confiscated goods and conveyance are not required in any other proceedings under this Act and after giving reasonable time not exceeding three months to pay fine in lieu of confiscation, dispose such goods and/or conveyances and deposit the sale proceeds thereof with the Government.

Q23. Whether prosecution or other punishments could also be initiated along with confiscation or penalty?

Ans. In terms of section 131 confiscation made or penalty imposed under the provisions of this Act or the rules made thereunder shall not 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.

Punishment for Certain Offences; Liability of officers and certain other persons (Section 132 – 133)

Section 132 and 133 of the CGST Act, 2017 made applicable to IGST *vide* Section 20 of the IGST Act, 2017 and UTGST *vide* Section 21 of the UTGST Act, 2017

Q24. Which are the offences which warrant prosecution?

Ans. Following are the offences which attract prosecution:

(a) Supply of goods or services or both without the cover of invoice with an intent to evade tax;

(b) If any person issues any invoice or bill without actual supply of goods or services or both leading to wrongful input tax credit or refund of tax;

(c) Any person who avails input tax credit using invoice referred in point (b) above;

(d) Collection of taxes without payment to the government for a period beyond 3 months of due date;

(e) Evasion of tax, availment of credit or obtaining refund with an intent of fraud where such offence is not covered in clause (a) to (d) above.

(f) Falsifying financial records or production of false records/ accounts/ documents/ information with an intent to evade tax;

(g) Obstructs or prevents any officer from doing his duties under the act;

(h) Acquires or transports or in any manner or deals with any goods which he knows or has reasons to believe are liable for confiscation under this Act or rules made thereunder;

(i) Receives or in any way, deals with any supply of services which he knows or has reason to believe are in contravention of any provisions of this law;

(j) Tampers with or destroys any material evidence or documents;

(k) Fails to supply any information which he is required to supply under this law or supply false information;

(l) Attempts or abets the commission of any of the offences mention above

Q25. What is the punishment prescribed on commission of offences which warrant prosecution?

Ans.

Offences	Punishment
Tax evaded / Wrong availment or utilisation of input tax credit / Amount of Refund wrongly taken exceeding ₹ 500 lakh	Five years imprisonment with Fine
Tax evaded / Wrong availment or utilisation of input tax credit / Amount of Refund wrongly taken exceeding ₹ 250 lakh but does not exceed ₹ 500 lakh	Three years imprisonment with Fine
Tax evaded / Wrong availment or utilisation of input tax credit / Amount of Refund wrongly taken exceeding ₹ 250 lakh but does not exceed ₹100 lakh.	One-year imprisonment with Fine

Offences	Punishment
Commits or abets in • Falsification or substitution of financial records or producing fake accounts, documents or furnishes any false information with an intention to evade payment of tax; • Obstruction or prevention any officer in the discharge of his duties • Tampering with or destroying any material evidence or documents;	Six months imprisonment or Fine or both

Q26. What is the scenario if a person convicted for an offence under section 132 is again convicted of an offence under the same section?

Ans. Such person 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.

Q27. What are cognizable and non-cognizable offences?

Ans.

Cognizable and Non-bailable	Non-cognizable
Following offences which attract imprisonment which may extend to 5 years would be cognizable and non bailable in terms of Section 132(5): 1) Making a supply without issue of an invoice or grossly mis-declaring the description of the supply on invoice, in contravention of this Act, to intentionally evade tax; 2) Issues any invoice or bill without supply in violation of the provisions of this Act/rules made thereunder leading to wrongful availment of credit or refund of tax 3) Avails input tax credit using such invoice or bill referred to above;	All other offences specified under Sec 132 apart from those mentioned as cognizable/non bailable shall be non-cognizable/ bailable in terms of Section 132(4)

4) Collects any amount as tax but fails to pay the same to the credit of the Government beyond a period of three months from the date on which such payment becomes due;	

Q28. Whether prior sanction of the designated authority is compulsory for prosecution?

Ans. Yes. No person shall be prosecuted for any offence under this section without prior sanction of the Commissioner

Q29. Whether tax evaded under State GST Act or IGST Act would also be taken in to account for the purpose of the prosecution?

Ans. Yes. In terms of explanation to Section 132 the term tax has been defined to include amount of tax evaded or the amount of input tax credit wrongly availed or utilised or refund wrongly taken under the provisions of this Act, the State Goods and Services Tax Act, the Integrated Goods and Services Tax Act or the Union Territory Goods and Services Tax Act and cess levied under the Goods and Services Tax (Compensation to States) Act.

Q30. Whether persons other than assessee could also be prosecuted under the CGST Act, 2017?

Ans. Yes. In terms of the Section 133, following persons would be liable for prosecution for the offences specified below:

Persons liable for prosecution	Nature of offence	Prosecution
Person engaged in connection with the collection of statistics under section 151	Wilfully discloses any information or the contents of any return furnished under this Act or rules made thereunder otherwise than in execution of his duties under the said sections or for the purposes of prosecution for an offence under this Act or under any other Act for the time being	The guilty person shall be punishable with imprisonment for a term which may extend to 6 months or with fine which may extend to ₹ 25,000/, or with both
Person engaged in compilation or computerisation thereof or if any officer of central tax having access to information specified under section 150(1)		

Persons liable for prosecution	Nature of offence	Prosecution
If any person engaged in connection with the provision of service on the common portal or the agent of common portal	in force,	

Q31. Whether any prior sanction is required to initiate prosecution under the section 133?

Ans. Yes. No person (other than government servant) shall be prosecuted for any offence under this section except with the previous sanction of the Commissioner

Q32. Whether Government employee could also be prosecuted and punished under section 133?

Ans. Yes, Government servant could also be punished. However, where the person punishable is a Government servant he shall not be prosecuted for any offence under this section except with the previous sanction of the Government.

Cognizance of offences; Presumption of culpable mental state and Relevancy of statements under certain circumstances (Section-134-136)

Section 134-136 of the CGST Act, 2017 made applicable to IGST vide Section 20 of the IGST Act, 2017 and UTGST vide Section 21 of the UTGST Act, 2017

Q33. Can inferior Courts take cognizance of any offence without prior sanction of the competent authority?

Ans. No Court shall take cognizance of any offence punishable except with the previous sanction of the Commissioner, and no Court inferior to that of a Magistrate of the First Class, shall try offence mentioned in Section 132.

Q34. Is culpable mental state necessary for prosecution?

Ans. Yes. 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 culpable 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.

Q35. What constitutes Culpable mental state?

Ans. Culpable mental state includes

(a) Intention

(b) Motive

(c) Knowledge of the fact

(d) Belief in or reason to believe a fact

Q36. When is a fact said to be proved under presumption of culpable mental state?

Ans. 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.

Q37. What is the relevancy of the statements made and signed before the GST officers?

Ans. A statement made and signed by a person on appearance in response to any summons issued under section 70 during the course of any inquiry or proceedings 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.

Offences by Companies (Section 137)

Section 137 of the CGST Act, 2017 made applicable to IGST vide Section 20 of the IGST Act, 2017 and UTGST vide Section 21 of the UTGST Act, 2017

Q38. What are the consequences of offences committed by Companies and certain other persons?

Ans. When an offence is committed by a Company, every person who at the time of offence was committed was in charge of or 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 prosecuted against and punished accordingly

Q39. What are the consequences of an offence (under the CGST Act) has been committed by a Company and it is proved that the offence has been committed with the consent of any director, manager, secretary or other officers of the company?

Ans. If an offence under the 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 officers of the Company, then such director, manager, secretary or other officers of the Company shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Q40. What are the consequences of offences committed by taxable person being a partnership firm or a LLP or HUF or a trust?

Ans. If offences are committed by taxable person being a partnership firm or a LLP or HUF or a trust, the partner or Karta or managing trustee respectively shall deemed to be guilty of offence and shall be liable to be proceeded against and punished accordingly.

Further, If offences are committed by partnership firm or a LLP or HUF or a trust 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, the partner or Karta or managing trustee respectively, then such partner or Karta or managing trustee shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Q41. What would be the situation if the person proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence?

Ans. Such person shall not be liable to any punishment.

Compounding of offences (Section-138)

Section 138 of the CGST Act, 2017 made applicable to IGST *vide* Section 20 of the IGST Act, 2017 and UTGST *vide* Section 21 of the UTGST Act, 2017

Q42. Can offences under this Act be compounded?

Ans. Any offence under this Act may, either before or after the institution of prosecution, be compounded by the Commissioner on payment, by the person accused of the offence to the Central Government or the State Government, of such compounding amount in such manner as may be prescribed. As per Rule 162 of the CGST Rules,2017 [Chapter-XIX - Offences and Penalties of the CGST Rules,2017], the application of compounding of an offence shall be filed in FORM GST-CPD-01.

Q43. What are the offences that cannot be compounded?

Ans. The following offences may not be compounded:

(a) A person who has been allowed to compound earlier in respect of any offences described as follows:

(i) Making a supply without issue of any invoice or grossly mis-declares the description of the supply on invoice, in contravention of this Act, to intentionally evade tax

(ii) Issues any invoice or bill without supply in violation of the provisions of this Act/rules made thereunder leading to wrongful availment or utilization of input tax credit or refund of tax

(iii) Collects any amount as tax but fails to pay the same to the credit of the appropriate Government beyond a period of 3 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 from the date on which such payment becomes due

(v) Availing/utilizing 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

(vi) Fraudulently avails input tax credit or evades tax or obtains refund

(vii) Falsification or substitution of financial records or producing fake accounts, documents or furnishes any false information with an intention to evade payment of tax

(viii) Attempts to commit or abets the commission of any of the offences mentioned above

(b) A person who has been allowed to compound earlier in respect of any offences described as above in clause (A) under this Act or under any provisions of any other SGST Act or IGST Act in relation to supplies of value exceeding one crore rupees

(c) Any offence which is also an offence under any other law for time being in force

(d) A person who has been convicted for an offence under this act by a court

(e) A person who has been accused of committing an offence as under:

(i) Obstruct or prevents any officer in the discharge of his duties

(ii) Tampers with or destroys any material evidence or documents

(iii) 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.

Q44. Is compounding of offence made after making payment of tax, interest and penalty involved in such offences?

Ans. Yes, compounding shall be allowed only after making payment of tax, interest and penalty involved in such offences.

Q45. Are there any monetary limits prescribed for compounding amount?

Ans. Yes.

The minimum limit for compounding amount is to be the higher of the following amounts:-

- ₹ 10,000. Or
- 50% of tax involved,

The upper limit for compounding amount is to be higher of the following amounts:-

- ₹ 30,000 or
- 150% of tax involved.

Q46. What happens after the offence has been compounded?

Ans. On payment of compounding amount, no further proceeding shall be initiated under the CGST Act, 2017 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.

Q47. State the procedure for compounding of offences?

Ans. Rule 162 of the CGST Rules,2017 provides the procedure for compounding of offences as:

- An applicant may, either before or after the institution of prosecution, make an application under section 138 (1) in FORM GST CPD-01 to the Commissioner for compounding of an offence.
- On receipt of the application, the Commissioner shall call for a report from the concerned officer with reference to the particulars furnished in the application or any other relevant information for the examination of such application

  After providing opportunity of being heard to the applicant and taking into account the contents of the application, if satisfied that the applicant has co-operated in the proceedings before him and has made full and true disclosure of facts relating to the case, the Commissioner may by order in FORM GST-CPD-02 allow the application indicating the compounding amount and grant him immunity from prosecution or reject such application within 90 days of the receipt of the application stating the grounds of rejection.

  However, the application shall not be allowed unless the tax, interest and penalty liable to be paid, have been paid in case for which the application has been made.

- The applicant shall, within a period of 30 days from the date of the receipt of the order of compounding, pay the compounding amount and furnish the proof of such payment to the Commissioner, otherwise such order shall be vitiated and be void.
- Immunity granted to a person may, at any time, be withdrawn by the Commissioner, if he is satisfied that such person had, in the course of the compounding proceedings, concealed any material particulars or had given false evidence. Thereupon such person may be tried for the offence with respect to which immunity was granted or for any other offence that appears to have been committed by him in connection with the compounding proceedings and the provisions the Act shall apply as if no such immunity had been granted.

Chapter XVIII
Transitional Provisions

FAQ's

Migration of Existing Tax Payers (Section 139)

Similar provisions have been specified in the UTGST Act, 2017

Q1. What is the primary condition for provisional registration?

Ans. Every person, other than a person deducting tax at source or an input service distributor, registered under any of the erstwhile laws (indirect) and having a valid PAN shall enroll on common portal by validating his e-mail address and mobile number, either directly or through a Facilitation Center notified by Commissioner. Further, upon enrolment said person shall be granted registration on provisional basis in **FORM GST REG 25**.

Q2. What will be the validity of the provisional certificate?

Ans. The provisional certificate issued shall be valid unless replaced by the final certificate of registration, shall be liable to be cancelled if the conditions of provisional registration so prescribed are not complied with i.e. not submitting the required documents within the prescribed time limit.

Q3. When will the provisional registration be converted into final registration?

Ans. A person holding the provisional registration certificate shall submit the prescribed information and documents in **Form GST REG 26** as per the CGST Rules within 3 months or the further period as may be extended by the Commissioner. . The date of filing **Form GST REG 26** has been extended till 31st December, 2017 *vide* Order No. 6/2017 - GST dated. 28/10/2017

If the particulars and/or information has not been furnished or not found to be correct or complete, the proper officer shall cancel the provisional registration and issue an order in **Form GST REG-28** cancelling the registration after serving a show cause notice in **Form GST REG-27** and affording the person concerned a reasonable opportunity of being heard. On being satisfied that no such cause exists for which the notice was issued, SCN can be withdrawn by issuing an order in **FORM GST REG- 20.** On furnishing the requisite and complete information and documents the final registration will be issued in **Form GST REG 06.**

Where a certificate of registration has not been made available to the applicant on the common portal within a period of 15 days from the date of the furnishing of information

and particulars and no SCN has been issued within the said period, the registration shall be deemed to have been granted and the said certificate of registration, duly signed or verified through electronic verification code, shall be made available to the registered person on the common portal

Q4 What happens if the documents are not furnished within the time prescribed?

Ans. The certificate of registration issued to a person provisionally, shall be cancelled, if such person fails to furnish the prescribed information within the specified time by issuing an order in **FORM GST REG-28.** Proper officer after serving a notice in **FORM GST REG-27** and affording the concerned person an opportunity of been heard, will pass the aforesaid order.

Q5. Can a person voluntary opt out of GST who is registered under the earlier law?

Ans. Yes, a person can opt out of GST voluntarily in pursuance of an application in **Form GST REG-29** to be filed on or before December 31, 2017, by such person that he was not liable to registration under section 22 or section 24. *[Notification No. 51/2017 Central Tax dated 28.10.2017*]

Q6. What will be the status of the provisional registration if the person claims to be, not liable for registration under GST?

Ans. Where a person who has submitted an application for cancellation of his registration is no longer liable to be registration under section 22 or 24, his provisional registration shall be deemed to have not been issued.

Q7. What will be the position of the provisional registration of a composition taxpayer under old law?

Ans. A composition taxpayer under old law has to specifically apply for composition tax (under GST) and the receipt of provisional certificate would not be considered as automatic transition to composition scheme. Further, he has to file an intimation in **FORM GST CMP-01** prior to the appointed day, but not later than 30 days after the said day, or such further period as may be extended by the Commissioner in this behalf. This period was extended to 16th August, vide *Notification no. 1/2017- GST dated 21-07-2017*. Where, such intimation is filed after the appointed day, the registered person shall not collect any tax from the appointed day but shall issue bill of supply for supplies made after the said day.

In case the said person does not file **Form GST CMP-01** within the above specified time and if he wants to opt for composition under section 10, subsequently during the year 2017-18, he shall electronically file an intimation in **Form GST CMP-02** before 31st March, 2018. He can opt to pay tax under section 10 w.e.f. the 1st day of the next month on wards. Such persons shall furnish statement of stock in **Form GST ITC-03** within a period of 90 days from the day on which he commences to pay tax under

section 10. The above persons who have filed the intimation and statement as above shall not be allowed to file Form **GST TRAN-01**, after furnishing **Form GST ITC-03**.

It is pertinent to note here that as per Rule 5(1) (b) of the CGST Rules, the person who prefers to file Form **GST CMP-01** shall not hold any goods in stock on the appointed day;

i. that have been purchased in the course of interstate trade or;

ii. imported from outside India, or

iii. received from his branch, agent or principal situated outside the state;

However, this restriction regarding the holding the stock received from outside the state is not applicable in the case of persons opting to pay tax under Section 10 by filing **Form GST CMP-03**

Q8. Can a VAT dealer opt for composition scheme after the time prescribed?

Ans. No. When a registered taxable person does not opt to pay tax under composition scheme within the time prescribed, he shall be liable to pay tax under regular provisions.

Q9. What happens in case tax payers have distinct VAT registrations in the same State?

Ans. A person having multiple business verticals in a state may obtain a separate registration for each business vertical as defined under section 2(18), subject to conditions as follow:

- Such person has more than one business vertical in a state.
- No business vertical of said person shall be granted registration to pay tax u/s 10, if any one of the other business vertical of same person is paying tax u/s 9.

  Further, where any business vertical of a registered person that has been granted a separate registration becomes ineligible to pay tax under section 10, all other business verticals of the said person shall become ineligible to pay tax under section 10.
- All separately registered business verticals of such person shall pay tax under the Act on supply of goods or services or both made to another registered business vertical of such person and issue a tax invoice for such supply.

Transitional Arrangements For Input Tax Credit (Section 140)

Q10. How will a manufacturer/ service provider carry forward the Cenvat credit in his electronic credit ledger?

Ans. The amount of Cenvat credit carried forward, in the last return furnished under the old law shall be allowed to be carried forward as credit in the electronic credit ledger under

GST by a registered person other than a person opting to pay tax u/s 10, provided that the registered person shall not be allowed to take the credit in the following circumstances, namely: -

- Where the said credit is not admissible as credit under CGST Act ;or
- Where all the returns required under the old law are not furnished for the period of six months immediately preceding the 1st July, 2017.
- Where the amount of credit relates to the exempted goods manufactured and cleared under such exemption notifications as are notified by the Government

Q11. Can a registered tax payer opting to pay tax under composite scheme in GST be eligible for Input Tax Credit?

Ans. No. The amount of input tax credit carried forward in the last return under the old law preceding the appointed date shall lapse and will not be allowed as credit in the electronic credit ledger under GST.

Q12. Will a person registered in a State, say, Maharashtra be eligible to claim credit if he does not take registration in that State under GST for any reason, say, closure of operations etc.?

Ans. No. The credit claimed in the return of a particular State will ordinarily be eligible to be carried forward only in the succeeding SGST law of that State, in the given case Maharashtra, and cannot be availed as credit in any other State GST Law. ISD registration is an option which can be examined.

Q13. Will Education Cess and Secondary and Higher Education Cess which is being carried forward as per the return be allowed to be carried forward as CGST?

Ans. Yes, the input tax credit allowable as per Rule 3 of the CENVAT Credit Rules, 2004 will be eligible as CGST. However, credit of Education Cess and Secondary and Higher Education Cess shall not be allowed. Education Cess and Secondary and Higher Education Cess are not included in list of "eligible duties and taxes" as provided in Explanation to section 140. Which clarifies that credit of EC and HSEC will not be available under GST regime

Q14. Is there any time limit on the period to which the credit being brought forward should pertain to?

Ans. As long as the credit is eligible (including the condition on time limit) under the earlier State / Central law, credit can be rightly availed. There is no specific time limit on the period to which such transitional credit should pertain to under the GST law.

Q15. Whether credit, eligible and claimed by tax payer in any return preceding the last return but failed to bring forward in the last return, eligible for automatic carry forward?

Ans. No. According to the plain reading of the provisions, only the credit carry forward in the last return is eligible for automatic carry forward in the GST return. However, the tax payer can apply for refund under other transitional provisions.

Q16. What is the treatment of various components of Cenvat Credit (such as service tax, excise duty, etc.) in GST transition?

Ans. All eligible components of Cenvat Credit in the last return will be credited to Electronic Credit Ledger of Registered Person. Once credited in Electronic Credit Ledger of Registered Person all components will lose their individual identity.

Q17. How will the credit be claimed in case more than one registration of a single taxable person is available in a State, say two manufacturing units in one State?

Ans. Since multiple registrations of a particular State would be consolidated into a single GST registration in that State (except in case of distinct business verticals), the credits brought forward in multiple returns would also be consolidated into a single input tax credit in the respective CGST ledger of that State.

Q18. What happens to ineligible transitional credit being carried forward in the return as on the appointed date?

Ans. Where any transitional credit carry forward in the GST return is held to be ineligible under an assessment/ adjudication proceeding, whether initiated before or after the appointed date, such credit shall be recovered as an arrear of tax or duty under the GST Act.

Q19. If the amount of duty, tax or cess carried forward as per the accounts is greater than the return, which amount will be allowed to be carried forward?

Ans. 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 law for the period ending with the day preceding the day when the GST becomes applicable will only be taken into account.

Q20. Will the GST officer issue any order based on which such credit are availed?

Ans. There is no such pre-condition. Credit can be availed suo-motu based on enabling provisions. However, the GST officers are empowered to verify this credit during assessment proceedings and any amount incorrectly availed can be recovered as arrear of tax or duty under GST Act.

Q21. Is there a provision to claim credit if not carried forward in the return for capital goods?

Ans. Yes. Section 140 provides for claiming unavailed credit in respect of capital goods, not carried forward in a return, furnished under the old law.

Provided that the said credit was admissible as credit under old law as well as in GST law.

Q22. Can a tax payer claim cenvat credit of unavailed cenvat credit under earlier law?

Ans. Credit of the unavailed credit in respect of capital goods, not carried forward in the last return is available for credit under the GST law provided it was admissible as credit under old law and also it is admissible as cenvat credit under the GST Act. It may be clarified that the aggregate of credit availed under the GST Act and the earlier law cannot exceed total of eligible credit on such capital goods.

Q23. What is the condition for claiming Cenvat credit on -

- Input and Input services
- Capital goods

For instance - Goods were received before 1st April, 2016 but no CENVAT Credit or partial CENVAT Credit was availed till the year 2016-17?

Ans. Credit on inputs and input services already availed under the earlier law and carried forward in the last return before appointment day is eligible for automatic carry forward under the GST law. However, credit of input and input service which is not availed until the last return, is not available as credit under the GST law

As per Rule 4(2) (b) of the CENVAT Credit Rules, the CENVAT Credit on capital goods 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. Therefore, credit on capital goods can be claimed to the extent of the unavailed portion, if it is admissible as credit under the old as well as in GST law.

Q24. Will the answer in above question be applicable if instead of Capital Goods, inputs had been purchased before 1st April, 2016?

Ans. If inputs had been purchased before 1st April, 2016, then no input tax Credit would be available under GST. The CENVAT Credit Rules, 2004 clearly provide for a time period of one year from the date of issue of invoice for CENVAT Credit to be availed. If this period of one year elapses, no Input Tax Credit will be admissible under the CENVAT Credit Rules. Hence, the same would not be available under GST.

Q25. What will happen if the inputs, which are intended for making taxable supplies, are ultimately used for exempt supplies?

Ans. 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

Q26. Apart from Manufacturer or Service Provider who else is eligible for Cenvat credit?

Ans. Following persons are also eligible for Cenvat credit as GST credit even though they were not eligible under the earlier law subject to certain conditions

- Person who was not liable to be registered under the earlier law, for instance Traders.
- Person who were engaged in the supply of exempted goods
- First stage dealer or a second stage dealer or a registered importer or a depot of manufacturer.

The above category of persons can claim 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 1st July, 2017.

Q27. Under what circumstances are the above categories of persons (i.e. person mentioned in Q27 above) eligible to claim credit?

Ans. The aforesaid persons can claim credit on fulfillment of the following conditions-

- such inputs are used or intended to be used for making taxable supplies under this Act;
- the said registered person is eligible for input tax credit on such inputs under the GST Law;
- the said registered person is in possession of invoice and/or other prescribed documents evidencing payment of duty under the earlier law in respect of such inputs;
- such invoices and /or other prescribed documents were issued not earlier than twelve months immediately preceding appointed day;
- the supplier of services is not eligible for any abatement under the Act.

Provided that where a registered person other than manufacturer or supplier of services, is not in the possession of invoice or other document evidencing payment of duty in respect of inputs, then such registered person shall, subject to such conditions, limitations and safeguard as may be prescribed, including that the said taxable person shall pass on the benefit of such credit by way of reduced price to recipient, be allowed to take the credit in such a manner as may be prescribed.

Q28. How will the condition of reduced price (as per Anti-Profiteering) to recipient be satisfied?

Ans. The component of eligible duties and taxes should be reduced from the ordinary sale price to pass on the benefit of reduced prices. This is illustrated by way of a comparative example –

Particulars	Earlier Law	GST Law (For old stock)
Basic Cost	100.00	100.00
Excise @ 12.5%	12.50	` 12.50
Total Cost	112.50	112.50
Selling Price (excl. applicable taxes)	162.50	162.50
Gross Profit	50.00	50.00
Benefit to pass on in GST regime		8.78 (Assuming GST rate of 18% 162.50 X 9% X 60%)
Net Selling Price (Excluding Taxes)	162.50	153.72

In the above illustration if the registered taxable person sells at Rs 153.72, only then he will get the benefit of credit at the time of supply of this product.

Q29. Can a trader (other than a First stage dealer or a second stage dealer) claim the Cenvat credit on the stock held on the appointed date?

Ans. Yes, a trader who is not a first stage dealer or second stage dealer can claim Cenvat Credit as per section 140(3) subject to fulfilment of following conditions

- such inputs are used or intended to be used for making taxable supplies under this Act;
- the said registered person is eligible for input tax credit on such inputs under the GST Law;
- the said taxable person is in possession of invoice and/or other prescribed documents evidencing payment of duty under the earlier law in respect of such inputs;
- such invoices and /or other prescribed documents were issued not earlier than twelve months immediately preceding 1st July, 2017;
- the supplier of services is not eligible for any abatement under the Act.

Q30. Will Central Sales Tax (CST) paid under the earlier law be available as credit under GST?

Ans. No, the transitional provisions do not permit credit of Central Sales Tax paid, even though such component may be present in inputs in stock or inputs contained in Semi-finished goods or finished goods.

Q31. Can stock held for more than one year be eligible to claim GST credit (i.e. in case of FSD/SSD or Registered importer, etc.)?

Ans. No. The provision contains a condition that only stock in respect of which the duty paying document is issued within one year from the appointed date is eligible for credit under GST.

Q32. What happens if the FSD/SSD or Registered importer, etc. are not in possession of the duty paying document?

Ans. GST law contains an enabling provision which permits credit to be claimed even if the duty paying documents are not in possession of the person availing the credit. In this regard the CGST Rules (Transition provisions) specifies the following conditions –

- Such credit shall be allowed at the rate of 60% (in case of CGST @ 9% or more/ IGST @ 18% or more) and 40% (in other cases) , as per Rule 117(4), of the central tax applicable on supply of such goods after the appointed date and shall be credited after the central tax payable on such goods has been paid.
- The scheme shall be available for six tax periods from the appointed date.
- Such goods were not wholly exempt from duty of excise specified in the First Schedule to the Central Excise Tariff Act, 1985 or were not nil rated.
- Document for procurement of such goods is available with the registered person.
- Registered person availing this scheme and having furnished the details of stock held by him, submits a statement in **FORM GST TRAN-2** at the end of each of the six tax periods during which the scheme is in operation.
- The amount of credit allowed shall be credited to the electronic credit ledger of the applicant maintained in **FORM GST PMT-2** on the Common Portal.
- The stock of goods on which the credit is availed is so stored that it can be easily identified by the registered person. *[Refer Rule 117(4) of the CGST Rules]*

Q33. If a taxable person under earlier law was engaged in the provision of exempt services which becomes taxable in GST, will the taxable person under GST be allowed the credit in respect of the inputs in his stock?

Ans. Yes, such a taxable person would be eligible for credit on inputs in stock or contained in semi-finished goods or finished goods and such inputs are actually used or intended to be used for provision of taxable supplies under the GST law.

Q34. Is there any provision which deals with the CENVAT credit for a taxable person dealing in both taxable as well as exempted goods/ services?

Ans. The provisions of section 140 (4) identifies this situation and provides that a registered person, who was engaged in the manufacture of taxable as well as exempted goods

under the Central Excise Act, 1944 or provision of taxable as well as exempted services under Chapter V of the Finance Act, 1994, but which are liable to tax under this Act, shall be entitled to take, in his electronic credit ledger,—

(a) the amount of CENVAT credit carried forward in a return furnished under the old law by him in accordance with the provisions of section 140(*1*); and

(b) the amount of CENVAT credit of eligible duties in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on appointed day i.e, 1st July, 2017, relating to such exempted goods or services, in accordance with the provisions of section 140(*3*).

Q35. Can credit be claimed in respect of CENVAT, Entry tax and VAT paid on goods under present law and which is in transit as on the transition date?

Ans. Yes, credit can be claimed subject to the following prerequisites -

The registered person should record the invoice or any other duty or tax paying document of the same in his books of accounts within 30 days from 1st July, 2017 or such extended time not more than 30 days and a statement should be furnished in prescribed form furnishing the following details in terms of Rule117 (2) of the CGST Rules: -

(i) the name of the supplier, serial number and date of issue of the invoice by the supplier or any document on the basis of which credit of input tax was admissible under the old law,

(ii) the description and value of the goods or services

(iii) Quantity in case of goods and the unit or unit quantity code thereof.

(iv) the amount of eligible taxes and duties or, as the case may be, the value- added tax [or entry tax] charged by the supplier in respect of the goods or services,

(v) the date on which the receipt of goods or services is entered in the books of account of the recipient.

Q36. Will the credit be available if the Invoice is made on or before 30th June, 2017 but is received by the supplier on or after 1st July, 2017?

Ans. Section 140 (5) envisages such a situation wherein Invoice is raised prior to the appointed date and received after the appointed date and credit would be permissible provided the purchase is recorded by the receiver within 30 days or extended period (not more than 30 days) in his books of accounts.

Q37. If any credit on inputs/input services has been missed to be availed or in respect of which duty paying documents are not available as on the appointed date, will it be eligible for credit under section 140(5)?

Ans. Credit under section 140(5) can only be claimed in respect of services / inputs which

are in transit and received after the appointed date. A strict reading of the provisions does not enable credit in circumstances where invoice is not available or missed to be availed under the earlier law.

Q38. Can credit of services invoiced prior to the appointed date but the services are completed after the appointed date be claimed as credit?

Ans. Yes, credit of input services received on or after appointed date but the duty or tax in respect of which has been paid by the supplier under the old law, subject to the condition that the invoice or any other duty or tax paying document of the same was recorded in the books of account of such person within a period of thirty days from 1st July, 2017.

Q39. What are the provisions of credit of duties and taxes for a registered person paying tax under composition scheme under earlier law and switching over to the regular provisions under the GST law?

Ans. A registered person paying tax at a fixed rate or paying a fixed amount in lieu of the tax payable under the old law shall claim credit of eligible duties in respect of inputs; inputs contained in semi-finished goods/ finished goods held in stock as on the appointed date subject to the following conditions, namely:–

(i) Such inputs or goods are used or intended to be used for making taxable supplies under the CGST Act;

(ii) The said registered person is not paying tax under section 10;

(iii) The said registered person is eligible for input tax credit on such inputs under this Act;

(iv) The said registered person is in possession of invoice or other prescribed documents evidencing payment of duty under the old law in respect of inputs; and

(v) Such invoices or other prescribed documents were issued not earlier than twelve months immediately preceding 1st July, 2017.

Q40. Will persons claiming abatement under service tax notifications and paying service tax at an effective rate lower than 15% be termed as 'composition tax payers' for purpose of section 140(3) of the CGST law?

Ans. The services covered under abatement notifications (such as 26/2012-ST) will not be covered under the said provisions. The abatement notifications are for the purpose of determination of the taxable value on which service tax is assessable and cannot be considered as composition rates. Such services may qualify as 'exempted services' under the Cenvat Credit rules and cannot be termed as services subject to composite tax rates.

Q41. If a dealer paying tax under composition scheme under earlier law continues to pay tax under composition scheme under the GST law will the dealer get any credit under the GST law? Would the answer change if the dealer subsequently opts out of composition scheme?

Ans. No the dealer will not get any credit when he changes over to composition scheme under GST. The position would be same even if he switches out of composition scheme subsequently under GST, except in respect of goods held in stock as on the date of switch over, which is entitled to credit, subject to the conditions specified in section 140(5).

Q 42 Can a declaration in Form GST Tran- 1 be revised/

Ans. Yes. In terms of Rule 120A of CGST Rules, inserted vide *Notification No. 34/2017 dated 15.09.2017* read *Notification No. 36/2017 dated 29.09.2017*, every registered person who has submitted a declaration electronically in **FORM GST TRAN-1** within the time period specified in rule 117, rule 118, rule 119 and rule 120 may revise such declaration once and submit the revised declaration in **FORM GST TRAN-1** electronically on the common portal within the time period specified in the said rules or such further period as may be extended by the Commissioner in this behalf. In this regards, CBEC vide Order No.10/2017 –GST dated 15.11.2017 extended date of filing revised declaration in **FORM GST TRAN-1** till 27.12.2017.

Transitional Provisions Relating To Job Work (Section 141)

Q43. What are the implications of GST on the principal manufacturer in respect of goods sent on job work before the appointed date and received within 6 months from the appointed date?

Ans. In case the goods are returned within 6 months from the appointed date, no tax shall be payable by the original supplier, provided that the period of six months may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding two months.

In case the goods are returned after 6 months or extended period (if any) from the appointed date, the input tax credit claimed by the original supplier shall unless recovered under the old law, be recovered as an arrear of tax. In either case, both the principal manufacturer and job worker shall declare the details of goods held in stock by the job worker as on the appointed date in **Form GST TRAN-1**.

Q44. Who is liable to pay tax when the processed inputs are not returned within the time limit specified?

Ans. When the processed inputs are not returned within specified time limit, the principal manufacturer is liable to reverse the input tax credit already claimed, which shall be recovered under the GST law as per the provisions of section 142(8)(a)

Q45. Is declaration to the effect of stock held by job worker on behalf of manufacturer, compulsory required to be submitted to the prescribed authority?

Ans. Yes, filing of declaration by both the manufacturer and the job worker showing the details of inputs held in stock by job worker on behalf of manufacturer on appointed date is a primary condition to avail exemption specified by section 141.

Q46. What are the implications in case semi-finished goods and finished goods are directly removed from the job workers premises?

Ans. In case of semi-finished goods, the goods can be directly removed from the job workers premises to any other premises of a registered person for the purpose of supplying goods there from on payment of applicable tax. In case of finished goods, the goods can be directly removed from the job-workers premises to any place on payment of applicable taxes. However, the above relaxation is not available for inputs.

Q47. Who is liable to pay tax in respect of goods supplied after completion of job work from the job-workers premises?

Ans. In case of job work, the principal manufacturer affecting the supply has to include the job workers premises in his certificate of registration as his additional place of business The supply being affected by the principal manufacturer and not by the job worker (except in cases, where job worker is a registered taxable person or where the principal is engaged in supply of goods as may be notified by the commissioner.), tax liability is on the principal manufacturer.

Miscellaneous Transitional Provisions (Section 142)

Q48. What is the implication of GST in respect of duty paid goods removed before the appointed date and returned after the appointed date?

Ans. As per section 142(1), if any duty paid goods are sold/removed not being earlier than six months of appointed date under the earlier law are returned within six months of the appointed date, the seller is eligible for refund of duties and taxes paid under the earlier law if the sales is made to unregistered buyer, if the sale is to a registered buyer then he will have to charge GST as a supply. It may be noted that section 142(1) is not applicable on goods returned after six months of 1st July 2017.

Q49. What are the implications of GST in respect of duty paid goods removed within six months prior to the appointed date and returned after the appointed date?

Ans. In case goods are being returned by registered taxable persons general provisions of supply under GST will apply and the person receiving the goods can also claim the input tax credit under the general provisions. However, where the goods are returned by a person other than registered taxable person then the original supplier will have to pay GST.

Q50. What are the tax implications in respect of goods which are returned after the period of six months?

Ans. It appears that the general provisions of CGST would apply on such goods and GST may be held to be applicable.

Q51. What are the implications in respect of upward price revision for goods removed or services provided prior to the appointed date?

Ans. The supplier shall issue a supplementary invoice/ debit note within 30 days of the price revision and charge GST on such supplementary invoice/ debit note.

Q52. What are the implications in respect of downward price revision for goods removed or services provided prior to the appointed date?

Ans. The supplier may issue a credit note within 30 days of price revision and mention the value of GST on such credit note. The original supplier (registered person) will be allowed to reduce his tax liability subject to the recipient reducing his input tax credit to such extent.

Q53. What is the status of refund claims of Cenvat credit/duty/tax or interest pending as on the appointed date?

Ans. The pending refund claims will be sanctioned in accordance with the terms and conditions specified under the earlier law and shall be paid in cash, notwithstanding anything to the contrary contained under the provisions of old law other than the provisions of section 11B (2) of the Central Excise Act, 1944: and will not get credited to his electronic credit ledger. Refund can only be claimed of amounts which are not carried forward in the GST law.

Q54. What happens if the refund claim is rejected?

Ans. In cases where the refund claim of cenvat credit/ input tax is rejected the same shall lapse and further the tax payer is not entitled to claim any credit of such amounts.

Q55. What happens to the refund claims filed after the appointed date in respect of goods cleared or services provided under the earlier law?

Ans. Any application of refund filed after the appointed date for a claim pertaining to the earlier law shall be disposed off as per the terms and conditions of the earlier law. The claim would be eligible irrespective of export of goods or services before or after the appointed date, for instance input credit pertaining to April, May and June can be claimed in July even if the export is in July.

Further, where any claim for refund of CENVAT credit is fully or partially rejected, the amount so rejected shall lapse. Moreover, no refund shall be allowed of any amount of CENVAT credit where the balance of the said amount as on 1st July, 2017 has been carried forward under this Act.

Q56. What happens to goods removed from factory for export prior to appointed date and exported from the customs port after the appointed date?

Ans. Sub-section (4) of Section 142 permits refund of Cenvat credit or duty paid under earlier law even if the goods are exported after the appointed date.

Q57. What happens to taxes deposited under earlier law if such services are not provided even after the appointed date?

Ans. In terms of Section 142(5) of the CGST Act, 2017, Refund claim filed after the appointed day, of tax paid under the existing law in respect of services not provided shall be disposed of in accordance with the provisions of existing law and any amount eventually accruing to him shall be paid in cash, provided notwithstanding anything to the contrary contained under the provisions of old law other than the provisions of section 11B (2) of the Central Excise Act, 1944.

Q58 What happens to tax appeals/ revisions, review or reference relating to claim / recovery of cenvat credit/ input tax credit under the earlier law and pending as on the appointed date?

Ans. Every proceeding of appeal, review or reference relating to a claim/ recovery for CENVAT credit initiated whether before, on or after appointed date under the old law shall be disposed of in accordance with the provisions of old 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 old law other than the provisions of section 11B(2) of the Central Excise Act, 1944 and the amount rejected, if any, shall not be admissible as input tax credit under this Act. Further, no refund shall be allowed of any amount of CENVAT credit where the balance of the said amount as on appointed date has been carried forward under this Act
- becomes recoverable as a result of such appeal, review or reference, the same shall, unless recovered under the old law, 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.

Q59. If the matter in appeal is remanded back to adjudication, will the matter be dealt under the earlier law or as per the GST provisions?

Ans. Till a particular proceeding is completely disposed off, it will be carried out under the provisions of the earlier law. So, if a particular matter is remanded back to adjudication, then the same will be dealt as per the provisions of the earlier law itself. Only if the amount is found to be recoverable after the disposal of the proceedings, then the amount will be recovered under the GST law as an arrear of tax.

Q60. Can the State officers exercise jurisdiction over disposal of proceedings relating to CENVAT Credit?

Ans. No, all the proceedings till the disposal of appeal will be managed as per the provision of the earlier law. The State officers under the earlier law did not have jurisdiction to conduct the proceedings relating to CENVAT Credit. So, they will not be able to exercise jurisdiction for disposal of proceedings relating to CENVAT Credit.

Q61. Whether input tax credit is available to the buyer or service recipient in respect of amounts payable due to assessment, appeal, review or revision proceedings under the earlier law?

Ans. Any amount recovered from the tax payer arising out of proceedings initiated under the earlier law shall not be eligible for Input tax credit under the GST law but shall be refunded in cash.

Q62. What will be the status of adjudication/ assessment, appeal, review, revision or reference proceedings which are initiated before or after the appointed date in respect of periods covered under the earlier law?

Ans. The adjudication or assessment proceedings shall be conducted and disposed off under the provisions of the old law. If any amount becomes recoverable as a result of the proceedings including appeal/ revision/ review or reference, such amount unless recovered under the old law, shall be recovered as arrears of duty or tax under the GST law. If any amount becomes refundable to the tax payer, such amount shall be refunded in cash under the GST law.

Q63. Whether the amount recovered in pursuance of an assessment or adjudication proceedings instituted, under the old law is admissible as ITC under GST?

Ans. In terms of section142 (8) of the CGST Act, where in pursuance of an assessment or adjudication proceedings instituted, whether before, on or after appointed day under the old law, any amount of tax, interest, fine or penalty becomes recoverable from the person, the same shall, unless recovered under the old law, be recovered as an arrear of tax under GST Law and the amount so recovered shall NOT be admissible as input tax credit under this Act.

Q64. What are the implications on the tax payer in case of revision of returns filed in respect of periods covered under the earlier law?

Ans. In case where the revision of return results in additional amount payable by the tax payer, such amount, unless recovered under the old law, is recoverable in terms of the provisions of the GST law.

In case where the revision of return filed within the prescribed time limit specified in old law results in refund or increase in credit to the tax payer, such amount is refundable to

the person under the earlier law. Then, the same shall be refunded to him in cash under the existing law, notwithstanding anything to the contrary contained in the said law other than the provisions section 11B (2) of the Central Excise Act, 1944 and the amount rejected, if any, shall not be admissible as input tax credit under GST.

Q65. If services are provided pursuant to a contract entered into prior to the appointed date, which tax is payable?

Ans. All supplies after the appointed date shall be liable to tax under the CGST/SGST Act.

Q66 If services liable to reverse charge or partial reverse charge have been rendered along with invoice duly issued prior to the appointed date but the tax on reverse charge basis has been paid in July 2017, whether, credit of such transaction is available in GST?

Ans. Yes, pursuant to the adherence of *Circular 207/5/2017- Service Tax dated 28th September, 2017*

Details are:

Section 142(3)of the CGST Act provides that notwithstanding anything contained in section 13, no tax shall be payable on services under this Act to the extent the tax was leviable on the said services under Chapter V of the Finance Act, 1994.

In the instance, services liable to reverse charge or partial reverse charge have been rendered along with invoice duly issued prior to the appointed date but the tax on reverse charge basis has been paid in July 2017. this tax is not available as transition credit to the recipient (making reverse charge payment of tax) as it would not be included as Cenvat credit in the last ST3 (to be filed by 15 Aug 2017) and therefore not be covered within section 140(1). Had the service tax (on reverse charge basis) been paid before the appointed date (by sufficient planning), the same would have been included in the transition credit under section 140(1). Also, refund of such taxes paid are not covered by sections 142(3) to 142(8) although it can be attempted under the earlier law itself.

To address the above issue, the CBEC has issued *Circular 207/5/2017- Service Tax dated 28th September, 2017*, clarifying that such credit arising as consequence of payment of service tax on reverse charge basis after 30th June, 2017 shall be indicated in Part I of form ST 3 in entries I3.1.2.6, I3.2.2.6 and I3.3.2.6. The circular also provided for revision of **FORM ST 3** already filed by the assessees to include the said entries.

Q67. Whether supply of goods and services post appointed date is liable to tax under CGST even when the tax thereon is paid under the State VAT laws and service tax laws respectively?

Ans. Yes, as per section142(11) (c) the tax under the CGST Act is liable to be paid in case of supply of goods and services or both happen post the appointed date even when the

tax thereon is paid under the State VAT laws or chapter V of Finance Act, 1994. However, the taxable person is entitled to claim credit of VAT paid and service tax paid under the old laws (State VAT laws and service tax law) to the extent of supplies effected after the appointed date. In this regard. Rule 118 of CGST Rules, 2017 provides a declaration in **FORM GST TRAN-1 ,** furnishing the proportion of supply on which Value Added Tax or service tax has been paid before the appointed day but the supply is made after the appointed day, and the Input Tax Credit admissible thereon, needs to be submitted by **e**very person to whom the provision of section 142(11)(c) applies, within the period specified in Rule 117 or such further period as extended by the Commissioner (Rule 117 says 90 days + maximum extension 90 days). CBEC vide Order 9/2017-GST dated 15.11.2017 has extended the date of filing Tran-1 under Rule 117, till 27.12.2017

Q68. Whether goods sent on approval basis before the appointed date and returned after the appointed date are liable to tax under the GST regime?

Ans. The implications of taxes under the GST regime in case of goods sent on approval basis and returned after the appointed date shall be as follows:

- No tax shall be payable if goods are sent for approval within 6 months prior to the appointed date and received within 6 months from the appointed date (it can be further extended for maximum 2 months);
- Tax shall be payable by the person returning the goods if such goods are liable to tax under GST, and are returned after a period specified in section142(12)
- 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 specified in section142(12)

Q69. Whether the recipient is liable to deduct the tax on the payment effected for supply of goods for which tax is already deducted under the old laws and the invoice is also issued before the appointed date?

Ans. No. In terms of Section 142(13), recipient is not required to deduct the applicable taxes from the payments effected to the supplier post appointed date in case the tax is already deducted under the old laws and also the invoice is issued prior to the appointed date.

MCQ's

Q1. Does an old Tax payer have to surrender the old Registration certificates to obtain GST registration?

(a) No, automatically he will receive final registration.

(b) Yes, all registration certificates to be surrendered

(c) Migrated to provisional registration subject to verification of documents

(d) No, Provisional Registration is automatic

Ans. *(c) Migrated to provisional registration subject to verification of documents*

Q2. Is PAN Mandatory for Migration to Provisional GST registration?

(a) No

(b) Yes

(c) PAN Application is sufficient.

(d) Waiver/Exemption can be obtained on application to the officer

Ans. *(b) Yes*

Q3. What is the validity of the provisional registration certificate issued to the old dealers?

(a) 6 months

(b) 12 months

(c) 3 months

(d) None of the above

Ans. *(d) None of the above*

Q4. Is a Composition dealer registered under the old law required to obtain Final GST Registration?

(a) No, Old number will continue

(b) Yes, mandatory for all Composition dealers

(c) Yes, Subject to the turnover crossing the GST Turnover limit.

(d) No, will be governed by old law.

Ans. *(c) Yes, Subject to the turnover crossing the GST Turnover limit*

Q5. Will a person having multiple registration in various states receive single registration on Migration?

(a) Separate Registration would have to be obtained on migration for each State even for a single PAN number

(b) Centralised Registration will be obtained for each PAN number across all States.

(c) Separate Registration would have to be surrendered and fresh registration is required to be obtained.

(d) Single registration with all locations across India disclosed as additional place of business can be obtained

Ans. *(a) Separate Registration would have to be obtained on migration for each State even for a single PAN number*

Q6. If a dealer has multiple registrations in a State, will he obtain a consolidated GST registration or separate GST REGISTRATIONS?

(a) Single registration for each State will be granted without any exception

(b) Two or more registrations for each State will be granted in case of separate business verticals

(c) Any number of registrations can be obtained in each State

(d) Rules have to be prescribed in this regard

Ans. *(b) Two or more registrations for each State will be granted in case of separate business verticals*

Q7. What will be the amount carried forward as CGST/SGST from the earlier law and shown in the return filed for the period ending as on appointed date?

(a) No amount will be carried forward from the earlier law

(b) Amount which is admissible under earlier law but may not be admissible under GST

(c) Amount which is admissible under GST but may not be admissible under earlier law

(d) Amount which is admissible under both the GST and earlier law

Ans. *(d) Amount which is admissible under both the GST and earlier law*

Q8. Which amount will be carried forward as CGST under GST law?

(a) Input tax credit as per the CENVAT Credit Register on 30th June, 2017

(b) Input tax credit as per the books as on 30th June, 2017

(c) Input tax credit as per the return furnished for the period ending 30th June, 2017

(d) Input tax credit as per the last available return furnished under the earlier law

Ans. *(c) Input tax credit as per the return furnished for the period ending 30th June, 2017*

Q9. Input tax credit as per the VAT law will be carried forward as:

(a) CGST

(b) SGST

(c) IGST

(d) CGST or SGST at the option of the supplier

Ans. *(b) SGST*

Q10. Which among the following is not admissible as Opening CGST?

(a) Krishi Kalyan Cess

(b) Education Cess

(c) Swachh Bharat Cess

(d) All of the above

Ans. *(d) All of the above*

Q11. Who among the following persons are allowed to carry forward credit under the CGST/ SGST law?

(a) Composition dealers not required to take registration under GST law in view of minimum threshold turnover

(b) Regular dealers under the earlier law and opting for Composition scheme under the GST law

(c) Regular dealers under the earlier law and NOT opting for Composition scheme under GST law

(d) Composition dealers under earlier law and continuing for Composition scheme under GST law

Ans. *(c) Regular dealers under the earlier law and NOT opting for Composition scheme under GST law.*

Q12. Who among the following is NOT entitled to take, in his electronic credit ledger, credit of eligible duties in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock? *[Section 140(3)]*

(a) Excise First Stage and Second Stage Dealers

(b) Manufacturers

(c) Service Provider availing benefit of Notification No. 26/2012-Service Tax dated 20.06.2012

(d) Importers other than a registered importer

Ans. *(d)* Importers other than a registered importer *[Section 140(3)]*

Q13. Is there any requirement of a pre-approval or assessment or verification by the GST officers for transitioning the credit lying in balance in the VAT/ Cenvat Return into GST return?

(a) Specific approval of the jurisdictional officer is required

(b) On Filing of **Form GST TRAN 1**, closing credit in the respective return would be automatically carried-forward into the electronic credit ledger under GST

(c) Detailed assessment / audit is mandatory for allowing credit

(d) All credits availed up to one year prior to appointed date will be available

Ans. *(b) On Filing of **Form GST TRAN 1**, closing credit in the respective return would be automatically carried-forward into the electronic credit ledger under GST*

Q14. Whether credit brought forward under the old law is eligible as input tax credit under GST law?

(a) Yes, without any restrictions

(b) Credit irregularly taken under the earlier law will also be available

(c) Eligible credit under the earlier law will be available only if it is also admissible as input tax credit under the GST law

(d) Eligible credit under the earlier law is available on a proportionate basis

Ans. *(c) Eligible credit under the earlier law will be available only if it is also admissible as input tax credit under the GST law*

Q15. Unavailed CENVAT Credit on Capital Goods will be carried forward as?

(a) CGST

(b) SGST

(c) IGST

(d) CGST or SGST at the option of the supplier

Ans. *(a) CGST*

Q16. What is the condition for taking unavailed CENVAT Credit on Capital Goods?

(a) The CENVAT Credit should have been admissible under earlier law but not under GST

(b) The CENVAT Credit should have been admissible under GST but not under earlier law

(c) The CENVAT Credit should not have been admissible under GST or the earlier law

(d) The CENVAT Credit should have been admissible under both the earlier law and GST

Ans. *(d) The CENVAT Credit should have been admissible under both the earlier law and GST*

Q17. If the unavailed Input Tax Credit on Capital Goods under the earlier law which has been subsequently availed under the GST law is found to be inadmissible as per the Proceedings of the Department, then what will be the course of action for the Department?

(a) Such amount will be recovered under the GST law

(b) Such amount will be recovered under the earlier law

(c) Such amount cannot be recovered

(d) Such amount may be recovered under the GST law or the earlier law at Department's option

Ans. *(a) Such amount will be recovered under the GST law*

Q18. Which of the following will be allowed as credit under section 140(3)?

(a) Input services

(b) Total input purchased during the year

(c) Capital goods

(d) Inputs held in stock

Ans. *(d) Inputs held in stock*

Q19. The inputs in stock should be used or intended to be used for making:

(a) Taxable supplies

(b) Exempt supplies

(c) Either taxable or exempt supplies

(d) Both taxable and exempt supplies

Ans. *(a) Taxable supplies*

Q20. For credit to be allowable, invoices should not be issued earlier than:

(a) Three months before 1st July, 2017

(b) Six months before 1st July, 2017

(c) Nine months before 1st July, 2017

(d) Twelve months before 1st July, 2017

Ans. *(d) Twelve months before 1st July, 2017*

Q21. Who among the following are not entitled to take credit on inputs held in stock under section 140(3)?

(a) First and second stage dealers

(b) Manufacturers of exempted goods

(c) SSI manufacturers having turnover below 150 lakhs.

(d) SSI manufacturer having turnover above 150 lakhs.

Ans. *(d) SSI manufacturer having turnover above 150 lakhs*

Q22. Which of the following are not eligible state taxes under the transitional provisions

(a) Entry tax

(b) Central Sales Tax

(c) Value Added Tax

(d) Profession Tax

(e) Luxury Tax, Entertainment Tax

Ans. *(d) Profession Tax and (e) Luxury Tax, Entertainment Tax*

Q23. Which of the following will not be considered as eligible duties and taxes?

(a) Additional duty leviable u/s 3(5) of the CTA

(b) Basic Customs Duty

(c) Central Excise

(d) Service Tax

Ans. *(b) Basic Customs Duty*

Q24. The amount of credit of input tax will be paid by:

(a) Debiting the electronic cash ledger mandatorily

(b) Debiting the electronic credit ledger mandatorily

(c) Debiting the electronic cash ledger or electronic credit ledger or both

(d) None of the above

Ans. *(c) Debiting the electronic cash ledger or electronic credit ledger or both*

Q25. A manufacturer of exempted and non-exempted goods or a service provider of exempted and taxable services are entitled to Cenvat credit under section 140 (4) on-

(a) All inputs whether in stock or in finished goods or in semi-finished goods is eligible

(b) Only inputs directly pertaining to non-exempted goods or taxable services is eligible

(c) Only proportionate credit based on the previous year turnover of non-exempted goods or taxable services is eligible

(d) No credit is available in such cases

Ans. *(a) All inputs whether in stock or in finished goods or in semi-finished goods is eligible*

Q26. On the transition date which of the following credits are not available

(a) Credit available in the return filed under the old law

(b) Credit of goods in transit

(c) Credit of incomplete services

(d) Exempted goods in transit and taxable under the new GST law

Ans. *(d) Exempted goods in transit and taxable under the new GST law*

Q27. Where supply has been made before the date of implementation of GST, no tax shall be Payable:

(a) If tax/duty has been paid under the earlier law

(b) If goods were exempted under the earlier law

(c) If the goods were non-taxable under the earlier law

(d) All of the above

Ans. *(d) All of the above*

Q28. No tax will be payable on retention payment subsequent to 1st July, 2017, if:

(a) Supplies have been made prior to 1st July, 2017

(b) Full amount of tax/duty has been paid before 1st July, 2017

(c) Both (a) and (b)

Ans. *(c) Both (a) and (b)*

Q29. Which of the following is not a condition for availing credit on goods in transit or incomplete services

(a) Credit should be taken in 30 days from the appointed date

(b) Credit should be in the nature of eligible duties and taxes

(c) Duty or tax should have been paid before the appointed date

(d) Should be in possession of valid invoice or duty paid document

(e) All of the above

Ans. *(e) All of the above.*

Q30. The time limit of six months or the extended period shall be counted from?

(a) Appointed date

(b) Date of removal of inputs to job worker

(c) Date of receipt of inputs by job worker

Ans. *(a) Appointed date*

Q31. For the purpose of section 141 goods removed shall qualify as?

(a) Semi-finished goods in the hands of manufacturer

(b) Finished goods requiring further process

(c) Inputs removed as such or after processing

Ans. *(c) Inputs removed as such or after processing*

Q32. When should the invoice be received in order to fall under section 140(7) if the services are received before the applicability of GST and is pending for distribution on the date of GST?

(a) Before the date of applicability of GST

(b) After the date of applicability of GST

(c) On the date of applicability of GST

(d) The date of receipt of invoice is immaterial.

Ans. *(d) The date of receipt of invoice is immaterial*

Q33. Where a supplier has made a sale of goods and deducted tax thereon under earlier law and issued invoice for the same before appointed date but received payment after 1st July, 2017:

(a) No TDS is required to be deducted again under GST Act

(b) TDS is be deducted again under GST Act

Ans. *(a) No TDS is required to be deducted again under GST Act*

Q34. Declaration of inputs held in stock by job worker on behalf of manufacturer is to be filed by?

(a) Manufacturer

(b) Job Worker

(c) Both (a) and (b)

Ans. *(c) Both (a) and (b)*

Q35. On which category of person will section 140(6) be applicable?

(a) A registered person either paying tax at a fixed rate or paying a fixed amount in lieu of the tax payable under the old law

(b) A person who pays under the normal scheme under the GST law

(c) A person who was paying under the composition scheme under the earlier law

(d) A person who was exempt in the earlier law

Ans. *(a) A registered person either paying tax at a fixed rate or paying a fixed amount in lieu of the tax payable under the old law.*

Q36. On what portion of the stock does the composition taxable person need to pay tax?

(a) Inputs held in stock

(b) Input within semi-finished/finished goods held in stock

(c) Both (a) and (b)

(d) None of these

Ans. *(c) Both (a) and (b)*

Q37. Which of the following is not a condition to take credit of tax paid on inputs held in stock for a tax payer paying taxes under the composition scheme under the earlier law now switching to the regular scheme under the GST law

(a) Said person is eligible for input tax credit of such inputs under the GST law

(b) Said person is in possession of invoice or duty paid documents not earlier than 12 months preceding the appointed date

(c) The said person is continuing to pay taxes under the composition scheme under section 10

(d) The goods are intended to be used for making taxable supplies.

Ans. *(c) The said person is continuing to pay taxes under the composition scheme under section 10*

Q38. What happens to duties and taxes paid on goods which are returned within six months from the appointed date?

(a) Revise old return and claim reduction in output liability

(b) Claim refund of taxes paid earlier on such goods in case of B to C transaction / Return of such goods shall be deemed to be a supply in case of B to B transaction

(c) Claim re-credit of taxes paid under earlier law as input tax credit under GST law

(d) Revise the first GST return and claim the credit of taxes paid under earlier law

Ans. *(b) Claim refund of taxes paid earlier on such goods in case of B to C transaction / Return of such goods shall be deemed to be a supply in case of B to B transaction*

Q39. Which of the following is NOT a requirement for claiming the exemption from GST on job work?

(a) Job work should be for a specified purposes such as processing, testing, repair, etc

(b) Goods should be returned after completion with six months or such extended period

(c) Manufacturer should declare the details of inputs held in stock by the job worker on behalf of manufacturer

(d) Job worker should pay the GST even on returning the goods within the period of six months from appointed date

Ans. *(d) Job worker should pay the GST even on returning the goods within the period of six months from appointed date*

Q40. Who are the persons who should declare the stock of goods on job work to claim exemption under section 141?

(a) Only job worker

(b) Only principal manufacturer

(c) Both (a) and (b)

(d) Either (a) and (b)

Ans. *(c) Both (a) and (b)*

Q41. In terms of Section141 of the CGST Act, 2017 which of the following is the difference between the provisions of input sent and semi-finished goods sent to Job worker?

(a) Goods should be returned within six months from the appointed date

(b) Goods can be sold/ removed/ exported directly to customer

(c) Job worker and manufacturer have to both declare the stock of goods held on the appointed date

(d) None of the above

Ans. *(b) Goods can be sold/ removed/ exported directly to customer*

Q42. What is the consequence of non-return of semi-finished goods, sent for job work, within the specified period?

(a) Job worker pays GST on return of goods

(b) Principal Manufacturer pays back/reverse the input tax credit claimed on such goods

(c) Principal manufacturer pays GST on return of goods

(d) Job worker claims credit of goods received on job work

Ans. *(b) Principal Manufacturer pays back the input tax credit claimed on such goods*

Q43. Which of the following is not a necessary pre-requisite in respect of upward price revision during transition period?

(a) Supplier should supplementary issue invoice or debit note

(b) Such document should be raised within 30 days of price revision

(c) Contract should have entered prior to appointed date

(d) Goods should be removed or sold prior or services should be provided prior to appointed date

(e) Supplier should revise earlier return and pay tax on differential

Ans. *(e) Supplier should revise earlier return and pay tax on differential*

Q44. Which of the following is mandatory pre-condition in respect of downward price revision during transition period?

(a) Recipient of credit note reduced his input tax credit

(b) Supplier should revise earlier return and reduce tax liability

(c) Supplier claims refund of downward revision

(d) Recipient intimates his jurisdictional officer of such downward revisions

Ans. *(a) Recipient of credit note reduced his input tax credit*

Q45. If the refund claim is fully or partially rejected the amount would _____

(a) Lapse

(b) Be carried forward

(c) Be refunded

(d) None of the above

Ans. *(a) Lapse*

Q46. Under what circumstances will the refund claim filed under the earlier law be rejected?

(a) Refund claim is filed after appointed date

(b) Credit is carried forward equivalent to refund amount

(c) Refund claim is withdrawn

(d) Refund claim will never lapse and shall be payable mandatorily paid by the department.

Ans. *(b) Credit is carried forward equivalent to refund amount*

Q47. When can a refund claim be filed under provisions of section 142?

(a) Duty paid under the earlier law and exported prior to appointed date

(b) Duty paid under the earlier law and exported after to appointed date

(c) Duty paid after appointed date and exported after appointed

(d) (a) and (b)

Ans. *(d) (a) and (b)*

Q48. Which of the following is not true about claiming refund of service tax under section 142?

(a) Service tax is deposited under earlier law

(b) Provision of service is complete under earlier law

(c) Refund of service tax would be in cash

(d) Refund claim should be within the time limit under section 11B (2) of the Central Excise Act, 1944

Ans. *(b) Provision of service is complete under earlier law*

Q49. Which of the following is true in respect of events after the applicability of GST?

(a) Proceedings under earlier law will be disposed of under the earlier law

(b) Any default due to proceedings in the earlier law will be recovered in the earlier law

(c) Proceedings under the earlier law will be disposed of under the new law

(d) Any refund due to the proceedings will be admissible as input tax credit

Ans. *(a) Proceedings under earlier law will be disposed of under the earlier law*

Q50. How will the refunds occurring due to any proceedings under the earlier law relating to CENVAT Credit be treated under GST?

(a) Such refund will be made in cash

(b) Such refund will be allowed as input tax credit

(c) Either a or b at the option of the taxable person

(d) Either a or b at the option of the Department

Ans. *(a) Such refund will be made in cash*

Q51. Section 142 will cover proceedings:

(a) Relating to liability under GST

(b) Relating to output duty liability under the earlier law

(c) Relating to Cenvat credit or input tax credit under earlier law

(d) All of the above

Ans. *(c) Relating to cenvat Credit or input tax credit under earlier law*

Q52. The proceedings can involve:

(a) Appeal

(b) Review

(c) Reference

(d) All of the above

Ans. *(d) All of the above*

Q53. Whether the amount paid as arrears of tax under the earlier law is admissible as input tax credit?

(a) Yes

(b) No

Ans. *(b) No*

Q54. A Special Economic Zone Unit or a Special Economic Zone Developer shall make a ……. application for registration as a business vertical distinct from its other units located outside the SEZ.

(a) Combined

(b) Separate

Ans. *(b) Separate*

Chapter XIX
Miscellaneous

FAQ's

Job Work procedure (Section 143)

Q1. Who is principal for the purpose of job work?

Ans. A registered taxable person who sends any inputs or capital goods without payment of tax to a job worker for job-work

Q2. Whether goods sent by a taxable person to a Job Worker will be treated as supply and liable to GST? If yes, why?

Ans. It shall be regarded as supply as since it includes all forms of supply such as sale, transfer, etc. and also includes cases where the conditions as specified in section 143 of the CGST Act, 2017 are not met.

However, it is shall not be regarded as supply if the conditions as specified in section 143 of CGST Act, 2017 are satisfied. As the deeming provision contained in section 143(3) to treat the goods sent by the principal to job worker as supply is applicable only when the condition of section 143 with respect to receiving back the goods within the stipulated period is not satisfied.

Q3. Does the additionally purchased material by the job-worker, incorporated in the goods received from the principal amount to supply?

Ans. Yes, it amounts to supply in the hands of the job worker as composite supply or otherwise.

Q4. Can a job worker take input credit on the inputs used in the process of job wok?

Ans. Yes, the job worker is eligible to claim input tax credit since the processing charges received in respect of labour charges and the supply of additional goods added is taxable in the hands of the job worker.

Q5. Whether the Job worker is liable to pay GST under reverse charge mechanism on the goods or services if notified?

Ans. Yes. In terms of section 9(3) of the CGST Act, 2017 on the specified categories of supply of goods and/or services, the recipient of such goods and/or services is liable to pay GST under reverse charge basis. Further, Section 143 of the CGST Act, 2017 does not provide any exemption to job worker in this regard.

Q6. Can a registered taxable person send goods without payment of tax to his Job Worker?

Ans. Yes. Section 143 of the CGST Act, 2017 provides that the registered taxable person (principal) can send any inputs or capital goods to a job-worker for job-work without payment of tax. He, further can, send the goods from one job-worker to another job-worker and so on subject to certain conditions.

It may be noted that provisions of Section 143 are not applicable if non-taxable or exempted goods are proposed to be sent for job-work.

Q7. Is a job-worker required to take registration?

Ans. No, unless the job-worker is a specified job-worker or one who exceeds the threshold limit. The Central Government *vide Notification No. 07/2017-Integrated Tax, dated. 14-09-2017*, ("**NN 7/2017**") provides that the job workers engaged in making inter-State supply of services to a registered person are exempted from obtaining registration [However, such exemption is not available to a job-worker who is liable to be registered u/s 22(1) i..,e threshold limit or who opts for voluntarily u/s 25(3) ; or of section 25 of the said Act; or job worker is involved in taking supply of services in relation to the goods mentioned against serial number 151 in the Annexure to Rule 138 of the CGST Rules, 2017 i.e. Jewellery, goldsmiths' and silversmiths' wares as covered under Chapter 71 which do not require e-way bill ("**SPECIFIED JOB WORKER**").

Further, Central Government *vide Notification No. 10/2017 – Integrated Tax dated 13.10.2017* ("**NN 10/2017**") has exempted the persons making inter-State supplies of taxable services and having an aggregate turnover not exceeding an amount of ₹ 20 lakhs in a financial year from obtaining registration.

Therefore, in view of aforesaid notifications, Job-worker other than SPECIFIED JOB WORKER, as a supplier of services, he would be required to obtain registration if his aggregate turnover exceeds the prescribed threshold limit.

Q8. Whether processing charges charged by the job worker to be shown separately in the invoice and are required to charge GST on the same?

Ans. Yes, if the goods supplied by the principal satisfies the conditions as enumerated in section 143 of CGST Act, 2017, then the job worker will have to show the processing charges separately and charge tax only on the processing charges.

Q9. Whether the goods of principal directly supplied from the job-worker's premises will be included in the aggregate turnover of the Job Worker?

Ans. No. Since the responsibility for accountability of inputs and/or capital goods lies with principal, it will be included in the aggregate turnover of the principal as enumerated in section 143 of the CGST Act, 2017.

Q10. Can the principal supply the goods directly from the premises of the job-worker without bringing it back to his own premises?

Ans. Yes, subject to the condition that the principal should have declared the premises of such job-worker as his additional place of business except where the job-worker is a registered person or where principal is engaged in supply of goods as notified by the Commissioner.

Q11. Under what circumstances can the principal directly supply goods from the premises of Job Worker without declaring it as additional place of business?

Ans. The goods can be supplied directly from the place of business of job-worker without declaring it as additional place of business in two circumstances namely where the job-worker is a registered taxable person or where the principal is engaged in supply of goods as may be notified in this behalf.

Q12. Whether provision of Section 143 apply in case of Inter-State job-work?

Ans. Job-work activity can be undertaken in inter-State trade as 'issue' of inputs and capital goods to job worker is not a supply under section 7. Therefore, whether the job worker is located in a different State/UT as that of the Principal does not alter the operation of section 143. One of the additional features is that the Principal is permitted to supply the processed goods directly from the premises of the job worker provided that 'the location of the job worker is included as an additional place of business' of the Principal. Where the principal being registered in one State and the job worker is located in another State, such a principal will not be able to satisfy the above condition to be allowed to make supplies directly from the premises of the job worker. This is due to the fact that the principal is not a registered person in the State where the job worker is located although he may otherwise be registered in his own State. Accordingly, if the principal desires to directly supply processed goods from the premises of the job worker located in a State different from the State where the principle is registered, the principal will not be permitted to avail this facility allowed by section 143.

For example, if the principal registered in Hosur, Tamil Nadu, purchases a chassis from a factory in Hosur and sends the same to a job worker in Amritsar, Punjab for carrying out bodybuilding works on the chassis to make a bus. And then if the principal finds a customer in Chandigarh, it would not be economical to bring the finished bus all the way back to Tamil Nadu (to satisfy the requirement of section 143) and send the bus back to customer in Chandigarh. For this reason, if the principal desires to directly supply in the finished bus from the job worker's premises in Punjab directly to the customer in Chandigarh, it would not be possible as the principal cannot include Amritsar in his registration obtained in Tamil Nadu. The principle has no option but to bring the bus all the way back and send it again.

In such cases, the entire transaction will have to be thought through a fresh and the principal may need to have a registered premises in Punjab or nearby states. Then undertake a stock transfer on payment of GST from Tamil Nadu to this new location

where registration has been obtained and then carry out I get back and forth movement within a much shorter distance alternatively locate the new registration necessarily in Punjab. And then undertake intrastate job work along with the facility of direct dispatch from the premises of the job worker to the customer in Chandigarh or any other location.

Q13. What are the provisions relating to availment of input tax credit by the principal in respect of inputs sent to a Job Worker?

Ans. In the CGST Act 2017, aspects relating to availment of input tax credit in respect of inputs sent for job-work have been specifically dealt with in Section 19, which provides that the principal shall be entitled to avail credit of inputs sent to a job-worker if the said inputs, after completion of job-work or otherwise are received back within a period of one year from the date of being sent to a job worker. In case the inputs are sent directly to the job-worker, the date shall be counted from the date of receipt of inputs by job-worker. Further, if such inputs are not received back within a period of one year then it shall be deemed that such inputs have been supplied by the principal to the job worker on the day when the said inputs were sent out.

Q14. What are the provisions concerning availment of input tax credit by the principal in respect of capital goods sent to a Job Worker?

Ans. In the CGST Act 2017, aspects relating to availment of input tax credit in respect of capital goods sent for job-work have been specifically dealt in Section 19, which provides that the principal shall be entitled to avail the credit of taxes paid capital goods if the said capital goods, other than moulds & dies, jigs & fixtures, or tools, after completion of job-work or otherwise are received back within a period of three years from the date of being sent to the job worker. In case, the capital goods are sent directly to the job-worker, the date shall be counted from the date of receipt of capital goods by job-worker. Further if such capital goods, other than moulds & dies, jigs & fixtures, or tools, are not received back within a period of 3 year then it shall be deemed that such capital goods have been supplied by the principal to the job worker on the day when the said capital goods were sent out.

Q15. If the conditions specified in section 143 in respect of receiving back the inputs within stipulated time are not satisfied what is the implications in the hands of principal?

Ans. In terms of section 143(3), if the said inputs are not received back within the stipulated time, then it shall be deemed that the said inputs had been supplied by the principal to the job-worker on the day when the said inputs were sent out.

Q16. If the conditions specified in section 143 in respect of receiving back the inputs within stipulated time are not satisfied what is the implications in the hands of job worker?

Ans. In terms of section 143(3), if the said inputs are not received back within the stipulated time, then it shall be deemed that the said inputs had been supplied by the principal to

the job-worker on the day when the said inputs were sent out. Accordingly, such goods will become the inputs of the job-worker and he can avail the input credit of tax on the same if the principal issue a tax invoice and the same is declared in the return of the principal in terms of section 37 and by the job worker in terms of section 38 of the CGST Act, 2017. Further the value of such goods will be included in the computation of aggregate turnover of the principal.

Q17. If the conditions specified in section 143 in respect of receiving back the capital goods within stipulated time are not satisfied what is the implications in the hands of principal?

Ans. In terms of section 143(4), if the said capital goods, other than moulds & dies, jigs & fixtures, or tools, sent for job work are not received back within the stipulated time, then it shall be deemed that the said capital goods had been supplied by the principal to the job-worker on the day when the said capital goods were sent out.

Q18. Can the job worker take input credit of goods in case the goods sent to job worker is deemed as supply in terms of section 143(3)?

Ans. Yes, job-worker can take the input credit subject to section 37 of the CGST Act, 2017. Further, such credit shall not be allowed after furnishing of return under section 38 for the month of September following the end of the financial year to which such details pertain or furnishing of the annual return, whichever is earlier.

Please note that for the above purpose, the relevant date is the date on which the goods are sent to job-work by the principal and not the date on which the period for receiving back the goods from job-worker expires.

Q19. How is the movement of goods to be made to job worker? Whether invoice is to be raised?

Ans. The principal can move the goods to a job-worker place under the cover of a delivery challan containing the details as specified in rule 55 of the CGST Rules, 2017 only if the goods are removed in terms of section 143 of the CGST Act, 2017.

Q20. Whether the principal is required to raise a taxable invoice in case of goods sent to job worker is deemed as supply in terms of section 143(3)/143(4)?

Ans. Yes, the principal is required to raise a taxable invoice on the day immediately after the expiry of the one year or three years period for inputs or capital goods as the case may be.

Q21. How the GST is to be discharged on the goods which fails to satisfy the condition of receiving back within stipulated period from job-worker?

Ans. If the principal does not receive the goods within one year or three years period for inputs or capital goods (other than moulds & dies, jigs & fixtures, or tools) as the case may be, then it will be considered as supply in terms of section 143. In such cases the principal has to declare it as an outward supply and pay the GST along with interest calculated from the date of such goods sent to job-worker.

Q22. Can the principal avail the input credits on the goods directly sent to job worker's place?

Ans. Yes, in terms of section 19(2) of CGST Act, 2017 the principal shall be eligible 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.

Q23. Whether ITC can be taken in respect of moulds & dies, jigs & fixtures, or tools sent to a Job Worker?

Ans. Yes. Further, there is no time limit prescribed to receive back such goods from job worker, as Section 143(4) specifically excludes moulds & dies, jigs & fixtures, or tools.

Q24. Can the job worker sell directly any waste and scrap generated during the job work?

Ans. Yes, job worker can sell the waste and scrap subject to payment of tax and if job worker is registered, otherwise principal has to discharge the tax liability.

Q25. Can an unregistered person take the benefit of section 143?

Ans. No, section 143 allows only a registered taxable person to send goods without payment of duty.

Q26. Whether intermediate goods can also be sent for job work?

Ans. Yes. The term inputs, for the purpose of job work, includes intermediate goods arising from any treatment or process carried out on the inputs by the principal or job worker.

Q27. Is it compulsory that job work provisions should be followed by the principal?

Ans. No. The principal can send the inputs or capital goods after payment of GST without following the special procedure. In such a case, the job-worker would take the input tax credit and supply back the processed goods (after completion of job-work) on payment of GST.

Q28. Should job worker and principal be located in same State or Union territory?

Ans. No, this is not necessary as provisions relating to job work have been adopted in the IGST Act as well as in UTGST Act and therefore job-worker and principal can be located either is same State or in same Union Territory or in different States or Union Territories.

Q.29. Whether any details of goods sent by the Principal to the job worker are required to be intimated?

Ans. The details of challans in respect of goods dispatched to a job worker or received from a job worker during a quarter shall be furnished by the Principal in **FORM GST ITC-04** for that period on or before the twenty-fifth day of the month succeeding the said quarter.

Q.30 If goods are sent by one job worker to another and so on, then whether such details will be required to be furnished?

Ans. The details of challans in respect of goods sent from one job worker to another during a quarter shall be included in **FORM GST ITC-04**

Presumption as to documents in certain cases (Section 144)

Q31. What does the provisions relating to presumption of documents meant for?

Ans. The provisions relating to presumption as to documents specifies that the production of the documents by the prosecution against an assessee would be presumed to be true in so far as the contents of such documents are concerned. Accordingly, if any of the following documents are tendered as evidence by prosecution, then the Court shall presume that contents of such document are truthful and is signed or handwritten by the particular person or is executed or attested by the person who is supposed to execute so:

1. Documents produced by any person under the Act;
2. Documents seized from the custody or control of any person under the Act; and
3. Documents received from outside India during the course of proceedings.

However, the onus of proving the contrary is on the assessee i.e. the assessee has to prove that the documents provided by prosecution are not proper evidence.

Admissibility of micro films, facsimile copies of documents and computer print-outs as documents and as evidence (Section 145)

Q32. What are the documents and evidence deemed to be documents and evidence for the purpose of proceedings?

Ans. In terms of Section 145, the following shall be deemed to be documents and evidences for the purpose of any proceedings:

1. a micro film of a document or the reproduction of the image or images embodied in such micro film (whether enlarged or not); or
2. a facsimile copy of a document; or
3. a statement contained in a document and included in a printed material produced by a computer, subject to such conditions as may be prescribed; or
4. any information stored electronically in any device or media, including any hard copies made of such information,

Q33. Whether in any proceedings the copies of the above documents (deemed documents) can be relied upon?

Ans. Section 145 specifies that the deemed documents shall be admissible in any proceedings without further proof of production of the original. As such, the deemed documents may be placed on record and which shall be considered as valid evidence in concluding any proceedings under the Act.

Common Portal (Section 146)

Q34. What is the meaning of Common Portal?

Ans. Section 2 (26) of the CGST Act, 2017 defines Common portal as common goods and service tax electronic portal referred to in Section.146.

Q35. Why is common portal required?

Ans. The emphasis in GST is on self-compliance, which is sought to be achieved through information technology assets. Common portal is the chief information technology asset through which information is uploaded. Common portal facilitates registration, payment of tax, furnishing of returns, computation and settlement of integrated tax, electronic way bill and for carrying out such other functions and for such purposes as may be prescribed.

Q36. Who will notify the Common portal?

Ans. The Government may, on the recommendations of the Council, notify the Common Goods and Services Tax Electronic Portal. The portal so notified is called as GST portal.

Deemed Exports (Section 147)

Q37. What is the objective of treating certain supplies as deemed exports?

Ans. The objective is to provide a level playing field to domestic manufacturers in certain specified areas, as may be decided by the government from time to time.

Q38. What is the meaning of Deemed Exports?

Ans. Section 2(39) of the CGST Act defines deemed exports as such supplies of goods as may be notified by Section.147.

Q39. Whether supply of services are covered under the ambit of deemed exports?

Ans. Section 147 is the provision relating to deemed supplies. As per Section147, provision of deemed supplies apply only to goods and not to services.

Q40. Whether all goods are covered under the scope and ambit of deemed export?

Ans. As per Section147, the provision of deemed export applies only to goods notified by the Central Government upon the recommendations of the GST Council.

Q41. What are the conditions for a supply to be treated as deemed exports?

Ans. Following are the conditions to be satisfied before a supply could be treated as deemed exports:

1. The Supply must be a supply of goods.
2. The goods so supplied must be notified by the Central Government, upon the

recommendations of the GST Council

3. The goods must be manufactured in India
4. The payment for such supplies is received either in Indian rupees or in convertible foreign exchange.

Q42. Is there any condition that consideration must be received in foreign currency for deemed export goods?

Ans. There is no condition that consideration for goods notified as deemed exports must be received in convertible foreign exchange. The consideration may be received in Indian Rupees also.

Q43. Whether imported goods, supplied 'as such' qualify for deemed exports?

Ans. Only goods manufactured in India, which are notified by Central Government qualify to be treated as deemed exports. Thus goods notified u/s 147, if imported do not qualify as deemed exports, if they are supplied 'as such'.

Q44. Whether goods notified u/s 147, if manufactured in India from imported goods qualify for the benefit of deemed exports?

Ans. Provisions of Section 147 applies to 'goods manufactured in India'. There is no restriction that raw materials required for manufacture of notified goods must also be manufactured in India. Hence notified goods, if manufactured from imported goods would qualify as deemed exports.

Q45. What could be the possible supplies, which could be notified as deemed exports?

Ans. The Central Government has not yet notified goods, which are to be treated as deemed exports. However supplies of goods listed under Chapter 7 of Foreign Trade Policy 2015-2020 are most likely candidates to be notified as deemed exports u/s 147, since the Foreign Trade policy laid down by Ministry of Commerce u/s 5 of Foreign Trade (Development & Regulation Act), 1992, is implemented by the Ministry of Finance by way of issuing notifications under fiscal laws (GST law & Customs law), in line with policy framework.

Q46. Is CGST payable on deemed exports?

Ans. Deemed export benefit is intended for goods manufactured in India. At present under Central Excise Act, 1944, both terminal exemption benefit and refund of tax paid by purchaser who has paid excise duty on deemed exports is available.

The modus operandi for deemed export i.e. whether terminal exemption benefit would be available on supply of deemed exports is to be awaited. However exemptions are seen as anti-thesis under GST law, since it would break the credit chain, it is expected that GST paid to supplier on deemed exports would be eligible as refund in the hands of the recipients.

The aforesaid line of thought is fortified by Section 54 of the CGST Act, which deals with refunds. Refunds for the purpose of Section 54 has been defined under explanation 1 to Section.54 (14). Refund thereunder includes '*refund of tax on supply of goods regarded as deemed exports*'. Thus it may be safely assumed that GST would be payable on deemed exports but the tax paid on supply of such deemed exports would be eligible as refund in the hands of the recipient who has paid such GST.Q

Special Procedure for Certain Processes (Section 148)

Q47. What does Section 148 empower the Central Government to do?

Ans. Section 148 empowers the Central Government to notify:

1. Certain classes of registered persons and
2. The special procedures to be followed by such persons, including those with regard to
   (a) registration,
   (b) furnishing of return,
   (c) payment of tax and
   (d) administration of such persons.

Q48. Who are the persons to whom Section 148 may apply?

Ans. Amongst others, Section148 may apply to:

1. Composition dealers
2. Input Service Distributors
3. Casual Taxable Person
4. Non-Resident Taxable Person
5. Persons whose supplies are not taxable under GST law but are liable to pay GST under reverse charge
6. Persons who do not make taxable supplies under GST law but are required to deduct tax u/s 51 of CGST Act.
7. Person supplying online information and data base access or retrieval services from a place outside India to a non-taxable online recipient
8. Persons who supplies goods through electronic commerce operator, though their turnover is less than ₹ 20 lakhs.
9. A specialised agency of the United Nations Organisation
10. A Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947

11. Consulate or Embassy of foreign countries

Goods and Service Tax Compliance Rating (Section 149)

Q49. What is GST compliance rating?

Ans. Every registered person would be assigned a goods and services tax compliance rating score by the Central Government based on his record of compliance of the provisions of GST Act.

Q50. What are the parameters on the basis of which GST compliance rating score would be determined?

Ans. The compliance rating score would be determined on the basis of 'parameters', as may be prescribed. The prescription has not yet been given by the government. However GST compliance rating score may take into consideration the following parameters amongst others:

1. Payment of GST within due date
2. Collection of GST but non-remittance of the same within the due date
3. Filing GST outward supply returns within due date, ratifying the inward returns within due date and uploading the final returns within due date
4. Filing of first return, final return and annual returns
5. Filing of audit report
6. Availment and utilisation of credit in accordance with provisions of the Act
7. Transfer of credit in accordance with provisions of the Act
8. Remittance of TDS within due date by persons prescribed u/s 51
9. Remittance of TCS within due date by persons prescribed u/s 52
10. Pending disputes with the department
11. Arrears of GST revenue
12. Seizure of goods, due to contravention of the provisions of the Act
13. Maintenance of accounts and records in accordance with provisions of the Act

Q51. What would the Central Government do once the GST compliance rating score is compiled?

Ans. The GST compliance rating score would be complied and updated on a periodic basis and thereafter intimated to the said registered person and also placed in the public domain in such manner as may be prescribed. The GST compliance rating may be

placed in public domain through the GST portal.

Q52. How would the GST compliance rating help the trade and industry?

Ans. The GST compliance rating of every supplier and every customer would be available to a person, before entering into transaction with such supplier/ vendor. This will help assist a taxable person choose his vendor carefully since non-remittance of tax by vendor would lead to disallowance of credit in the hands of purchaser.

Obligation to furnish information return (Section 150)

Q53. Who are the person liable to file information return?

Ans. Information return is to be filed by the following persons:

(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; or

(e) a banking company within the meaning of clause (a) of section 45A of the Reserve Bank of India Act, 1934; or

(f) a State Electricity Board or an electricity distribution or transmission licensee under the Electricity Act, 2003, or any other entity entrusted 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; or

(h) a Registrar within the meaning of the Companies Act, 2013; or

(i) the registering authority empowered to register motor vehicles under the Motor Vehicles Act, 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; or

(k) the recognised stock exchange referred to in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956; or

(l) a depository referred to in clause (e) of sub-section (1) of section 2 of the Depositories Act, 1996; or

(m) an officer of the Reserve Bank of India as constituted under section 3 of the

Reserve Bank of India Act, 1934; or

(n) the Goods and Services Tax Network, a company registered under the Companies Act, 2013; or

(o) a person to whom a Unique Identity Number has been granted u/s 25(9); or

(p) any other person as may be specified, on the recommendations of the Council, by the Government,

Q54. What is the purpose of seeking information returns from the aforesaid persons?

Ans. As evident from the above, the list of persons who are required to provide information returns are 'depositories' of information. The list of persons include persons who are either statutory authorities or persons who have information about the transactions entered into by the public at large. The linking of the information provided by the aforesaid authorities with the returns uploaded by various persons under GST law (be it on the output side/ input side/ tax deduction at source/ collection at source/ availment and distribution of credit) would help detect:

1. Leakage of tax revenue
2. Suppression of value of taxable supplies
3. Mis-Statement of the transaction details (eg. Taxable supply mis-stated as non-taxable supply)
4. Coherency in the information supplied to GST and to various other departments (eg. Sales information uploaded under GST can be compared with sales information uploaded/ provided to income tax)
5. Synergy in action of the direct, indirect and enforcement departments of the Central Government.
6. Reconciliation of tax data with specific sectors in the economy (eg. Growth in GST paid under construction sector would have a proportional increase in income tax of iron and steel sectors, cement industries, builders and developers etc.)
7. To check the validity of information uploaded under GST (eg. RBI data/ bank data of actual foreign inward remittance and value of service claimed as export)

The above example is only illustrative and not exhaustive.

Q55. What is the time limit, form and manner to file information return?

Ans. The time, form and manner and the authority to which the information return has to be filed is yet to be prescribed by the Central Government.

Q56. What is the consequence, if the information returns is not filed in the form and manner prescribed by the Central Government?

Ans. The consequence is that the Commissioner or Officer authorised by commissioner

would consider the information return submitted 'defective' and intimate the defect to the person who has furnished such information return and give him an opportunity to 'rectify' 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.

Q57. What if the defect is not rectified within the prescribed period/ further period?

Ans. The Commissioner or Officer authorised by commissioner, notwithstanding anything contained in any other provisions of CGST Act, would treat that 'no information' has been furnished by the required person. The provisions of the Act for non-furnishing the information would apply to such person.

Q58. What is the next course of action available to Commissioner/ officer authorised by commissioner when information is not provided after prescribed/ extended period?

Ans. The Commissioner or Officer authorised by commissioner, may serve upon such person, a show cause notice requiring him to furnish such information return within a period not exceeding 90 days from the date of service of the notice and such person shall furnish the information return.

Q59. Whether the person who has to file information can claim 'confidentiality' as a ground for not providing the information to GST officer?

Ans. The words used in Section 150 is '*such person shall furnish the information return*'. Since the intent of the provision is to procure information, the words 'shall' be read as mandatory obligation of such person. Hence the person to whom show cause notice is issued shall have to compulsorily provide information to the GST officer.

Q60. Can the GST officer levy penalty on a person, who has not furnished information return? If so, is there any maximum limit for such penalty?

Ans. As per Section 123, if a person who is required to furnish an information return u/s 150 fails to do so within the period specified in the show cause notice, the proper officer may direct that such person shall be liable to pay a penalty of one hundred rupees for each day of the period during which the failure to furnish such return continues. However the maximum penalty that can be imposed is ₹ 5,000/-.

Note: Section 150 is a legacy provision brought forward from the Central Excise Act, 1944. Section 150 is pari materia with Section 15A of Central Excise Act, 1944

Power to collect statistics (Section 151)

Q61. Who has the power to collect statistics? What is the subject matter of the statistics to be collected?

Ans. The Commissioner has the power to collect statistics. The statistics may be collected

relating to any matter dealt with by or in connection with this Act. The commissioner may direct the collection of statistics by way of issue of a notification. For example office of every Commissionerate (under Central Excise, Customs and Service Tax) has the statistics of tax revenue collected month on month for the current year, which is compared with tax revenues of previous year. This information is displayed even to the public at the Commissioner's Office.

Q62. How is the statistics collected?

Ans. The Commissioner may direct the collection of statistics by way of issue of a notification. Upon issue of notification, the Commissioner, or any person authorised by him in this behalf, may call upon the concerned persons to furnish such information or returns, in such form and manner as may be prescribed, relating to any matter in respect of which statistics is to be collected. The form and manner of return is yet to be prescribed.

Q63. Can fine be imposed by GST officer for failure to provide statistics/ information?

Ans. As per Section 124, if any person, who is required to furnish information or return under section 151,—

(a) without reasonable cause fails to furnish such information or return or

(b) wilfully furnishes or causes to furnish any information or return which he knows to be false

then such person shall be punishable with a fine which may extend to ₹ 10,000/-.

Q64. Is any additional penalty imposable for failure to supply statistics/ information for more than one period?

Ans. As per Section 124, in case of a continuing offence (i.e. where the statistics/ information is not provided for more than one period concurrently), a further fine (i.e. in addition to fine of ₹ 10,000/- supra) may be imposed. The additional fine would be ₹ 100/- for each day after the first day during which the offence continues subject to a maximum limit of ₹ 25,000/-.

Bar on disclosure of information (Section 152)

Q65. Is there is any bar on publication of information collected by GST officer u/s 151/ 152 supra?

Ans. The information collected from an 'individual return', filed u/s 150 or section 151 shall not be published, without the previous consent in writing of the concerned person or his authorised representative, so as to enable such particulars to be identified as referring to a particular person.

E.g. information filed by a taxable person u/s 150 or information provided by an income tax officer u/s 150 of a particular assessee or details of land purchased by a person,

provided by a sub-registrar or returns filed by a person u/s 151 to provide statistical information shall not be published in such a manner so as to disclose the turnover of such person/ income (profit) of such person/ land purchased by such person.

Q66. Whether information collected u/s 150 and 151 can be published of a class of taxable persons/ class of transactions?

Ans. Yes. Information collected u/s 150 and 151 can be published for a class of taxable persons/ class of transactions, if in the opinion of the Commissioner, it is desirable in public information to provide such information.

For example, the details of turnover sourced from individual returns of information technology service providers can be aggregated and the export turnover from information technology, so populated from the aggregate of the return can be published since the information now relates to a class of persons (i.e. information technology service provider)/ class of transactions (export of services).

Q67. Whether information provided u/s 150 or 151 can be used for any proceedings under GST law?

Ans. The information provided u/ 150 or 151 cannot be used by the department under any proceedings under the GST Act except for the purpose of launching prosecution under this Act or any other Act for the time being in force.

Q68. Whether any person not engaged in collection of statistics/ information can have access to the said information?

Ans. A person who is not engaged in the collection of statistics under this Act or compilation or computerisation thereof for the purposes of this Act, shall not be permitted to see or have access to any information or any individual return referred to in section 151.

Q69. Would the GST officers be liable for 'wilful disclosure' of information collected u/s 151 and 152 of the Act?

Ans. Yes. As per Section 133, where:

1. Any person engaged in connection with the collection of statistics u/s 151 or compilation or computerisation thereof or
2. Any officer of central tax having access to information specified u/s 150, or
3. Any person engaged in connection with the provision of service on the common portal or
4. Agent of common portal,

'*wilfully discloses'* any information or the contents of any return furnished under this Act or rules made thereunder:

1. Otherwise than in execution of his duties under the said sections or
2. Otherwise than for the purposes of prosecution for an offence under this Act or under any other Act for the time being in force,

then such person he shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to ₹ 25,000/- or both.

Q70. Is any procedure to be followed before launching prosecution proceedings (i.e. handing over punishment of imprisonment)?

Ans. Yes. Any person—

(a) who is a Government servant shall not be prosecuted for any offence u/s 133 except with the previous sanction of the Government;

(b) who is not a Government servant shall not be prosecuted for any offence u/s 133 except with the previous sanction of the Commissioner.

Taking assistance from an expert (Section 153)

Q71. Who can take assistance of an expert? When can assistance be taken? At what stage can the assistance be taken?

Ans. Any officer not below the rank of Assistant Commissioner may, having regard to the nature and complexity of the case and the interest of revenue, take assistance of any expert at any stage of scrutiny, inquiry, investigation or any other proceedings before him. However the term 'expert' has not been defined by the Act.

Power to take samples (Section 154)

Q72. Who can take samples?

Ans. The Commissioner or any person authorised by him may take samples of goods from the possession of any taxable person, where he considers it necessary, and provide a receipt for any samples so taken.

Q73. From whom can the samples be taken?

Ans. The samples can be taken from any taxable person.

Q74. What is the document to be issued after taking a sample?

Ans. The GST officer must provide a receipt for the samples so taken.

Note: This is a legacy provision from the VAT Acts, which at present empower the VAT officer to take samples. Section 52(1) (i) of Karnataka VAT Act, 2005 is one such example.

Burden of Proof (Section 155)

Q75. Who has to discharge the burden of proof while availing and utilising input tax credit?

Ans. The burden of proof shall lie on the person claiming eligibility to avail and utilise input tax credit.

Note: This is a legacy provision both from the Central Act and State VAT Acts.

The burden to prove that input tax credit has been correctly claimed and deducted (i.e. availed and utilised) has been cast upon the dealers under the VAT Acts. Section 70 (1) of Karnataka VAT Act, 2005 is one such example.

Rule 9(5) and 9(6) of the Cenvat Credit Rules, 2004 lay down the burden of proof on the manufacturer/ service provider regarding the admissibility of Cenvat Credit on inputs, capital goods and input services.

Persons deemed to be public servants (Section 156)

Q76. What is the status of the persons discharging functions under the CGST Act?

Ans. All persons discharging functions under CGST Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (IPC).

The twelfth clause of Section 21 of IPC is relevant and hence extracted below:

Every person--

(a) in the service or pay of the Government or remunerated by fees or commission for the performance of any public duty by the Government;

(b) in the service or pay of a local authority, a corporation established by or under a Central, Provincial or State Act or a Government company as defined in section 617 of the Companies Act, 1956 .

The provisions of IPC, states when acts of public servants would be punishable. The said provisions would mutatis mutandis apply to GST officers.

Protection for action taken under this Act (Section 157)

Q77. Whether any suit/ prosecution can be instituted against persons discharging functions under GST?

Ans. No suit, prosecution or other legal proceedings shall lie against:

1. President, State President, Members, officers or other employees of the Appellate Tribunal or
2. Any other person authorised by the Appellate Tribunal or
3. Any officer appointed or authorised under this Act for

when the action is done under good faith and done while discharging their functions

under GST Act or the rules made thereunder.

Thus if any person – taxable or otherwise suffers due to any action of GST officer discharged in the course of their office, the person who has suffered the injury – financial or otherwise would not have legal recourse against the officers appointed under the Act or against the members of the Tribunal. However if the members of the Tribunal or officers act in a vindictive manner, then such action cannot be said to have been discharged in good faith. The person who has suffered injury – financial or otherwise would have recourse before a court of law, subject to discharge of burden of proof.

Disclosure of information by a public servant (Section 158)

Q78. What are the circumstances when information collected by GST officers can be disclosed?

Ans. The information collected by GST officers can be disclosed:

(a) For the purpose of initiating prosecution under the Indian Penal Code or the Prevention of Corruption Act, 1988, or any other law for the time being in force; or

(b) To the Central Government or the State Government or to any person acting in the implementation of this Act, for the purposes of carrying out the objects of this Act; or

(c) When such disclosure is occasioned by the lawful exercise under GST Act of any process for the service of any notice or recovery of any demand; or

(d) To a civil court in any suit or proceedings, to which the Government or any authority under this Act is a party, which relates to any matter arising out of any proceedings under this Act or under any other law for the time being in force; or

(e) To any officer appointed for the purpose of audit of tax receipts or refunds of the tax imposed by this Act; or

(f) Where such particulars are relevant for the purposes of any inquiry into the conduct of any officer appointed or authorised under this Act, to any person or persons appointed as an inquiry officer under any law for the time being in force; or

(g) To an officer of the Central Government or of any State Government, as may be necessary for the purpose of enabling that Government to levy or realise any tax or duty; or

(h) When such disclosure is occasioned by the lawful exercise by a public servant or any other statutory authority; or

(i) When relevant to any inquiry into a charge of misconduct in connection with any

proceedings under this Act against a practising advocate, a 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, a cost accountant, a chartered accountant or a company secretary, as the case may be; or

(j) 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) To an officer of the Government as may be necessary for the purposes of any other law for the time being in force; or

(l) When information relates to any class of taxable persons or class of transactions for publication, if, in the opinion of the Commissioner, it is desirable in the public interest, to publish such information.

Q79. Whether information can be disclosed to any other person/ in any other circumstance than what has been listed above?

Ans. Any information/ data contained in any statement made, return furnished or accounts or documents produced in accordance with CGST Act, or in any record of evidence given in the course of any proceedings under this Act (other than proceedings before a criminal court) shall save not be disclosed, except to the persons and in the circumstances mentioned supra.

Q80. Whether any Court can require any GST officer to produce evidence before it, as per Indian Evidence Act?

Ans. Notwithstanding anything contained in the Indian Evidence Act, 1872, no court shall, save as circumstances listed in question no.1 supra, require any officer appointed or authorised under this Act to produce before it or to give evidence before it in respect of any information/ data contained in any statement made, return furnished or accounts or documents produced in accordance with this Act, or in any record of evidence given in the course of any proceedings under the GST Act.

Publication of information in respect of persons in certain cases (Section 159)

Q81. Who has the authority to publish information?

Ans. Commissioner, or any other officer authorised by him in this behalf are the authorised persons who may publish information.

Q82. Under what circumstance can be published?

Ans. When the Commissioner, or any other officer authorised by him are of the opinion that it is necessary or expedient in the public interest to publish the name of any person and any other particulars relating to any proceedings or prosecution under this Act in respect of such person, then the information relating to such person may be published.

Q83. Can information be published about a person, on whom penalty has been imposed, before the time limit to contest the penalty has lapsed?

Ans. No publication shall be made in relation to any penalty imposed under GST Act until the time for presenting an appeal to the Appellate Authority u/s 107 has expired.

However, if the time limit for filing the appeal has lapsed and such person has not preferred an appeal against the order imposing penalty, then details of such person may be published.

If appeal has been preferred before the Appellate Authority and the Appellate Authority has disposed off such appeal confirming imposition of penalty, then information of the person on whom penalty has been imposed may be published.

Q84. Whether name of partner/ director etc. can be published if information published relates to firm/ company etc.?

Ans. In case information to be published relates to firm, company or other association of persons, the names of the partners of the firm, directors, managing agents, secretaries and treasurers or managers of the company, or the members of the association, as the case may be, may also be published if the circumstances justify publication of their names in the opinion of the Commissioner, or the officer authorised by him.

The circumstances which justify publication of names of partners/ directors has neither been listed by the Act/ nor is there a provision for prescription thereof by way of a notification by the Central Government.

Note: This is a legacy provision from the Central Excise Act, 1944. As per Section 37E, the Central Government had to power to publish name. However under GST the power rests with the Commissioner and not with the Central Government.

Q85. State the conditions to be satisfied for publication of information to be made in relation to imposition of penalty?

Ans: Publication of information can be made in relation to imposition of penalty, only when the following conditions are satisfied:

- The time for presenting an appeal to the First Appellate Authority (u/s 107) has expired and the persons involved, did not present any appeal (OR)

- The appeal is presented and it is disposed of (against such persons).

Assessment proceedings, etc., not to be invalid on certain grounds (Section 160)

Q85. What are the circumstances when assessment/ adjudication proceedings etc are not be treated as invalid?

Ans. The following proceedings:

1. Assessment
2. Re-assessment
3. Adjudication
4. Review
5. Revision
6. Appeal
7. Rectification
8. Notice
9. Summons or
10. 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 this Act shall not 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 are in substance and effect in conformity with or according to the intents, purposes and requirements of this Act or any old law.

Q86. What are the circumstances when service of notice/ order etc shall not be called in question?

Ans. 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 earlier proceedings commenced, continued or finalised pursuant to such notice, order or communication.

Rectification of errors apparent on the face of the record (Section 161)

Q87. Who can rectify a mistake apparent on record?

Ans. Any authority, who has passed or issued any decision or order or notice or certificate or any other document, may rectify any error which is apparent on the face of record in such decision or order or notice or certificate or any other document.

Q88. Who has to bring the mistake apparent on record to the notice of the authority?

Ans. The GST authority:

1. On its own motion or
2. Where such error is brought to its notice by
   (a) Any officer appointed under CGST Act or
   (b) An officer appointed under SGST Act or
   (c) An officer appointed under the UTGST Act or
3. The affected person

can bring the mistake apparent on record to the notice of the respective authority.

Q89. Within what period should the mistake apparent on record be brought to the notice of the authority?

Ans. The mistake apparent on record should be rectified, within a period of three months from the date of issue of such decision or order or notice or certificate or any other document, as the case may be sought to be rectified.

Q90. Whether any extension of time period is granted beyond three months? If so in what circumstances?

Ans. Rectification of mistake apparent on face of record can be made up to a period of six months from the date of issue of such decision or order or notice or certificate or any other document, in all circumstances other than a case where the rectification is purely in the nature of correction of a clerical or arithmetical error, arising from any accidental slip or omission.

Q91. What is the procedure to be followed, where the rectification of mistake adversely affects any person?

Ans. Where rectification of mistake apparent on face of record adversely affects any person, the principles of natural justice shall be followed by the authority carrying out such rectification.

Q92. Is the provision of rectification of mistake apparent on face of record, subject to any other provisions of the GST Act?

Ans. No, the provisions relating to rectification of mistake apparent on face of record not subject to any other provision of the GST Act.

Note: This is a legacy provision brought forward from the VAT Act. One of the example is Section 69 of the Karnataka VAT Act, 2005.

Bar on jurisdiction of Civil Courts (Section 162)

Q93. Whether civil courts have jurisdiction to deal with matter pertaining to GST?

Ans. No civil courts shall have jurisdiction to deal with or decide any question arising from or relating to anything done or purported to be done under the GST act, except the High Courts and the Supreme Court.

Levy of fee (Section 163)

Q94. Whether any fees can be levied for procuring an order etc under GST law?

Ans. 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. The fees is yet to be prescribed.

Power of Government to make rules (Section 164)

Q95. Who can make rules?

Ans. The Government may, on the recommendations of the Council, by notification, make rules for carrying out the provisions of this Act.

Q96. The Government can make rules with respect to what matters?

Ans. The Government may make rules for all or any of the matters which are required to be prescribed or in respect of which provisions are to be or may be made by rules. Thus the Government would have the power to make rules under all those provisions where the term 'as may be prescribed' has be used.

Q97. Can the government can make rules with retrospective effect?

Ans. The Government has been given the power to make rules with retrospective effect, from a date, not earlier that the date on which the provisions of the Act, under which the Rules are made have come into force.

Q98. Does the Government have the power to prescribe penalty amount in the Rules? Can penalty be prescribed when the Rules are given retrospective effect?

Ans. Yes. The government has the power to enact provisions in the rules stating that contravention thereof would be liable to penalty. However the penalty amount has been restricted to ₹ 10,000/-.

However, if the Government has enacted the rules retrospectively, then it does not have the power to impose penalty for the retrospective period, as per the decision of the Supreme Court in J.K. Spinning & Weaving Mills Ltd & Another V. UOI & Others [1987 (32) ELT 234 (SC)].

Power to make regulations (Section 165)

Q99. Who can make regulations?

Ans. The Central Board of Excise & Customs has been delegated with the power to make regulations.

Q100. What are the conditions subject to which the Regulations may be made by the Board?

Ans. The Regulations made by the Central Board of Excise & Customs must be consistent not only with the GST Act but also the Rules notified by the Central Government.

Laying of Rules, Regulations and Notifications (Section 166)

Q101. Whether the Rules and Regulations promulgated by the Central Government and Board respectively must be laid before the Parliament?

Ans. Yes, every rule made by the Government, every regulation made by the Board and every notification issued by the Government under this Act, shall be laid, as soon as may be after it is made or issued, before each House of Parliament.

Q102. When and for what period should the Rules, Regulations and Notification be laid before the Parliament?

Ans. The Rules, Regulations and Notification must be laid before the Parliament, 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.

Q103. What if the Parliament makes modification/ annuls the Rules, Regulations and Notifications so laid?

Ans. If, before the expiry of the aforesaid period, both Houses agree in making any modification in the rule or regulation or in the notification, or both Houses agree that the rule or regulation or the notification should not be made, the rule or regulation or notification, shall thereafter have effect only in such modified form or be of no effect.

Q104. What would be the sanctity of anything done/ omitted to be done on the basis of Rules, Regulations or Notifications, which are subsequently modified/ annulled by the Parliament?

Ans. The modification or annulment made by the Parliament shall be without prejudice to the validity of anything previously done under that rule or regulation or notification, as the case may be.

Note: This is a legacy provision from the Central Excise Act, 1944. The provisions are *pari materia* with Section 38 of the Central Excise Act, 1944.

Delegation powers (Section 167)

Q105. Whether the Commissioner has power to delegate work? If so what is the procedure to be followed while delegating such work?

Ans. Yes, the Commissioner, by notification, direct that subject to such conditions, if any, as may be specified in the notification, delegate any power exercisable by any authority or officer under this Act to any other authority or officer as may be specified in such notification.

Power to issue instructions or directions (Section 168)

Q106. To whom can the Board issue directions and under what circumstances?

Ans. The Board may, if it considers it necessary or expedient so to do for the purpose of uniformity in the implementation of this Act, issue such orders, instructions or directions to the central tax officers as it may deem fit. Thereupon all such officers and all other persons employed in the implementation of this Act shall observe and follow such orders, instructions or directions.

Q107. Can the Board issue directions to adjudicate a certain case in a certain manner?

Ans. The Board cannot issue directions to any adjudication officer/ first appellate authority to adjudicate/ decide a specific matter in a specific manner. The adjudication officer/ first appellate authority are quasi-judicial officers, who are required to apply their own mind before deciding a case.

However the Board may issue directions about its interpretation of a particular provision in law. The interpretation of the Board shall be final and binding only upon the adjudication officers but not on the first appellate authority.

Be that as it may, if there is a decision of the High Court or Supreme Court on the interpretation of a particular provision, which is contrary to the directions/ interpretations issued by the Board then the decision of High Court/ Supreme Court has to be followed since law laid down by the Supreme Court is the law of the land as per Article 141 of the Constitution of India. Reliance is placed on CCE V. Ratan Melting & Wire Industries, [2008 (231) ELT 22 (SC)].

Q108. Who is the person in CBEC, who shall exercise the power to issue directions on behalf of the Board?

Ans. The Commissioner or the Joint Secretary posted in the Board shall exercise the power of issuing directions on behalf of the Board. However the direction shall be given by such Commissioner/ Joint Secretary, after the prior approval of the Board.

Note: This is a legacy provision from Central Excise Act, 1994. The above provision is similar to Section 37B of Central Excise Act, 1994.

However the following portion of Section 37B of Central Excise Act, 1994, which specifically states that directions cannot be issued to:

1. Dispose of a particular assessment in a particular manner
2. The Commissioner (Appeals)

is missing under the GST law

Q109. Whether, Power to issue instructions and directions under Section 168 has been exercised by the Board?

Ans. Various orders have been brought in by the Board from time to time under this Section vide Order No. 1/2017-GST to Order No. 11/2017-GST. These have been in respect of the extension of time limit for filing of Form GST TRAN-1, Form GST CMP-01, Form GST CMP-03 and Form GST REG-26.

Service of Notice in certain circumstances (Section 169)

Q110. What is the method of service of notice, orders etc.?

Ans. Any decision, order, summons, notice or other communication under the GST law or the rules made thereunder shall be served by any one of the following methods:

(a) By giving or tendering it directly or by a messenger including a courier to the addressee or the taxable person or to his manager or authorised representative or an advocate or a tax practitioner holding authority to appear in the proceedings on behalf of the taxable person or to a person regularly employed by him in connection with the business, or to any adult member of family residing with the taxable person; or

(b) by registered post or speed post or courier with acknowledgement due, to the person for whom it is intended or his authorised representative, if any, at his last known place of business or residence; or

(c) by sending a communication to his e-mail address provided at the time of registration or as amended from time to time; or

(d) by making it available on the common portal; or

(e) by publication in a newspaper circulating in the locality in which the taxable person or the person to whom it is issued is last known to have resided, carried on business or personally worked for gain; or

(f) if none of the modes aforesaid is practicable, by affixing it in some conspicuous place at his last known place of business or residence and if such mode is not practicable for any reason, then by affixing a copy thereof on the notice board of the office of the concerned officer or authority who or which passed such decision or order or issued such summons or notice.

Q111. What is the date, the notice/ order etc. is deemed to have been served?

Ans. 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 supra.

Q112. What if the notice/ order sent through registered post/ speed post is not received by the person to whom it is intended?

Ans. When a decision, order, summons, notice or any communication is sent by registered post or speed post, it shall be deemed to have been received by the addressee at the expiry of the period normally taken by such post in transit unless the contrary is proved.

Note: This is a legacy provision from the Central Excise Act, 1994. The above provision is similar to Section 37C of the Central Excise Act, 1994. However the provision relating to deemed receipt by addressee is not present in Section 37C thereof.

Rounding off of Tax (Section 170)

Q113. To what extent must the taxes, interest etc. be rounded off?

Ans. The tax, interest, penalty, fine or any other sum payable, and the amount of refund or any other sum due, under the provisions of this 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.i.e.,

If amount contains a part of the rupee	Effect
≥ 50 paise	Must be increased to one rupee
< 50 paise	Part to be ignored

Anti-Profiteering Measure (Section 171)

Q114. What does the Anti-Profiteering Measure provision seek to do?

Ans. Anti-Profiteering measure seeks to pass on:

1. Reduction in rate of tax on any supply of goods or service
2. Benefit of input tax credit

received by supplier to the recipient by way of commensurate reduction in prices of goods or services.

Q115. How does the Central Government seek to achieve the goal of Anti-Profiteering?

Ans. The Central Government may, on recommendations of the Council, has notified vide Notification No. 10/2017-Central tax dated 28-Jun-17 w.e.f. 1-Jul-17 Anti-Profiteering Rules (Rule 122 to Rule 137) as per Chapter-XV of CGST Rules, 2017 which provides for Powers and Duties of Anti-Profiteering Authority and Compliances of Orders Passed by the authority.

On 16th November, 2017, the Union Cabinet has approved the establishment of the National Anti-Profiteering Authority. This is against the backdrop of reduction in GST rates for various goods and services effective from 15th November, 2017 after the 23rd GST Council Meeting on 6th November, 2017.

The Central Government seek to achieve the goal of Anti-Profiteering as:

1. Whether input tax credits availed by any registered person or
2. The reduction in the tax rate

have actually resulted in a commensurate reduction in the price of the goods or services supplied.

Further, The newly established mechanism empowers the affected consumers to apply for relief to the Screening Committee in their state citing that the reduction in rates or increase of input tax credit has not resulted in a commensurate reduction in prices. Upon examination by the State Level Screening Committee, the Screening Committee will forward the application along with its recommendations to the Standing Committee. In case, the incident of profiteering relates to an item of mass impact with 'All India Ramification', the application can directly be made to the Standing Committee. After forming a prima facie view that there is an element of profiteering, the Standing Committee will refer the matter for detailed investigation to the Director General of Safeguards, CBEC which will report the finding to the National Anti-Profiteering Authority. If the authority confirms the necessity to apply the anti-profiteering measure, it can order the business to reduce its prices or return the undue benefit along with interest to the recipient of goods or services. If the benefit cannot be passed on to the recipient, it can be ordered to be deposited with the Consumer Welfare Fund. In certain extreme cases, a penalty on the defaulting business entity and even an order for cancellation of GST registration may be issued. Its constitution aims to bolster the confidence of consumers to get the benefit of reduction in GST rates.

Q116. What is the Constitution of National Anti-profiteering Authority ("**the Authority**")?

Ans. In terms of Rule 122 of the CGST Rules, the Authority shall consist of,-

(a) a Chairman who holds or has held a post equivalent in rank to a Secretary to the Government of India; and

(b) four Technical Members who are or have been Commissioners of State tax or central tax [for at least one year][1] or have held an equivalent post under the existing law, to be nominated by the Council.

[1] Inserted vide Notification No. 34/2017 – Central Tax dated 15.09.2017

Q117. What are the the duty of the Authority?

Ans. Duties of Authority constitute:

(i) to determine whether any reduction in the rate of tax on any supply of goods or services or the benefit of input tax credit has been passed on to the recipient by way of commensurate reduction in prices;

(ii) to identify the registered person who has not passed on the benefit of reduction in the rate of tax on supply of goods or services or the benefit of input tax credit to the recipient by way of commensurate reduction in prices;

(iii) to order,

(a) reduction in prices;

(b) return to the recipient, an amount equivalent to the amount not passed on by way of commensurate reduction in prices along with interest at the rate of eighteen percent. from the date of collection of the higher amount till the date of the return of such amount or recovery of the amount not returned, as the case may be, in case the eligible person does not claim return of the amount or is not identifiable, and depositing the same in the Fund referred to in section 57;

(c) imposition of penalty as specified in the Act; and

(d) cancellation of registration under the Act.

(iv) to furnish a performance report to the Council by the tenth of the close of each quarter.

Q118. What are the Constitution of the Standing Committee and Screening Committees?

Ans. The Constitution of the Standing Committee and Screening Committees is :

(1) The Council may constitute a Standing Committee on Anti-profiteering which shall consist of such officers of the State Government and Central Government as may be nominated by it.

(2) A State level Screening Committee shall be constituted in each State by the State Governments which shall consist of-

(a) one officer of the State Government, to be nominated by the Commissioner, and

(b) one officer of the Central Government, to be nominated by the Chief Commissioner

Q118. Who can issue summon to give evidence and produce documents in case of Anti

profiteering?

Ans. In terms of Rule 132 of the CGST Rules , the Director General of Safeguards, or an officer authorised by him in this behalf, shall be deemed to be the proper officer to exercise the power to summon any person whose attendance he considers necessary either to give evidence or to produce a document or any other thing under section 70 and shall have power in any inquiry in the same manner, as provided in the case of a civil court under the provisions of the Code of Civil Procedure, 1908 (5 of 1908). Further, every such inquiry shall be deemed to be a judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code (45 of 1860).

Q119. State the process of Antiprofiteering?

Ans. Process of Antiprofiteering

- Written application to Screening Committee from an interested party which includes suppliers of goods or services under the proceedings; and recipients of goods or services under the proceedings or from Commissioner or any other person;
- Screening Committee shall, upon being satisfied that the supplier has contravened the provisions of section 171, forward the application with its recommendations to the Standing Committee for further action;
- Standing Committee examine the accuracy and adequacy of the evidence provided in the application to determine whether there is prima facie evidence to support the claim of the applicant that the benefit of reduction in the rate of tax on any supply of goods or services or the benefit of input tax credit has not been passed on to the recipient by way of commensurate reduction in prices;
- Standing Committee is satisfied that contravention of section 171, it shall refer the matter to the Director General of Safeguards for a detailed investigation ("the DIRECTOR");
- the DIRECTOR shall, issue a notice to the interested parties containing, *inter alia,* information on the following, namely:-

  (a) the description of the goods or services in respect of which the proceedings have been initiated;

  (b) summary of the statement of facts on which the allegations are based; and

  (c) the time limit allowed to the interested parties and other persons who may have information related to the proceedings for furnishing their reply.

  Further, the DIRECTOR, may also issue notices to such other persons as deemed fit for a fair enquiry into the matter and shall make available the evidence presented to it by one interested party to the other interested parties, participating in the

proceedings;

- Where the DIRECTOR deems fit, he may seek opinion of any other agency or statutory authorities in the discharge of his duties. OR may issue summon persons to give evidence and produce documents;
- The DIRECTOR after conduct investigation and collecting evidence, within a period of three months of the receipt of the reference from the Standing Committee or within such extended period not exceeding a further period of three months for reasons to be recorded in writing as allowed by the Standing Committee and, upon completion of the investigation, furnish to the Authority, a report of its findings along with the relevant records;
- Thereafter, the Authority shall within a period of 3 months from the date of the receipt of the report from the DIRECTOR , pass the Order after giving the interested parties an opportunity of being heard;
- Where the Authority determines that a registered person has not passed on the benefit of the reduction in the rate of tax on the supply of goods or services or the benefit of input tax credit to the recipient by way of commensurate reduction in prices, the Authority may order-

  (a) reduction in prices;

  (b) return to the recipient, an amount equivalent to the amount not passed on by way of commensurate reduction in prices along with interest at the rate of eighteen percent. from the date of collection of the higher amount till the date of the return of such amount or recovery of the amount including interest not returned, as the case may be, in case the eligible person does not claim return of the amount or is not identifiable, and depositing the same in the Fund referred to in section 57;

  (c) imposition of penalty as specified under the Act; and

  (d) cancellation of registration under the Act.

Q120. On account of implementation of GST w.e.f. 1st July, 2017, whether retail sale price of a pre-packaged commodity can be changed?

Ans. Department of Consumer Affairs allows change in MRP on unsold stock prior to implementation of GST till 30th September 2017

On account of implementation of GST w.e.f. 1st July, 2017, there may be instances where the retail sale price of a pre-packaged commodity is required to be changed. In this context, Ministry for Consumer Affairs, Food & Public Distribution has vide *Circular No. WM-10(31)/2017 dt. 4th July 2017* allowed the manufacturers or packers or importers of pre-packaged commodities to declare the change retail sale price (MRP)

on the unsold stock manufactured/ packed/ imported prior to 1st July, 2017 after inclusion of the increased amount of tax due to GST if any, in addition to the existing retail sale price (MRP), for three months w.e.f. 1st July 2017 to 30th September, 2017. Declaration of the changed retail sale price (MRP) shall be made by way of stamping or putting sticker or online printing, as the case may be.

It is also clarified that 'for reducing the Maximum Retail Price (MRP), a sticker with the revised lower MRP (inclusive of all taxes) may be affixed and the same shall not cover the MRP declaration made by the manufacturer or the packer, as the case may be, on the label of the package'.

Use of unexhausted packaging material/wrapper has also been allowed upto 30th September, 2017 after making the necessary corrections.

The phrase *"the increased amount of tax due to GST, if any"* means "the effective increase in the tax liability calculated after taking into consideration extra availability of input tax credit under GST (including deemed credit available to the traders under CGST)"

Thus, the declaration of new MRP on unsold stock manufactured/packed/ imported prior to 1st July 2017 should not be done mechanically but after factoring in and taking into consideration extra availability of input tax credit under GST (including deemed credit available to traders under proviso to subsection (3) of section 140 of the CGST Act,2017).

Removal of Difficulties (Section 172)

Q121. What is the way out, if any difficulty arises in giving effect to the provisions of CGST Act?

Ans. If any difficulty arises in giving effect to any provisions of this Act, the Central Government may, on the recommendations of the Council, by a general or a special order published in the Official Gazette, make such provisions, which are consistent with the provisions of the Act, the rules and regulations, as may be necessary or expedient for the purpose of removing the said difficulty.

Q122. Is there any time limit for the Central Government to issue the General Order/ Special Order to remove the difficulty?

Ans. The Central Government has the power to issue General Order/ Special Order to remove the difficulty arising while giving effect to the provisions of this Act, within a period of three years from the date of commencement of the CGST Act.

Q123. Should the General/ Special Order so passed by the Central Government be laid before the Parliament?

Ans. Yes, every General/ Special order shall be laid, as soon as may be, after it is made,

before each House of Parliament.

Q124. State briefly the Central Goods And Services Tax (Removal Of Difficulties) Order, 2017?

Ans. In exercise of the power conferred under Section 1172 of the CGST Act, the Central Government has issued order no. 01/2017-Central Tax dated 13th October, 2017, under the Central Goods and Services Tax (Removal of Difficulties) Order, 2017. Through this order it has been clarified that if a person supplies goods and / or services referred to in clause (b) of paragraph 6 of Schedule II (restaurants, outdoor caterers etc.) and also supplies any exempt services including services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount, the said person shall not be ineligible for the composition scheme subject to the fulfilment of all other conditions. It is further clarified that in computing his aggregate turnover in order to determine his eligibility for composition scheme, value of supply of any exempt services including services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount, shall not be taken into account.

Amendment of Act 32 of 1994 (Section 173)

Q125. What does Section173 seek to do?

Ans. Section 173, seeks to amend Finance Act, 94 by omitting the provision of Chapter V of the Finance Act, 1994 (i.e. service tax law), save as otherwise provided in the CGST Act.

Repeal and saving (Section 174)

Q126. What Central legislations do Section 174 seeks to repeal?

Ans. Section 174 seeks to repeal, the following Central legislations on and from the date of commencement of CGST Act:

1. The Central Excise Act, 1944 (except as respects goods included in entry 84 of the Union List of the Seventh Schedule to the Constitution)
2. The Medicinal and Toilet Preparations (Excise Duties) Act, 1955
3. The Additional Duties of Excise (Goods of Special Importance) Act, 1957
4. The Additional Duties of Excise (Textiles and Textile Articles) Act, 1978, and
5. The Central Excise Tariff Act, 1985

Q127. In what manner is the service tax law and aforesaid central legislations sought to be omitted/ repealed?

Ans. The service tax law and aforesaid central legislations are sought to be omitted/ repealed by Section174, in a manner so as not to:

(a) revive anything not in force or existing at the time of such amendment or repeal; or

(b) affect the previous operation of the amended Act or repealed Acts and orders or anything duly done or suffered thereunder; or

(c) affect any right, privilege, obligation, or liability acquired, accrued or incurred under the amended Act or repealed Acts or orders under such repealed or amended Acts.

However any tax exemption granted as an incentive against investment through a notification shall not continue as privilege if the said notification is rescinded on or after the day CGST comes into existence;

(d) affect any duty, tax, surcharge, fine, 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 against the provisions of the amended Act or repealed Acts; or

(e) affect any investigation, inquiry, verification (including scrutiny and audit), assessment proceedings, adjudication and any other legal proceedings or recovery of arrears or remedy in respect of any such duty, tax, surcharge, penalty, fine, interest, right, privilege, obligation, liability, forfeiture or punishment, as aforesaid, and any such investigation, inquiry, verification (including scrutiny and audit), assessment proceedings, adjudication and other legal proceedings or recovery of arrears or remedy may be instituted, continued or enforced, and any such tax, surcharge, penalty, fine, interest, forfeiture or punishment may be levied or imposed as if these Acts had not been so amended or repealed;

(f) affect any proceedings including that relating to an appeal, review or reference, instituted before on, or after the appointed day under the said amended Act or repealed Acts and such proceedings shall be continued under the said amended Act or repealed Acts as if this Act had not come into force and the said Acts had not been amended or repealed.

Q128. Does the aforesaid manner in which omission/ repeal is sought to be enforced be subject to Section 6 of the General Clauses Act?

Ans. The aforesaid manner in which omission/ repeal is sought by CGST Act, shall not be prejudicial to Section 6 of the General Clauses Act, 1897 or affect the general application of Section 6 of the General Clauses Act, 1897.

Q129. What is Section 6 of the General Clauses Act?

Ans. Section 6 of the General Clauses Act, 1897 lays down the effect of a legislation after the said legislation has been repealed. Section 6 of General Clauses Act, 1897 is

extracted herein below for ready reference:

Effect of repeal — Where this Act, or any Central Act or Regulation made after the commencement of this Act, repeals any enactment hitherto made or hereafter to be made, then, unless a different intention appears, the repeal 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 any enactment so repealed or anything duly done or suffered thereunder; or

(c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed; or

(d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed; 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 repealing Act or Regulation had not been passed.

MCQ's

Job Work procedure (Section 143)

Q1. Should the principal referred to in Section 143 be registered?

(a) Yes

(b) No

Ans. *(a) Yes*

Q2. Who is a principal as per Section 143?

(a) A person who sends inputs and/or capital goods for job-work

(b) A registered taxable person who sends inputs and/or capital goods for job-work

(c) A registered taxable person who supplies inputs and/or capital goods for job-work

(d) A registered person

Ans. *(d) A registered person*

Q3. When will the inputs and/or capital goods sent to job-work become a supply?

(a) When the inputs and/or capital goods sent to job-worker are not received within 1

year or 3 years respectively

(b) When the inputs and/or capital goods sent to job-worker are not supplied, with or without payment of tax, from the job-workers place within 1 year or 3 years respectively

(c) Both under (a) or (b)

(d) None of the above

Ans. *(c) Both under (a) or (b)*

Q4. From when will the period of one or three years be calculated under Section 143?

(a) The day when such inputs and/or capital goods sent to job-worker

(b) The day when the job-worker receives the said goods, in case the job-worker receives the goods directly

(c) Both (a) and (b)

(d) None of the above

Ans. *(c) Both (a) and (b)*

Q5. Will a principal who sends moulds, dies, jigs, tools and fixtures to job worker's place liable to pay GST on such removal?

(a) No, it is not a supply

(b) Yes, if not received within time limit

(c) No, as capital goods as referred in section 143 excludes moulds, dies, jigs, tools and fixtures.

(d) None of the above

Ans. *(c) No, as capital goods as referred in section 143 excludes moulds, dies, jigs, tools and fixtures*

Q6. GST is applicable on__

(a) Inputs and/or capital goods sent to job-worker (Satisfying conditions u/s 143)

(b) The job-worker charges and additional material added by the job-worker on the inputs sent by the principal

(c) Both of the above

(d) None of the above

Ans. *(b) The job-worker charges and additional material added by the job-worker on the inputs sent by the principal*

Q7. When should a job-worker take registration?

(a) Always

(b) Only if his aggregate turnover exceeds the threshold limits specified under Section 22 of the Act.

(c) Never

(d) None of the above

Ans. *(b) Only if his aggregate turnover exceeds the threshold limits specified under Section 22 of the Act*

Q8. Can a principal supply inputs and/or capital goods from the job-worker's premises?

(a) Yes, only when the job-worker is registered

(b) Yes, even if the job-worker is unregistered by declaring the job-worker's premises as his additional place of business

(c) Yes, irrespective of whether the job-worker is registered or not, principal is engaged in the supply of goods which are notified by the Commissioner on this behalf

(d) All of the above

Ans. *(d) All of the above*

Q9. Mr. X has sent his goods to Mr. Y on job-work on 07-05-2017. From when it will be considered as deemed supply if not received back within one year?

(a) 06-05-2018

(b) 07-05-2017

(c) 03-11-2018

(d) Not Taxable

Ans. *(b) 07-05-2017*

Q10. If the inputs are not received back within the prescribed limit by the principal then, who is responsible to pay the GST?

(a) Job worker

(b) Principal

(c) Job worker is responsible when sending such inputs and Principal needs to reverse the ITC taken earlier.

(d) None of the above

Ans. *(b) Principal*

Q11. If the inputs or capital goods are considered as deemed supply in the hands of principal then, whether ITC of such output tax charged by the principal can be claimed by the Job

worker, if registered?

(a) Yes

(b) No

Ans. *(a) Yes*

Q12. What is the time limit to receive back the tools and dies or jigs and fixtures sent to job-worker's place?

(a) 1 year

(b) 3 years

(c) 5 years

(d) No time limit specified under GST

Ans. *(d) No time limit specified under GST*

Q13. Will the inputs and/or capital goods supplied from the job-worker's premises be considered for calculating the aggregate turnover of the job-worker?

(a) Yes

(b) No

Ans. *(b) No*

Q14. Which section specifies the conditions to be fulfilled for claiming ITC on inputs and/or capital goods sent to job-worker?

(a) 19

(b) 55

(c) 143

(d) 177

Ans. *(a) 19*

Q15. Can principal take input tax credit on the inputs and/or capital goods sent directly to job-worker?

(a) Yes

(b) No

(c) Yes subject to section 143

(d) ITC on capital goods sent directly to job-worker's premise is not eligible unless the same is received in the premises of the principal

Ans. *(c) Yes subject to section 143*

Q16. If the job-worker is eligible to claim ITC on the goods received from the principal, is there a time limit within which such ITC shall be availed/claimed by the job-worker?

(a) Within September 30 of following year

(b) Filing the annual return for the period

(c) Option (a) or (b), whichever is earlier

(d) No time limit prescribed to claim such ITC

Ans. *(c) Option (a) or (b), whichever is earlier*

Q17. How can the principal move goods to the job-worker?

(a) Job-work challan

(b) Tax invoice

(c) Delivery challan containing the details as specified in the Tax invoice, credit and debit note rules.

(d) Option (a) or (b)

Ans. *(c) Delivery challan containing the details as specified in the Tax invoice, credit and debit note rules*

Q18. If the inputs and/or capital goods are not received or returned within the prescribed time limit:

(a) It shall be deemed to be a supply on the day such inputs and/or capital goods are sent to job-worker and the principal to discharge the GST along with interest.

(b) No consequences

(c) The job-worker to discharge GST on expiry of the prescribed time limit.

(d) Principal to reverse the input tax credit taken on such inputs and or capital goods.

Ans. *(a) It shall be deemed to be a supply on the day such inputs and/or capital goods are sent to job-worker and the principal to discharge the GST along with interest*

Q19. Who is responsible for accountability for any contravention under this Act?

(a) Principal

(b) Job-worker

(c) Manufacturer

(d) No-body

Ans. *(a) Principal*

Q20. Who should discharge the liability of GST on the scrap generated during job-work?

(a) Job-worker, if registered

(b) Principal, if job-worker is not registered

(c) Always principal

(d) Option (a) or (b)

Ans. *(d) Option (a) or (b)*

Q.21 What is the periodicity of **Form GST ITC-04**?

(a) Daily

(b) Monthly

(c) Quarterly

(d) Yearly

Ans. *(c) Quarterly*

Q.22 Whether the details of goods supplied from job worker's premises need to be included in **Form GST ITC-04**?

(a) Required for unregistered job worker

(b) Required for registered job worker

(c) Not required

(d) Both (a) & (b)

Ans. (d) Both (a) & (b)

Presumption as to documents in certain cases (Section 144)

Q23. Document includes:

(a) Written record

(b) Printed Record

(c) Electronic

(d) All of the above

Ans. *(d) All of the above*

Admissibility of micro films, facsimile copies of documents and computer print-outs as documents and as evidence (Section 145)

Q24. Transfer of business includes …….

(a) Sale

(b) Lease

(c) License

(d) All the above

Ans. *(d) All the above*

Q25. Who is liable to pay the tax in case of transfer of business?

(a) Transferor

(b) Transferee

(c) Both jointly and severally

(d) Jointly

Ans. *(c) Both jointly and severally*

Deemed Export (Section 147)

Q26. Deemed Export provisions is applicable to-

(a) Deemed export provision is applicable only to goods

(b) Deemed export provision is applicable only to services

(c) Deemed export provision is applicable both to goods and services

(d) Deemed export provision is applicable when goods and services are supplied to SEZ units/ developers

Ans. *(a) Deemed export provision is applicable only to goods*

Q27. What are the conditions applicable before claiming deemed exports?

(a) Goods must be manufactured in India

(b) Goods must not leave India

(c) Goods must be notified by Central Government

(d) All the above

Ans. *(d) All the above*

NOTE: Deemed export provisions are discussed in Chapter- Refund

Special Procedure for certain Processes (Section 148)

Q28. What special procedures can be notified for certain class of persons u/s 148?

(a) Registration

(b) Furnishing of Return

(c) Payment of Tax

(d) Administration of such persons

(e) All of the above

Ans. *(e) All of the above*

GST compliance rating (Section 149)

Q29. GST compliance rating would be given to whom

(a) Input Service Distributor

(b) Supplier of Goods and/ or Services whose value of taxable turnover is greater than 20 lakhs

(c) Composition Dealer

(d) Person who is liable to deduct TDS/ collect TCS

(e) All of the above

Ans. *(e) All of the above*

Q30. Whether GST compliance rating would be placed in public domain?

(a) Yes – rating would be available to general public

(b) No – rating would not be available to general public

(c) Rating disclosed only at the time of entering into transaction

(d) Rating disclosed only to person to whom the compliance rating belongs

Ans. *(a) Yes – rating available to general public.*

Obligation furnish information return (Section 150)

Q31. Who are the persons liable to furnish information return?

(a) Taxable person

(b) Income Tax Officer

(c) Sub Registrar

(d) Banking Company

(e) GST Network

(f) All the above

Ans. *(f) All the above.*

Q32. What is the consequence if information is not filed in the form and manner as required by the Central Government?

(a) Return will be treated as defective

(b) Defect has to be rectified within 30 days

(c) Return treated as not filed

(d) Refile the return within 30 days

(e) (a) and (b) above

(f) (c) and (d) above

Ans. *(e) (a) and (b) above*

Q33. Is there any ban on disclosure and use of information collected in the form of information return?

(a) No. Such information can be used for all GST purposes except publishing such information

(b) Yes. Such information cannot be used by the department under any proceedings under GST Act.

(c) Yes. Such information cannot be used by the department under any proceedings under GST Act except for the purpose of launching prosecution proceedings under the Act

(d) No. Such information can be used to publish information

(e) Yes. However such information can be used to publish information about a class of persons and class of transactions

(f) (a) and (d) above

(g) (c) and (e) above

Ans. *(g) (c) and (e) above*

Q34. Who of the following would be liable, when they disclose information collected from information return/ statistics u/s 150 and 151 respectively?

(a) Departmental officer – when information disclosed while executing duties

(b) Agent of GST portal – when information disclosed while executing duties

(c) Person engaged in GST portal - when information disclosed while executing duties

(d) Person engaged in collection of statistics - when information disclosed while executing duties

(e) None of the above

Ans. *(e) None of the Above*

Q35. When can assistance of expert be taken?

(a) Scrutiny

(b) Inquiry

(c) Investigation

(d) Before passing Order

(e) All the above

Ans. *(e) All the above.*

Q36. Should receipt be given when samples are taken by the department?

(a) Yes

(b) No

Ans. *(a) Yes*

Q37. Whether prosecution can be initiated against the following persons?

(a) Members of Appellate Tribunal, since they did not follow the case law, which was decided by the President, leading to incorrect decision by such members of Appellate Tribunal

(b) Adjudicating Authority for not following the orders of the Commissioner, when such work was delegated to such Adjudicating Authority

(c) Vindictive action taken by a departmental officer, while discharging his function. The action was however in the favour of the revenue

Ans. *(c) Vindictive action taken by departmental officer though action taken in favour of the department.*

Q38. What are the circumstances when information collected by GST officer can be disclosed by such GST officer?

(a) When serving show cause notice to an assesse

(b) To the authority empowered to take disciplinary action, when inquiry is being conducted by such disciplinary committee

(c) To an officer appointed for the purpose of conducting audit

(d) (b) and (c)

(e) (a), (b) and (c)

Ans. *(e) (a), (b) and (c)*

Q39. Whether validity of service of notice can be called into question when assessee has submitted himself to adjudication proceedings pursuant to such notice?

(a) Yes

(b) No

(c) Depends of the facts of the case

Ans. *(b) No*

Q40. When can mistake apparent on record be corrected?

(a) When mistake noticed by authority passing the order

(b) When mistake pointed out by corresponding officer of SGST

(c) When mistake pointed by person affected by the order

(d) All of the above

Ans. *(d) All of the above*

Q41. Within what period should the mistake apparent on record be brought to the notice of the authority?

(a) Three Months

(b) Six Months

(c) Depends – Three months in case of clerical error or arithmetical error and six months in other case

Ans. *(c) Depends – Three months in case of clerical error or arithmetical error and six months in other case*

Q42. Can government make retrospective rules?

(a) Yes. But cannot impose penalty for contravention of rules for retrospective period

(b) Yes and also can impose penalty for contravention of rules for retrospective period

(c) No

Ans. *(a) Yes. But cannot impose penalty for contravention of rules for retrospective period*

Q43. What is the effect if the parliament annuls the rules/ notifications issued by

government?

(a) It is as good as no rules/ notifications were issued by the government

(b) The rules/ notifications issued by the government would be effective for the period from the date of issue till the date they were annulled by the parliament

(c) There would be no sanctity for the action taken by the department/ assessee on the basis of rules/ notification for the period from the date of issue till the date of annulment.

(d) The action taken by the department/ assessee on the basis of such rules would be void from the date of annulling the rules/ notification.

(e) (a) and (c)

(f) (b) and (d)

Ans. *(b) and (c)*

Q44. What are the methods to serve notice/ order/ documents under GST Act?

(a) Only by registered post acknowledgement due

(b) By speed post (acknowledgement due not necessary)

(c) By courier with acknowledgement due

(d) Common portal

(e) E-mail provided at the time of registration

(f) Publication in newspaper circulating in the locality

(g) All of the above except (c)

(h) All of the above except (b)

Ans. *(g) All of the above except (b)*

Q45. Would notice/ order/ documents be 'deemed as served', though registered post/ speed post is not received by intended person?

(a) No. Actual service is necessary. There is no concept of deemed service.

(b) Yes it is deemed to have been received by the addressee at the expiry of the period normally taken by such post, unless the contrary is proved.

Ans. *(b) Yes it is deemed to have been received by the addressee at the expiry of the period normally taken by such post, unless the contrary is proved.*

Q46. If the Show Cause Notice mentions the tax as Rs.1,11,156.30 and penalty as Rs.572.6, then what is the amount payable as per section 170 of the CGST Act?

(a) Rs.1,1800

(b) Rs. 1,11,156.30 + 572.6=111728.9

(c) Rs.1,1700

(d) Rs.1,11,729

Ans. *(d) Rs.1,11,729*

Q47. What action should be taken by an assessee to satisfy with anti-profiteering provision?

(a) Reduce rate of tax on any supply of goods or service, if such assessee has got the benefit of such reduced rate

(b) Pass on the benefit of input tax credit, if such assessee has got such input tax credit

(c) Both (a) and (b)

Ans. *(c) Both (a) and (b)*

Chapter XX
E-way Bill

FAQ's

Q1. Under what all cases a registered person has to generate e-way bill?

Ans. Every registered person who causes movement of goods of consignment value exceeding ₹ 50,000/- —

(i) in relation to a supply; or

(ii) for reasons other than supply; or

(iii) due to inward supply from an unregistered person,

shall, before commencement of such movement, furnish information relating to the said goods in Part A of FORM GST EWB-01, electronically, on the common portal. However, the registered person or, as the case may be, the transporter may, at his option, generate and carry the e-way bill even if the value of the consignment is less than ₹ 50,000/-.

Q2. Who is required to generate e-way bill?

Ans. The following may generate the e-way bill:

(a) Where the goods are transported by the registered person as a consignor or the recipient of supply as the consignee, whether in his own conveyance or a hired one or by railways or by air or by vessel, the said person or the recipient may generate the e-way bill in FORM GST EWB-01 electronically on the common portal after furnishing information in Part B of FORM GST EWB-01.

(b) Where the e-way bill is not generated by aforementioned mode and the goods are handed over to a transporter for transportation by road, the registered person shall furnish the information relating to the transporter in Part B of FORM GST EWB-01 on the common portal and the e-way bill shall be generated by the transporter on the said portal on the basis of the information furnished by the registered person in Part A of FORM GST EWB-01.

Further, the registered person or, as the case may be, the transporter may, at his option, generate and carry the e-way bill even if the value of the consignment is less than₹ 50,000/-

(c) Where the movement is caused by an unregistered person either in his own conveyance or a hired one or through a transporter, he or the transporter may, at their option, generate the e-way bill in FORM GST EWB-01 on the common portal.

Upon generation of the e-way bill on the common portal, a unique e-way bill number (EBN) shall be made available to the supplier, the recipient and the transporter on the common portal.

Q3. What are the obligations of the recipient on generation of e-way bill?

Ans. The details of e-way bill so generated shall be made available to the recipient, if registered, on the common portal, who shall communicate his acceptance or rejection of the consignment covered by the e-way bill. If the recipient does not communicate his acceptance or rejection within seventy-two hours of the details being made available to him on the common portal, it shall be deemed that he has accepted the said details.

Q4. When an e-way bill is not required to be generated?

Ans. In the following events, no e-way bill is required to be generated—

(a) where the goods being transported are specified in Annexure of Rule 138 of the CGST Rules;

(b) where the goods are being transported by a non-motorised conveyance;

(c) where the goods are being transported from the port, airport, air cargo complex and land customs station to an inland container depot or a container freight station for clearance by Customs; and

(d) in respect of movement of goods within such areas as are notified under Rule 138(14) (d) of the Goods and Services Tax Rules of the concerned State.

(e) where the goods are transported for a distance of less than ten kilometres within the State or Union territory from the place of business of the consignor to the place of business of the transporter for further transportation, the supplier or the transporter may not furnish the details of conveyance in Part B of FORM GST EWB-01.

Q5. What are the obligations of a transporter while transferring goods from one conveyance to another in the course of transit?

Ans. Any transporter transferring goods from one conveyance to another in the course of transit shall, before such transfer and further movement of goods, update the details of conveyance in the e-way bill on the common portal in FORM GST EWB-01. Further, where the goods are transported for a distance of less than ten kilometres within the State or Union territory from the place of business of the transporter finally to the place

of business of the consignee, the details of conveyance may not be updated in the e-way bill.

Q6. How should the e-way bill be generated in case of multiple consignments intended to be transported in one conveyance?

Ans. After e-way bill has been generated and where multiple consignments are intended to be transported in one conveyance, the transporter may indicate the serial number of e-way bills generated in respect of each such consignment electronically on the common portal and a consolidated e-way bill in FORM GST EWB-02 maybe generated by him on the said common portal prior to the movement of goods.

Q7. What shall be the obligations of a transporter in the event FORM GST EWB-01 is not generated either by consignor or the consignee?

Ans. Where, consignor or the consignee has not generated FORM GST EWB-01and the value of goods carried in the conveyance is more than ₹ 50,000/-, the transporter shall generate FORM GST EWB-01 on the basis of invoice or bill of supply or delivery challan, as the case may be, and may also generate a consolidated e-way bill in FORM GST EWB-02 on the common portal prior to the movement of goods.

Q8. When can an e-way bill be cancelled?

Ans. Where an e-way bill has been generated however, goods are either not transported or are not transported as per the details furnished in the e-way bill, the e-way bill may be cancelled electronically on the common portal, either directly or through a Facilitation Centre notified by the Commissioner, within 24 hours of generation of the e-way bill.

It is to be noted that an e-way bill cannot be cancelled if it has been verified in transit in accordance with the provisions of rule 138B.

Q9. What is the duration till which an e-way bill generated shall be valid?

Ans. An e-way bill or a consolidated e-way bill generated shall be valid for the following period

Sr. No.	Distance	Validity period
1	Upto 100 km	One day
2	For every 100 km or part thereof thereafter	One additional day

Note: The period of validity shall be counted from the time at which the e-way bill has been generated and each day shall be counted as twenty-four hours.

However, the Commissioner may, by notification, extend the validity period of e-way bill for certain categories of goods as may be specified therein:

Q10. What should be done in case of exceptional circumstances when goods cannot be transported within the validity period of the e-way bill?

Ans. Where under the circumstances of an exceptional nature, the goods cannot be transported within the validity period of the e-way bill, the transporter may generate another e-way bill after updating the details in Part B of FORM GST EWB-01.

Q11. What all documents shall be carried by a person-in-charge of a conveyance?

Ans. Following are the documents that shall be carried by the person in charge of a conveyance:

(a) the invoice or bill of supply or delivery challan, as the case may be; and

(b) a copy of the e-way bill or the e-way bill number, either physically or mapped to a Radio Frequency Identification Device embedded on to the conveyance in such manner as may be notified by the Commissioner.

Q12. How should the verification of the documents and conveyances be done by the Department?

Ans. As per Rule 138B of the CGST Rules, the Commissioner or an officer empowered by him in this behalf may authorise the proper officer to intercept any conveyance to verify the e-way bill or the e-way bill number in physical form for all inter-State and intra- State movement of goods. Further, the Commissioner shall get Radio Frequency Identification Device readers installed at places where the verification of movement of goods is required to be carried out and verification of movement of vehicles shall be done through such device readers where the e-way bill has been mapped with the said device. Furthermore, the physical verification of conveyances shall be carried out by the proper officer as authorised by the Commissioner or an officer empowered by him in this behalf. Provided that on receipt of specific information on evasion of tax, physical verification of a specific conveyance can also be carried out by any officer after obtaining necessary approval of the Commissioner or an officer authorised by him in this behalf.

Q13. How should the report pertaining to inspection be uploaded by the Department?

Ans. As per Rule 138Cof the CGST Rules, a summary report of every inspection of goods in transit shall be recorded online by the proper officer in Part A of FORM GST EWB-03 within twenty four hours of inspection and the final report in Part B of FORM GST EWB-03 shall be recorded within three days of such inspection. Further, where the physical verification of goods being transported on any conveyance has been done during transit at one place within the State or in any other State, no further physical verification of the said conveyance shall be carried out again in the State, unless a specific information relating to evasion of tax is made available subsequently.

Q14. How should the information pertaining to detained vehicle be uploaded?

Ans. As per Rule 138D, where a vehicle has been intercepted and detained for a period exceeding thirty minutes, the transporter may upload the said information inFORM GST EWB-04 on the common portal.

Q15. Whether the date from which E-Way Bill Rules shall come into force have been notified?

Ans. The Central Government vide *Notification no.74/2017 dated 29-12-2017*has notified 1st day of February, 2018, as the date from which the provisions of E-way bill system as provided in *Notification No. 27/2017 – Central Tax dated 30-08-2017* shall come into force.

Following decisions were taken by the GST Council in its 24th meeting held on 16th December,2017 for implementation of nationwide e-way Bill system:

i) The nationwide e-way Bill system will be ready to be rolled out on a trial basis latest by 16th January 2018. Trade and transporters can start using this system on a voluntary basis from 16th January 2018.

ii) The Rules for implementation of nationwide e-way Bill system for Inter-State movement of goods on a compulsory basis will be notified with effect from 1st February 2018. This will bring uniformity across the States for seamless inter-State movement of goods.

iii) While the System for both inter-State and intra-State e-way Bill generation will be ready by 16th January 2018, the States may choose their own timings for implementation of e-way Bill for intra-State movement of goods on any date before 1st June ,2018. There are certain States which are already having system of e-way Bill for intra-State as well as inter-State movement and some of those States can be early adopters of national e-way Bill system for intra-State movement also. But in any case, the Uniform System of e-way Bill for inter-State as well as intra-State movement will be implemented across the country by 1st June, 2018.

MCQ's

Q1. Every registered person who causes movement of goods of consignment value exceeding .....in relation to a supply or forreasons other than supply or due to inward supply from an unregistered person shall, before commencement of such movement, file FORM GST EWB-01.

(a) ₹ 50,000/-

(b) ₹ 1,00,000/-

(c) ₹ 70,000/-

(d) None of the above

Ans. *(a)* ₹ *50,000/-*

Q2. When the movement of goods is caused by an unregistered person the e-way bill shall be generated by:

(a) Unregistered person himself

(b) The Transporter

(c) Either of them

(d) Neither of them

Ans. *(c) Either of them*

Q3. When an e-way bill is not required to be generated?

(a) Where the goods being transported are specified in Annexure to Rule 138 of the CGST Rules;

(b) Where the goods are being transported by a non-motorised conveyance;

(c) Where the goods are being transported from the port, airport, air cargo complex and land customs station to an inland container depot or a container freight station for clearance by Customs; and

(d) All of the above

Ans. *(d) All of the above*

Q4. What is a valid tenure for an e-way bill for a distance upto 100 KMS?

(a) One day

(b) Two days

(c) One week

(d) None of the above

Ans. *(a) One day*

Q5. Who can extend the validity of an e-way bill?

(a) Commissioner

(b) Joint Commissioner

(c) Additional Commissioner

(d) Any one of the above

Ans. *(a) Commissioner*

Q6. How should e-way bill be generated for multiple consignments intended to be transported in one conveyance?

(a) The transporter shall generate separate e-way bills for each consignment

(b) A consolidated e-way bill in FORM GST EWB-02 maybe generated

(c) No e-way bill shall be required

(d) None of the above

Ans. *(b) A consolidated e-way bill in FORM GST EWB-02 maybe generated.*

Q7. What is a valid tenure for an e-way bill for a distance of more than 100 km?

(a) One day + One additional day for every 100 km or part thereof thereafter

(b) Two days

(c) One week

(d) None of the above

Ans. *(a) One day + One additional day for every 100 km or part thereof thereafter*

Chapter I
Levy and Collection of Tax

FAQ's

Levy and Collection of Tax (Section 5)

Q 1. What type of tax is levied on inter-State supply?

Ans. In terms of Section 5 of the IGST Act, 2017, inter-State supplies are liable to IGST. The nature of supply (inter-State or intra-State) shall be ascertained based on the provisions prescribed under Section 7 and Section 8 of the IGST Act, 2017 respectively.

Further, the IGST on the import of goods shall be levied and collected in accordance with the provisions of Section 3 of the Customs Tariff Act, 1975 on the value determined under the IGST Act at the point when duties of customs are levied on the said goods under Section 12 of the Customs Act, 1962.

Q 2. How to ascertain the taxable value for levy of IGST?

Ans. In terms of Section 5(1) the IGST Act, IGST shall be levied on the value of goods ascertained in terms of Section 15 of the CGST Act, 2017. It is specified that, the value of supply of goods or services or both shall be the transaction value, which is the price actually paid or payable for the said supply of goods or services or both where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply. Further Section 15 thereof, provides for certain inclusions which will form part of the value of supply viz., incidental expenses, commission, interest or late fees or penalty for delayed payment of any consideration for any supply, etc. Moreover, value of supply excludes certain discounts in terms of Section 15(3).

Further, where transaction value cannot be determined in terms of section 15(1), the of supplies will be determined in terms of the CGST Rules [Chapter-4- Determination of Value of Supply-"Valuation Rules"].

Q 3. What is the rate of tax that is applicable on inter-State supplies?

Ans. The applicable rate of tax on inter-state supply of Services has been majorly provided under *Notification No. 8/2017 –Integrated Tax (Rate) dated 28.06.2017* and rate on inter-state supply of goods has been provided under *Notification No.01/2017-Integrated Tax (Rate) dated 28.06.2017 [with 3 corrigendum dated 30.06.2017,12.07.2017 and 27.07.2017]* respectively as amended from time to time

However, Section 5(1) of the IGST Act, *inter alia* stipulates that the Government may specify rate of tax which shall not exceed 40%.

It is pertinent to mention here that:

- *Notification No.09/2017-Integrated Tax (Rate) dated 28.06.2017* exempts inter-state supplies of certain services over certain specified percentage subject to certain conditions [Though till date Rate specified and condition stipulated in notification is NIL]
- *Notification No.02/2017-Integrated Tax (Rate) dated 28.06.2017* exempts inter-state supplies of certain goods from whole of IGST leviable under Section 5 of the IGST Act
- *Notification No.03/2017-Integrated Tax (Rate) dated 28.06.2017* exempts inter-state supplies of goods over certain specified percentage subject to certain conditions
- *Notification No.07/2017-Integrated Tax (Rate) dated 28.06.2017* exempts supplies of goods by CSD to Unit Run Canteens; CSD to authorised customers and Unit Run Canteen to authorised customers, from whole of IGST leviable under Section 5 of IGST Act
- *Notification No.26/2017-Integrated Tax (Rate) dated 21.09.2017* exempts inter-state supply of heavy water and nuclear fuels falling in Chapter 28 of the First Schedule to the Customs Tariff Act, 1975 by the Department of Atomic Energy to the Nuclear Power Corporation of India Ltd from the whole of IGST leviable under section 5 of the IGST Act.
- *Notification No.30/2017-Integrated Tax (Rate) dated 22.09.2017* exempts inter-state supply of Skimmed milk powder or concentrated milk falling under tariff heading 0402 from whole of IGST leviable under Section 5 of IGST Act provided it is supplied to distinct person as per section 25(4) of the CGST Act, for use in production of milk [for distribution through dairy cooperatives *or companies registered under Companies Act 2013*] and not for further supply of skimmed milk powder, or concentrated milk as such.

  [*or companies registered under Companies Act 2013*- added vide *Notification No.50/2017-Integrated Tax (Rate) dated 14.11.2017*, effect from 15.11.2017]
- *Notification No.40/2017-Integrated Tax (Rate) dated 18.10.2017*, subject to fulfillment of certain condition, notifies the rate of the integrated tax of 5% on inter-State supplies of Food preparations put up in unit containers and intended for free distribution to economically weaker sections of the society under a programme duly approved by the Central Government or any State Government.
- *Notification No.41/2017-Integrated Tax (Rate) dated 23.10.2017* prescribe Integrated Tax rate of 0.1% on inter-State supply of taxable goods by a registered supplier to a registered recipient for export subject to specified conditions

- *Notification No.47/2017-Integrated Tax (Rate) dated 14.11.2017*, effective from 15.11.2017, provide concessional GST rate of 5% on scientific and technical equipments supplied to public funded research institutions.
- *Notification No.32/2017-Integrated Tax (Rate) dated 13.10.2017* exempts inter-State supply of goods or services or both received by a registered person from any supplier, who is not registered, from the whole of the integrated tax leviable thereon under section 5(4) of the IGST Act, 2017 till 31.03.2018.[i.e. exempt payment of tax under section 5(4) of the IGST Act, 2017 till 31.03.2018.]

  [NOTE:

  - *Notification no. 8/2017 –Integrated Tax (Rate) dated 28.06.2017* has been amended by *Notification no. 20/2017 –Integrated Tax (Rate) dated 22.08.2017; Notification no. 24/2017 –Integrated Tax (Rate) dated 21.09.2017; Notification no. 39/2017 –Integrated Tax (Rate) dated 13.10.2017* and *Notification no. 48/2017 –Integrated Tax (Rate) dated 14.11.2017 (w.e.f. 15.11.2017*)]
  - Further, *Notification No.01/2017-Integrated Tax (Rate) dated 28.06.2017* has been amended by *Notification No.16/2017-Integrated Tax (Rate) dated 30.06.2017 (w.e.f.-1.07.2017); Notification No.19/2017-Integrated Tax (Rate) dated 18.08.2017; Notification No.27/2017-Integrated Tax (Rate) dated 22.09.2017;Notification No.35 / 2017-Integrated Tax (Rate) dated 13.10.2017;* and *Notification No.43/2017-Integrated Tax (Rate) dated 14.11.2017* (w.e.f. 15.11.2017)
  - *Notification No.02/2017-Integrated Tax (Rate) dated 28.06.2017* has been amended by *Notification No.28/2017-Integrated Tax (Rate) dated 22.09.2017 Notification No.36/2017-Integrated Tax (Rate) dated 13.10,2017;* and *Notification No.44/2017-Integrated Tax (Rate) dated 14.11.2017* (w.e.f. 15.11.2017)
  - *Notification No.09/2017-Integrated Tax (Rate) dated 28.06.2017* has been amended by *Notification No.21/2017-Integrated Tax (Rate) dated 22.08.2017; Notification No.25/2017-Integrated Tax (Rate) dated 21.09,2017; Notification No.31/2017-Integrated Tax (Rate) dated 29.09.2017; Notification No.33/2017-Integrated Tax (Rate) dated 13.10,2017; Notification No.42/2017-Integrated Tax (Rate) dated 27.10.2017;* and *Notification No.49/2017-Integrated Tax (Rate) dated 14.11.2017* (w.e.f. 15.11.2017)

Q 4. Who is responsible to pay taxes?

Ans. Generally, the person making taxable supplies is liable to pay taxes. However, following are certain exceptions:

(a) Reverse charge: Section 5(3) of the IGST Act, 2017 inter alia provides that, the Government may, on the recommendations of the Council, by notification, specify

categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both.

In this regard, the Central Government *vide Notification No. 04/2017-Integrated Tax (Rate), dated 28-06-2017* read with *Notification No 37/2017-Integrated Tax (Rate) dated 13-10-2017* and *Notification No 45/2017-Integrated Tax (Rate) dated 14-11-2017* specifies the supply of goods which are liable to IGST under RCM.

Further, *Notification No 10/2017-Integrated Tax (Rate) dated 26.06.2017* read with *Notification No 34/2017-Integrated Tax (Rate) dated 13-10-2017* specifies the supply of services which are liable to IGST under RCM.

However, in terms of Section 5(4), it is specified that all registered recipient of goods or services or both is liable to pay tax under reverse charge in the event supplier of goods is not registered. However, *Notification No. 32/ 2017-Integrated Tax (Rate) dated 13.11.17* exempts inter-State supply of goods received by registered person from an un-registered dealer from whole of the integrated tax under section 5(4) till 31st March, 2017.[S-5(4)}is deferred till 31.03.2018]

Further, Import of service will be taxable in the hands of the recipient i.e., importer

(b) E-Commerce: In case of the following categories of supplies of services, as notified by the Government vide *Notification No. 14/2017-Integrated Tax (Rate), dated 28-06-2017* read *with Notification No. 23/2017-Integrated Tax (Rate) dated 22.08.2017*, IGST shall be paid by the e-commerce operator in terms of Section 5(5) of the IGST Act, 2017.

(1) services by way of transportation of passengers by a radio-taxi, motor cab, maxicab and motor cycle;

(2) services by way of providing accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes, except where the person supplying such service through electronic commerce operator is liable for registration under clause (v) of section 20 of the IGST Act, 2017 read with section 22(1) of the CGST Act.

(3) services by way of house-keeping, such as plumbing, carpentering etc, except where the person supplying such service through electronic commerce operator is liable for registration under clause (v) of section 20 of the Integrated Goods and Services Tax Act, 2017 read with section 22(1) of section 22 of the CGST Act.

In the event the e-commerce operator do not have physical presence in the taxable territory, following persons will be liable to pay tax:

(i) a person who is representing the e-commerce operator in the taxable territory;

(ii) in the absence of such representative, e-commerce operator should appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.

Q 5. Define reverse charge?

Ans. Section 2(98) of the CGST Act defines the terms reverse charge to mean liability to pay tax by the recipient of supply of goods or services or both instead of the supplier of such goods or services or both.

Q 6. Whether the tax on inter-State supplies is applicable to every supplies?

Ans. No. Section 5(1) which is the charging provision for levy and collection of tax on inter-State supplies excludes supply of alcoholic liquor for human consumption. Further, in terms of Section 5(2), tax on supply of petroleum crude, high speed diesel, motor spirit, natural gas and aviation turbine fuel shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council.

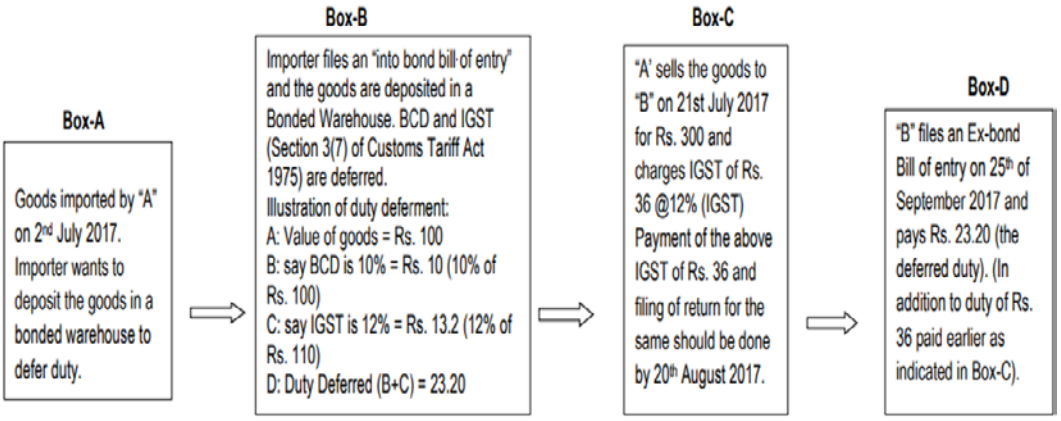
Q 7. Whether GST will apply on goods sold while being in a custom bonded warehouse?

Ans. The Central Board of Excise & Customs vide *Circular No. 46/2017-Customs dated 24th November, 2017* clarified that goods imported and deposited in a custom bonded warehouse will be chargeable to (Custom duty + IGST) at the time of filing of ex-bond bill of entry at the value determined at the time of filing into-bond bill of entry to be collected at ex-bond stage. However, if the importer sells the customs bonded goods to another person before clearance of goods from warehouse, IGST will be leviable on such transaction at the time of sale which the importer will have to pay by 20th of next month.

Therefore, IGST leviable on import shall remain deferred so long as such goods remain in custom bonded warehouse. However, IGST on sale /transfer of warehoused goods need to be paid on or before 20th of succeeding month.

Sale of goods in a Bonded Warehouse and clearance thereof:

ILLUSTRATION



Q 8. What is High Sea Sales? Whether the High Sea Sales of imported goods would be chargeable to IGST twice i.e. at the time of Customs clearance under section 3(7) of the Customs Tariff Act, 1975 and separately under Section 5 of IGST Act, 2017?

Ans. High Sea Sales is a situation whereby the original importer sells the goods to a third person before the goods are entered for customs clearance. After the High sea sale of the goods, the Customs declarations i.e. Bill of Entry etc. is filed by the person who buys the goods from the original importer during the said sale. High Sea Sales being an Inter-state transaction under GST are subject to IGST.

The Central Government vide *Circular No. 33 /2017-Customs dt 01-08-2017* clarified that IGST on high sea sale (s) transactions of imported goods, whether one or multiple, shall be levied and collected only at the time of importation i.e. when the import declarations are filed before the Customs authorities for the customs clearance purposes for the first time. Further, value addition accruing in each such high sea sale shall form part of the value on which IGST is collected at the time of clearance. [Thus IGST will be levied only once].

Q 9. What will be the value of the goods for the purpose of levying IGST?

Ans : Value of the goods for the purpose of levying IGST shall be, assessable value plus Customs Duty levied under the Act, and any other duty chargeable on the said goods under any law for the time being in force as an addition to, and in the same manner as, a duty of customs. For e.g.,

Import Duty under GST

A.	Assessable value	100
B.	Basic Custom duty@7.5%	7.5
C.	IGST (A+B)say @18%	19.4
D.	Total Customs Duty (B+C)	26.9

[GST compensation cess, may also be leviable on certain luxury and demerit goods under the GST (Compensation to States) Cess Act, 2017.]

Q 10. Whether GST leviable on inter-state transfer of aircraft engines, parts and accessories for use by their own airlines?

Ans. Yes. In terms of Schedule I of the CGST Act, supply of goods or services or both between related persons or between distinct persons as specified in Section 25, when made in the course or furtherance of business, even if, without consideration, attracts GST. Hence, GST will be levied on inter-state transfer of aircraft engines, parts and accessories for use by their own airlines.

Further, Circular No. 16/16/2017-GST dated 15.11.2017 also clarifies that credit of GST paid on aircraft engines, parts & accessories will be available for discharging GST on inter–state supply of such aircraft engines, parts & accessories by way of inter-state stock transfers between distinct persons as specified in section 25 of the CGST Act, notwithstanding that credit of input tax charged on consumption of such goods is not allowed for supply of service of transport of passengers by air in economy class at GST rate of 5%.

Q 11. Whether Inter-state movement of rigs, tools and spares, and all goods on wheels [like cranes exigible to IGST?

Ans. In terms of Circular No. 21/21/2017-GST dated 22.11.2017, inter-state movement of rigs, tools and spares, and all goods on wheels [like cranes], where movement of such goods is for further supply of the same goods, shall be treated 'neither as a supply of goods or supply of service. Hence, no IGST would be applicable on such movements.

Further, CGST/SGST/IGST, as the case maybe, is leviable on repairs and maintenance done for such goods.

Q 12. Whether Inter-state movement of various modes of conveyance, carrying goods or passengers or for repairs and maintenance is exigible to IGST?

Ans. Inter-state movement of goods like movement of various modes of conveyance, between distinct persons as specified in section 25(4) of the CGST Act, 2017, including Trains, Buses, Trucks, Tankers, Trailers, Vessels, Containers, Aircrafts, may not be treated as supply and consequently IGST will not be payable on such supply. [Circular No. 1/1/2017-IGST dated 7.07.2017]

Power to Grant Exemption (Section 6)

Q 13. Whether Council has powers to grant exemption on payment of taxes?

Ans. No. The power to grant exemption is vested with the Government. In other words, the Government by way of issuance of notification on the recommendations of the Council may either grant the exemption absolutely or subject certain conditions.

Q 14. Whether import of goods by a SEZ is exempt from IGST?

Ans. No. As *Notification 15/ 2017-Integrated Tax (Rate) dated 30-06-17* has granted exemption from IGST on import of goods by a SEZ and this exemption was immediately rescinded *vide Notification 18/2017- Integrated Tax (Rate) dated 05-07-17* as granting such an exemption would have been out of harmony with the concept that goods are 'not yet' reached the 'point' when liability to customs duty is attracted

MCQ's

Levy and Collection of Tax [IGST] (Section 5 to 6)

Q 1. _____ Supply shall attract IGST?

(a) Intra-State

(b) Inter-State

(c) Both

Ans. (b) Inter-State

Q 2. Is there any ceiling limit prescribed on the rate under IGST?

(a) 14%

(b) 40%

(c) 26%

(d) 30%

Ans. (b) 40%

Q 3. What if an e-commerce operator having no physical presence in the taxable territory, does not have a representative in the taxable territory?

(a) His will have to discharge his tax liability in foreign currency

(b) He will not be liable to tax

(c) He has to appoint a person in the taxable territory for the purpose of paying tax on his behalf

(d) None of the above

Ans. (c) He has to appoint a person in the taxable territory for the purpose of paying tax on his behalf

Q 4. Unless and until notified, IGST shall not be levied on the inter-State supply of which of the following:

(a) Industrial alcohol

(b) Works contract

(c) Petroleum

(d) None of the above

Ans. (c) Petroleum

Q 5. Goods deposited in warehouse by filing into-bond bill of entry do not attract liability to any customs duty until the date specified in section 15 is reached

(a) True

(b) False

Ans. (a) True

Q 6. Will a Bank qualify as a taxable person for sale of hypothecated/ pledged goods (auction)?

Ans. Yes, the nature of business as a bank does not affect tax liability. GST is payable if there is any supply of taxable goods or services even by a bank.

Q 7. Will a "not for profit entity" be liable to tax on any sales effected by it – e.g.: sale of assets received as donation?

Ans. Yes. NPEs do not distribute profit to promoters but that does not exclude from doing activities that conform to definition of business.

Q 8. Can an exemption be granted for inter-State supplies when such an exemption is not granted for intra-State supplies?

Ans. Yes.

Chapter II
Determination of Nature of Supply

FAQ's

Supply of goods and / or service in the course of inter-state trade or commerce (Section 7-Inter-State supply)

Q 1. When is supply of goods considered as supply in the course of inter-State trade or commerce?

Ans. Supply of goods will be considered as inter-State supply if the location of the supplier and place of supply are in different States or different Union territories or a State or a Union territory. This is subject to provisions contained in Section 10 of the IGST Act, 2017.

Q 2. When is supply of service considered as supply in the course of inter-State trade or commerce?

Ans. Supply of service will be considered as inter-State supply if the location of the supplier and place of supply are in different States or different Union territories or a State or a Union territory. This is subject to provisions contained in Section 12 of the IGST Act, 2017.

Q 3. What is the meaning of location of supplier?

Ans. The term location of supplier of goods has not been defined in the IGST Act, 2017. This is not an oversight of the draughtsman but a deliberate intention of the lawmaker to leave it to the facts of each case to determine the 'location of supplier of goods'.

Location of supplier of service is defined under Section 2(15) of the IGST Act, 2017 as under:

(a) where a supply is made from a place of business for which registration has been obtained, the location of such place of business;

(b) 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;

(c) 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

(d) in absence of such places, the location of the usual place of residence of the supplier

Q 4. What is the meaning of location of recipient?

Ans. The term location of recipient of goods has not been defined in the IGST Act, 2017.

However, location of recipient of service is defined under Section 2(14) of the IGST Act, 2017 as under:

(a) where a supply is received at a place of business for which the registration has been obtained, the location of such place of business;

(b) where a supply is received at a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere), the location of such fixed establishment;

(c) 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

(d) in absence of such places, the location of the usual place of residence of the recipient;

Q 5. What is the place of supply of goods in the course of import into India?

Ans. Supply of goods imported into the territory of India, till they cross the customs frontiers of India, shall be treated to be a supply of goods in the course of inter-State trade or commerce. Further, in terms of Section 11 of the IGST Act, 2017 the place of supply of goods imported into India will be the location of the importer.

Customs frontiers of India means the limits of the area of a customs station as defined in Section 2 of the Customs Act, 1962 in which imported goods are ordinarily kept before clearance by customs authorities.

Customs station is defined under Section 2 of the Customs Act, 1962 to mean any customs port, customs airport or land customs station.

Q 6. What is the place of supply of service in the course of import into India? Give Example

Ans. Supply of service in the course of import into the territory of India will be treated as supply in the course of inter-State trade or commerce. Thus, place of supply would be the location of the Importer.

Example – Annual maintenance contract entered by a Company outside India for maintenance of goods located in India.

Q 7. What is the nature of supply, if the supplier of service is located in Mumbai and the recipient of service being an SEZ unit is in Nagpur?

Ans. The supply of services to a Special Economic Zone will be treated as a supply in the course of inter-State trade or commerce in accordance with section 7(5) (b) of the IGST Act. Even though, the supplier and recipient both are located in the same State (i.e. Maharashtra), the place of supply of service to a SEZ unit will be treated as inter-State.

Intra-State Supply (Section 8)

Q 8. When is supply of goods considered as supply in the course of intra-State trade or commerce?

Ans. Supply of goods will be considered as intra-State supply, if the location of the supplier and place of supply are in the same State or same Union territory. This is subject to provisions contained in Section 10 of the IGST Act, 2017.

Q 9. When is supply of service considered as supply in the course of intra-State trade or commerce?

Ans. Supply of service will be considered as intra-State supply if the location of the supplier and place of supply are in the same State or same Union territory. This is subject to provisions contained in Section 12 of the IGST Act, 2017.

Q 10. State the taxability of satellite launch services provided to both international and domestic customers by ANTRIX Corporation Limited ("ANTRIX") which is a wholly owned Government of India Company under the administrative control of Department of Space (DOS).

Ans. When location of supplier and recipient of services is in India, place of supply is governed by section 12 (8) of the IGST Act, which stipulates that place of supply will be the location of the recipient of services provided he is registered; if not registered, then the place of supply will be the place where goods are handed over for their transportation. Accordingly, where satellite launch service is provided by ANTRIX to a person located in India, the place of supply of satellite launch service would be governed by section 12 (8) of the IGST Act and would be taxable under CGST Act, UTGST Act or IGST Act, as the case may be.

Further, Section 13(9) of the IGST Act provides that where location of supplier of services or location of recipient of services is outside India, the place of supply of services of transportation of goods, other than by way of mail or courier, shall be the place of destination of such goods. Accordingly, place of supply of satellite launch services supplied by ANTRIX to international customers would be outside India and if such supply which meets the requirements of section 2(6) of IGST Act, thus constitutes export of service and shall be zero rated in accordance with section 16 of the IGST Act.

NOTE:
In terms of section 2(6) of the IGST Act, export of services" means the supply of any service when,–

(i) the supplier of service is located in India;

(ii) the recipient of service is located outside India;

(iii) the place of supply of service is outside India;

(iv) the payment for such service has been received by the supplier of service in convertible foreign exchange; and

(v) The supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in section 8 Supplies in territorial waters (Section 9)

Q 11. What is the location of supplier in case of supplier is located in territorial waters?

Ans. The location of supplier in case of supplier is located in territorial waters shall be the coastal State or Union territory where the nearest point of the appropriate baseline is located.

Q 12. What is the place of supply in case of supply is in territorial waters?

Ans. The place of supply in case of supply in territorial waters shall be the coastal State or Union territory where the nearest point of the appropriate baseline is located.

MCQ's

Supply of goods and / or service in the course of inter-state, intra-state trade or commerce (Section 7 to 9)

Q 1. Which of the following is an inter-State supply?

(a) Supplier of goods located in Delhi and place of supply of goods SEZ located in Delhi

(b) Supplier of goods located in Delhi and place of supply of goods in Jaipur

(c) Supplier of goods located in Delhi and place of supply of goods SEZ located in Chandigarh

(d) All the above

Ans. (d) All the above

Q 2. Which of the following is an intrastate supply?

(a) Supplier of goods located in Delhi and place of supply of goods SEZ located in Delhi

(b) Supplier of goods located in Delhi and place of supply of goods in Jaipur

(c) Supplier of goods located in Delhi and place of supply of goods in Delhi

(d) All the above

Ans. *(c) Supplier of goods located in Delhi and place of supply of goods in Delhi*

Q 3. Which of the following transaction is inter-state supply of goods involving movement of goods?

(a) Location of supplier is in Bangalore and location of recipient is in Mumbai

(b) Location of supplier is in Bangalore and place of supply is Mumbai

(c) Location of supplier and place of supply is Bangalore

(d) None of the above

Ans. *(b) Location of supplier is in Bangalore and place of supply is Mumbai*

Q 4. Supply of goods in the course of import into the territory of India is

(a) Intrastate supply

(b) Inter-State supply

(c) Export

(d) Neither Export nor Import

Ans. *(b) Inter-State supply*

Q 9. Whether goods are taken to warehouse from port or customs station exigible to IGST

(a) Yes

(b) No

Ans. (a) Yes

Q 10. IGST and GST Compensation Cess will payable at the time of removal from warehouse

(a) True

(b) False

Ans. (a) True

Chapter III
Place of Supply of Goods or Services or Both

FAQ's

Place of supply of goods other than supply of goods imported into, or exported from India (Section 10)

Q 1. What is the place of supply where movement of goods is involved?

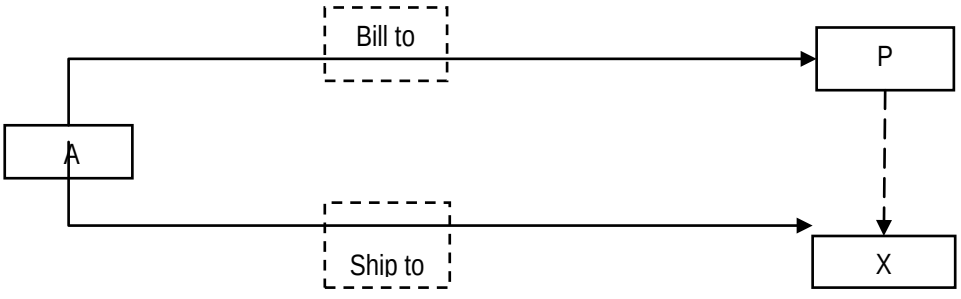
Ans. As per Section 10(1) (a) of IGST Act, 2017, place of supply where movement of goods is involved then place of supply of such goods shall be the location where movement of goods terminates for delivery to the recipient.

Illustration

Location of supplier	Delivery of goods	Place of supply	Nature of supply	Tax
Karnataka	Andhra Pradesh	Andhra Pradesh	Inter-state	IGST
Karnataka	Karnataka	Karnataka	Intra-state	SGST/CGST

Q 2. What is the place of supply where goods are delivered to a person on the direction of a third person?

Ans. As per Section 10(1) (b) of the IGST Act, 2017, if movement is at the instance of the third person to a recipient (by way of instruction or transfer of documents of title to goods or otherwise), the place of supply will be principal place of business of third person (i.e. address in Registration Certificate). A pictorial diagram is depicted to explain the same



Transaction between A and P – place of supply is location of P
Transaction between P and X is also supply

Further, illustration are provided below to explain the same

(a) Transaction between supplier (A in above diagram) and third party (P in the above diagram).

Compare column 1 and 2

Location of supplier (1)	Location of third party (2)	Delivery of Goods (3)	Place of supply	Nature of Supply	Applicability
Karnataka	Kerala	Tamil Nadu	Kerala	Inter-state	IGST
Karnataka	Karnataka	Kerala	Karnataka	Intra-state	SGST/CGST
Karnataka	Kerala	Karnataka	Kerala	Inter-state	IGST
Karnataka	Kerala	Kerala	Kerala	Inter-state	IGST

(b) Transaction between third party (P in the above diagram) and person actually receiving the goods (X in the above diagram). Compare column 2 and 3

Location of supplier (1)	Location of third party (2)	Delivery of Goods (3)	Place of supply	Nature of Supply	Applicability
Karnataka	Kerala	Tamil Nadu	Tamil Nadu	Inter-state	IGST
Karnataka	Karnataka	Kerala	Kerala	Inter-state	IGST
Karnataka	Kerala	Karnataka	Karnataka	Inter-state	IGST
Karnataka	Kerala	Kerala	Kerala	Intra-state	SGST / CGST

Q 3. What is the place of supply where movement of goods is not involved?

Ans. Where supply does not involve movement of goods, the place of supply will be the location of goods at the time of delivery to the recipient. Neither in the CGST Act nor in

the IGST Act, the 'location of supplier of goods' has been defined. Therefore, the location of goods where they are ready to be supplied can be understood to be the location of supplier. Considering that location of supplier will be location of goods, in this type of transaction there will not be any inter-State supply since the location of supplier and place of supply will be in the same State.

Example for this would be a case where the job worker develops a mould for the production of goods for the principal and retains the mould in his place itself for production of goods. The mould developed by the job worker is sold to the principal but the same are retained by the job worker without causing the movement of mould from job worker premise to principal premise. In this case the place of supply would be job worker premise.

Q 4. What is the place of supply in case of assembly or installation of goods at site?

Ans. The place of supply of goods in case of assembly or installation of goods will be the place of installation or assembly.

Q 5. What is the place of supply in case of goods sold on aircraft?

Ans. The place of supply in case of goods taken onboard for consumption in aircraft, is the place or location at which such goods are taken on board. For example, if an aircraft departs from Bangalore to Mumbai after taking on board goods for consumption at Bangalore, the place of supply will be Bangalore.

Place of Supply of Goods Imported into, or Exported from India (Section 11)

Q 6. What do you mean by import of goods into India?

Ans. Section 2 (10) of the IGST Act, 2017 defines import of goods to mean bringing goods into India from a place outside India.

Q 7. In case of import of goods into India what is the place of supply of goods?

Ans. The location of the importer is the place of supply of goods in case of import of goods into India. It may be noted that importer has not been defined in the IGST Act, 2017. Therefore, the meaning given under Customs Act, 1962 will have to be taken. As per Section 2(26) of the Customs Act, 1962 "importer", in relation to any goods at any time between their importation and the time when they are cleared for home consumption, includes any owner or any person holding himself out to be the importer.

Q 8. In case of export of goods from India, what is the location of supply of goods?

Ans. The place of supply of goods exported from India shall be the location outside India.

Place of supply of services where location of supplier and recipient is in India (Section 12)

Q 9. State the general provision in respect of determination of place of supply of services?

Ans. Section 12 of the CGST Act, 2017 lays down the principles for identifying the place of supply of services in case of certain specified services. In respect of services other than the specified services the place of supply of service would be as under

(a) Where the service is provided to registered person, place of supply shall be location of such person

(b) Where the service is provided to a person other than registered person, place of supply shall be:

(i) location of the recipient where the address on record exists

(ii) location of the supplier of services in other cases

Q 10. What is the place of supply of service in relation to an immovable property?

Ans. Section 12 (3) (a) of IGST Act, 2017 provides that any service provided directly 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 coordination of construction shall be the location at which the immovable property is situated. Provided that if the location of the immovable property or boat or vessel is located or intended to be located outside India, the place of supply shall be the location of the recipient.

Illustration - If Mr. A of Ahmedabad, is constructing a house in Mumbai and appoints Mr B of Delhi to provide architectural services with regard to proposed construction of house located in Mumbai, then the place of supply of such architectural services shall be Mumbai.

Q 11. What is the place of supply of accommodation services? Give an example.

Ans. As per Section 12(3) (b) of the IGST Act, 2017, the location of the hotel, inn, guest house, home stay, club or campsite or a houseboat or vessel, shall be the place of supply of service in relation to such accommodation service. In case, the accommodation service is provided for multiple locations situated in different states or the vessel or boat located in more than one state at a time of supply of service, then the value of 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 the terms of the contract or arrangement entered into. In absence of such contract or agreement, the place of supply shall be determined on such other reasonable basis as would be prescribed.

For example, YOYO Rooms, based out of Bangalore, takes reservation for accommodation in its hotels across India from ABC airlines, based out of New Delhi, for overnight stay of its crew members. The place of accommodation services shall be the location of the hotel where the crew members have stayed. In case, the agreement between YOYO rooms and ABC airlines is per night per room basis, then the value of service separately collected for each hotel shall be treated as the value of service for the respective state. In case, the agreement between YOYO rooms and ABC airlines is on a lump sum basis for a month then the place of supply shall be determined as may prescribed in rules.

Q 12. What will be the place of supply for restaurant and catering services?

Ans. The place of supply for restaurant and catering services shall be the location where the services are actually performed. Section 12(4) of IGST Act, 2017 provides that place of supply of service shall be location where the services are actually performed in respect of restaurant and catering services, personal grooming, fitness, beauty treatment, health services including cosmetic and plastic surgery

Example, if Mr. X, resident of Mumbai, goes to Bangalore for plastic surgery then the place of supply will be the place where the plastic surgery services are rendered i.e. Bangalore.

Q 13. What will be the place of supply of training services?

Ans. Section 12(5) of the IGST Act, 2017 provides that when a training service is provided to a registered person, the location of such registered person shall be the place of supply of training services. In case the service is provided to a person other than a registered person, then the place of supply shall be the location where the services are actually performed.

Example - If Mr. A, a resident of Bangalore, conducts training for employees of Software Ltd, a company based out of New Delhi, in Shimla Resort located in Shimla, then the place of supply of training service shall be New Delhi if Software Ltd is a registered person. If Software Ltd is not a registered person, then to place of supply of training service shall be Shimla.

Q 14. What will be the place of supply of services for admission to sporting events?

Ans. Section 12(6) of the IGST Act, 2017 provides that the place of supply of services provided by way of admission to cultural, artistic, sporting, scientific, educational, or entertainment events 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.

Example, Book My Ticket Private Limited, a company based out of Bangalore providing online ticketing services for admission to various events, sells online tickets for IPL tournament to be held across India, then the place of supply of services for admission to each cricket match shall be the location where the match is actually played.

Q 15. What will be the place of supply for services in relation to organising events?

Ans. Section 12(7) of the IGST Act, 2017 provides that services in relation to organisation of events when provided to a registered person shall be the location of such person. If the service is provided to a person not registered, then the place of supply shall be the place where event is actually held.

If the events are held in more than one State and consolidated amount is charged for supply of services relating to such event, then the place of supply of services shall be taken as being in each of the State 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. In absence of such contract or agreement then the place of supply shall be determined as may prescribed.

Example, Cars Limited, an automobile company based out of Bangalore, appoints Events Private Limited, a company based out of Mumbai providing event organisation services, to provide services for organising an event of launching their new vehicle in Indian market. The launch event is organised at Mumbai, Delhi, Calcutta, and Chennai by the Event Private Limited. The place of supply of organising such events shall be the location of Cars Limited, i.e., Bangalore, if Cars Limited is a registered person.

If Cars Limited is not a registered person, then the place of supply of such event organisation services shall be the location where the events are actually held.

Q 16. What will be the place of supply of sponsorship services?

Ans. Assigning of sponsorship to any of the cultural, artistic, sporting, scientific, educational or entertainment event shall be the location of the registered person (recipient). If the event is organised for an unregistered person, then the assignment of sponsorship shall be the location where the event is actually held and if the event is held outside India, the place of supply shall be the location of the recipient.

Q 17. What will be the place of supply of services in relation to a sporting event organised/held outside India?

Ans. Section 12(7) of the IGST Act, 2017 provides that if an event is held outside India, the place of supply shall be the location of the recipient.

Example, if an IPL cricket match is played in South Africa, then the place of supply of service in relation to organising the cricket match shall be the location of IPL limited.

Q 18. What is the place of supply of services by way of transportation of goods?

Ans. Section 12(8) of the IGST Act, 2017 provides that services by way of transportation of goods provided to a registered person shall be the location of registered person. Such services if provided to a person other than a registered person, then place of supply shall be the location at which such goods are handed over for their transportation.

Example, if Express limited, a goods transport company based out of Chennai, provides transportation services to Cars Limited, an automobile company based out of

Bangalore, for movement of their cars from the warehouse of Cars Limited at Silvassa to Delhi, then the place of supply of transportation services shall be Bangalore if Cars Limited is a registered person. If Cars Limited is not a registered person, then the place of supply of transportation services shall be Delhi (location at which such goods are handed over).

Q 19. What is the place of supply for services of passenger transportation?

Ans. Section 12(9) of the IGST Act, 2017 provides that place of supply of passenger transportation services to a registered person shall be the location of such registered person. If such services are given to a person other than a registered person, then the place of supply of passenger transportation services shall be the place where the passenger embarks (begins) on the conveyance for a continuous journey.

Example, if Mr. A, a registered taxable person based out of Mumbai, purchases air ticket from Airlines Ltd, an airline company based out of Chennai, for travel from New Delhi to NEW YORK via Dubai, then the place of supply of passenger transportation shall be Mumbai. If Mr. A is not a registered person then the place of supply of passenger transportation shall be New Delhi.

Q 20. What is the place of supply of services provided on board a conveyance such as aircraft?

Ans. Section 12(10) of the IGST Act, 2017 provides that the place of supply of services on board a conveyance such as vessel, aircraft, train or motor vehicle will be the location of the first scheduled point of departure of that conveyance for the journey. [Irrespective of whether the supplies are B2B or B2C]

Example: Palace on wheels, a train running from Jaipur to Kanyakumari, provides on-board entertainment services to its passengers, then the place of supply of such on-board entertainment services shall be Jaipur (first scheduled point of departure). For return journey, the place of supply shall be Kanyakumari.

Q 21. What is the place of supply for the telecommunication services?

Ans. Section 12(11) of the IGST Act, 2017 provides for determination of place of supply for the telecommunication services as under:-

(a) In case of services by way of fixed telecommunication line, leased circuits, internet leased circuits, cable or dish antenna, shall be the location where such installation for receipt of such services is done. Example, if Mr. A, resident of Bangalore purchases dish antenna from Tata sky, a company providing DTH cable services based out of Mumbai, then the place of supply of DTH services shall be the location where the dish antenna is installed that is Bangalore.

(b) In case of postpaid mobile connection services, the place of supply of telecommunication services shall be the billing address of the recipient of services

on record of the supplier of services. For Example, Mr. A, resident of Bangalore, takes services from Airtel Limited, a company based out of New Delhi, for he is postpaid mobile connection then, the place of supply of services in relation to the postpaid mobile connection shall be the billing address of Mr. A as per the records of Airtel Limited, regardless of where Mr. A utilises the mobile services.

(c) In case of prepaid mobile connection services, the place of supply of telecommunication services shall be the location of the selling agent or a reseller or a distributor of SIM card or recharge voucher as per the record of supplier at the time of supply. Example, if Mr. A, a resident of Bangalore has a prepaid mobile collection from Airtel Limited and while travelling to Mumbai, he purchases a recharge coupon from a local distributor, then the place of supply of such services would be the address of the local distributor at the time of supply.

(d) In case, the vouchers are not sold by aforementioned persons, then the place of supply of services shall be the location where such prepayment is received or such vouchers are sold by any other person to the final subscriber.

(e) In case where address of the recipient as per records of the supplier of service is not available, the place of supply shall be location of the supplier of service.

(f) In case of prepaid services, if the recharge is done through Internet banking or electronic mode of payment (online), then the location of the recipient of services on record of the supplier of services shall be the place of supply of such service.

Q 22. What will be the place of supply of leased line services when the leased circuit is installed at more than one location/State?

Ans. As per Section 12(11) of the IGST Act, 2017, if leased circuit is installed in more than one state and a consolidated amount is charged for supply of services relating to such circuit, the place of supply of such services shall be taken as being in each of the States in proportion to the value of 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 basis as may be prescribed.

Example, if Software Ltd, a company based out of Bangalore procures services of leased circuit lines for its branches in Mumbai and Calcutta and Chennai from DTH limited, a company based out of New Delhi, then the place of supply of service of leased circuit lines shall be proportionately at each branch where the installation is done.

In case, Software Ltd pays a lump sum amount for the latest circuit lines services of all branches, then the apportionment between states shall be done on reasonable basis as may be prescribed in this regard.

Q 23. What will be the place of supply of banking and other financial services, stock broking services?

Ans. As per Section 12(12) of the IGST Act, 2017, the place of supply of banking and other financial services including stock broking services, shall be the location of the recipient of service as available on the records of the supplier of services. If the location of recipient of service is not on records of the supplier, the place of supply shall be the location of supplier of service.

Example, if Mr. A, a resident of Mumbai opens a bank account in Mumbai with Bank Ltd, and submits his residence address in Mumbai that the place of supply of banking services shall be Mumbai.

If Mr. B goes to bank in Bangalore not having an account with the bank to take a demand draft, the place of supply shall location of the supplier i.e. bank in Bangalore issuing the demand draft?

Q 24. What is the place of supply of insurance services?

Ans. As per Section 12(13) of IGST Act, 2017, insurance services provided to a registered person shall be the location of such registered person. In case of insurance services provided to a person other than a registered person, place of supply shall be location of the recipient of services on record of the supplier of services.

Q 25. What is the place of supply of advertisement services are provided to Central Govt., a State Govt., a statutory body or a local authority meant for the States or Union territories?

Ans. As per Section 12(14) of IGST Act, 2017, provides that place of supply of advertisement services to the Central Govt., a State Govt., a statutory body or a local authority meant for the States or Union territories identified in the contract or agreement shall be taken as being in each of such States or Union territories and the value of such supplies specific to each State or Union territory shall be in proportion to the amount attributable to services provided by way of dissemination in the respective States or Union territories 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 basis of Rule 3 of the IGST Rules,2017.

Place of Supply of Services where the Location of the Supplier or the Location of the Recipient is outside India (Section 13)

Q 26. What is the place of supply of services where the location of the supplier or the location of the recipient is outside India?

Ans. Section 13 (2) of the IGST Act, 2017 lays down the principles for identifying the place of supply of services except in case of certain specified services. Where the location of the supplier or the location of the recipient is outside India, in respect of services other than the specified services the place of supply of service shall be the location of recipient of

service. Where the location of recipient of service is not known, the place of supply shall be the location of supplier of service.

Q 27. What is the place of supply in respect of goods that are required to make physically available for providing the service?

Ans. As per Section 13 (3) (a) of the IGST Act, 2017 the place of supply of service in respect of goods that are required to be made physically available by the recipient of service to the supplier of service shall be the location where the services are actually performed.

Q 28. What is the place of supply of services provided from a remote location using electronic means on goods?

Ans. As per proviso to Section 13(3) (a) of the IGST Act, 2017 where services are provided in respect of goods from a remote location by electronic means, the place of supply shall be the location where the goods are actually located. Example, if Software Ltd, a company based out of Bangalore, awards online maintenance contract of its servers located in Mumbai office to X INC, a company based out of USA, and as per the terms of the online maintenance X INC shall be required to perform regular maintenance from USA using Internet, then the place of supply of maintenance services shall be Mumbai.

Likewise, if Software Ltd gets an order from a Japanese Bank, based out of Tokyo, to monitor load of transactions on the servers located in Tokyo using Internet facilities, then the place of supply of such monitoring services shall be at Tokyo.

Q 29. What is the place of supply of service in relation to an immovable property, hotel accommodation?

Ans. Section 13(4) of the IGST Act, 2017 provides that the place of supply of service in relation to an immovable property, including services supplied in this regard by experts and estate agents, supply 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 co-ordination of construction work, including architects or interior decorators, shall be the place where the immovable property is located or intended to be located.

Example - If Mr. A of New York, is constructing a house in New York and appoints Mr. B of Delhi to provide architectural services with regard proposed construction of house located in New York, then the place of supply of such architectural services shall be New York.

Q 30. What will be the place of supply for services in relation to organising events?

Ans. As per Section 13(5) of the IGST Act, 2017 the place of supply of services supplied by way of admission to, or organization of, a cultural, artistic, sporting, scientific, educational, or entertainment event, or a celebration, conference, fair, exhibition, or similar events, and of services ancillary to such admission will be the place where the event is actually held.

Example: If Company X in India pays for conference to be attended by its CEO held in London, the place of supply of service will London.

Q 31. Which are the specified services where the place of supply is the location of the supplier of services?

Ans. As per Section 13(8) of the IGST Act, 2017 the place of supply of following services shall be location of supplier of services:

(a) Services supplied by a banking company, or a financial institution, or a non-banking financial company, to account holders;

(b) Intermediary services;

(c) Services consisting of hiring of means of transport other than aircrafts and vessels except yachts, upto a period of one month.

Example: If XY Bank in USA charges loan processing charges to AB Co. located in India, the place of supply of service will be USA.

Q 32. What is the place of supply of services by way of transportation of goods?

Ans. As per Section 13(9) of the IGST Act, 2017 the place of supply of services of transportation of goods, other than by way of mail or courier will be the place of destination of the goods.

Example: If PQ shipping Co. located in India charges ocean freight charges for transport of goods to Germany for a customer located in India, the place of supply of service will be Germany.

Q 33. What is the place of supply of services provided on board a conveyance such as aircraft?

Ans. Section 13(11) of the IGST Act, 2017 provides that the place of supply of services on board a conveyance during the course of passenger transport will be the location of the first scheduled point of departure of that conveyance for the journey.

Example: Air India departing from Mumbai to Paris providing food to its passengers, the place of supply will be Mumbai (first scheduled point of departure). For return journey, the place of supply shall be Paris.

Q 34. What is the place of supply of online information and database access or retrieval service?

Ans. As per Section 13 (12) of the IGST Act, 2017 the place of supply of the *"online information and database access or retrieval services"* will be location of recipient of service. However, person receiving such service will be deemed to be located in taxable territory (i.e. India) if any two of the following non-contradictory conditions are fulfilled:

(i) the location of address presented by the recipient of service via internet is in taxable territory;

(ii) the credit card or debit card or store value card or charge card or smart card or any other card by which the recipient of service settles payment has been issued in the taxable territory;

(iii) the billing address of recipient of service is in the taxable territory;

(iv) the internet protocol address of the device used by the recipient of service is in the taxable territory;

(v) the bank of recipient of service in which the account used for payment is maintained is in the taxable territory;

(vi) the country code of the subscriber identity module (SIM) card used by the recipient of service is of taxable territory;

(vii) the location of the fixed land line through which the service is received by the recipient is in taxable territory.

Example of such services are advertising on the internet; providing cloud services; provision of e-books, movie, music, software and other intangibles via telecommunication networks or internet; providing data or information, retrievable or otherwise, to any person, in electronic form through a computer network; online supplies of digital content (movies, television shows, music, etc.); digital data storage; online gaming.

Q 35. Whether separate invoice needs to issued, to a particular customer if multiple Place of Supply occur because of supply of distinct goods or services or both?

Ans. Yes, separate invoice needs to issued, to a particular customer if multiple Place of Supply occur because of supply of distinct goods or services or both. Eg: servicing of a motor vehicle wherein there is independent service element and also spare parts getting replaced. Services are charged at 18% tax and spare parts majorly are taxed at 28%. Considering this case to be a B2C, for invoicing of services we have to go by address on record which could be other State hence place of supply is that other State. However, in case of goods since there is no evidence on record to the supplier that the goods which are replaced would be leaving the state of origin and would travel to the other state, the service provider would treat POS as his own state. This method is also supported by the fact that GSTR-1 (Outward supply) returns does not allow to key in 2 different place of supply for the same invoice.

Special provision for payment of tax by a supplier of online information and database access or retrieval services (Section 14)

Q 36. Who shall be liable to collect and discharge the Integrated tax liability in cases of provision of cross border B2C OIDAR services?

Ans. Service providers providing OIDAR services to a non-taxable online recipient in taxable territory would be responsible for collection and discharge of integrated tax.

Q 37. In what circumstances an intermediary, who arranges or facilitates the supply of OIDAR services not be liable to collect tax from non-taxable online recipient?

Ans. If the intermediary satisfies the following conditions, he shall not be liable to collect tax from non-taxable online recipient;

(a) the invoice or customer's bill or receipt issued or made available by such intermediary taking part in the supply clearly identifies the service in question and its supplier in non-taxable territory;

(b) the intermediary involved in the supply does not authorise the charge to the customer or take part in its charge which is that the intermediary neither collects or processes payment in any manner nor is responsible for the payment between the non-taxable online recipient and the supplier of such services;

(c) the intermediary involved in the supply does not authorise delivery; and

(d) the general terms and conditions of the supply are not set by the intermediary involved in the supply but by the supplier of services.

Q 38. Who is non-taxable online recipient?

Ans. "Non-taxable online recipient" means any Government, local authority, governmental authority, an individual or any other person not registered and receiving online information and database access or retrieval services in relation to any purpose other than commerce, industry or any other business or profession, located in taxable territory.

Q.38 Where a person located in non-taxable territory should get himself registered?

Ans. Bengaluru West and all the officers subordinate to him as the officers empowered to grant registration in case of online information and database access or retrieval services provided or agreed to be provided by a person located in non-taxable territory and received by a non-taxable online recipient.

MCQ's

Place of Supply (Section 10 to 14)

Q 1. Which of the following supply involving movement of goods is an intra-State supply?

(a) Location of supplier in Kerala and place of supply in Tamil Nadu

(b) Location of supplier in Karnataka and place of supply in Karnataka

(c) Location of supplier in Kerala and place of supply on Andhra Pradesh

(d) None of the above

Ans. (b) Location of supplier in Karnataka and place of supply in Karnataka.

Q 2. Place of supply in case of installation of elevator is

(a) Where the movement of elevator commences from the supplier's place

(b) Where the delivery of elevator is taken

(c) Where the installation of elevator is made

(d) Where address of the recipient is mentioned in the invoice

Ans. *(c) Where the installation of elevator is made.*

Q 3. Place of supply of food taken on board at Delhi for an aircraft departing from Delhi to Bangalore via Hyderabad is

(a) Address of the aircraft carrier mentioned on the invoice of the supplier

(b) Delhi

(c) Jaipur

(d) Hyderabad

Ans. *(b) Delhi*

Q 4. What is location of supply in case of importation of goods?

(a) Customs port where the goods are cleared

(b) Location of the importer

(c) Place where the goods are delivered after clearance from customs port

(d) Owner of the goods

Ans. (b) Location of importer

Q 5. Real estate agent in Delhi charges brokerage fee to Company A located in Chandigarh for assistance in getting a commercial property in Kolkata. Which is the place of supply in this case?

(a) Delhi

(b) Chandigarh

(c) Kolkata

Ans. (c) Kolkata

Q 6. What is the place of supply of service where a restaurant provides catering service at the premise of the customer?

(a) Address of the restaurant from where the food is supplied

(b) Customer premise where catering service is provided

Ans. (b) Customer premise where catering service is provided.

Q 7. Mr. X a resident from Pune conducts training for employees of P Ltd. being a registered person under GST based out in Chennai at a resort in Darjeeling. The place of supply in this case is

(a) Chennai

(b) Pune

(c) Darjeeling

Ans. (a) Chennai

Q 8. Place of supply of service for DTH by ABC Pvt. Ltd. located in Mumbai to customer in Patna is

(a) Mumbai

(b) Patna

Ans. (b) Patna

Q 9. Mr. X of Hyderabad not having bank account takes a demand draft in Kolkata from ABC Bank for his visa purpose. The place of supply is

(a) Hyderabad

(b) Kolkata

Ans. (b) Kolkata

Q 10. The provider of AMC service outside India has entered into an agreement for an aircraft company PQR located in India AMC. The service provider provides repair service to the aircraft when it was in India. The place of service in this case is

(a) Outside India

(b) India

Ans. (b) India since the aircraft is in India when the service is provided

Q 11. If XYZ Ltd a company based out of Bangalore, awards online maintenance contract of its servers located in Mumbai office to Y INC, a company based out of USA, and as per the terms of the online maintenance Y INC shall be required to perform regular maintenance from USA using Internet, then the place of supply is

(a) Bangalore

(b) Mumbai

(c) USA

Ans. (b) Mumbai

Q 12. Mr. Y residing in Ahmedabad appoints an architect in Delhi to provide Indian traditional home design for his proposed construction at Los Angeles, the place of supply of service is

(a) Los Angeles

(b) Ahmedabad

(c) Delhi

Ans. (a) Los Angeles

Q 13. If NM shipping Co. located in Chennai charges ocean freight charges for transport of goods to California for a customer located in Bangalore, the place of supply of service will be

(a) Chennai

(b) California

(c) Bangalore

Ans. (b) California

Chapter IV
Refund of Integrated Tax to International Tourist

FAQ's

Refund of integrated tax paid on supply of goods to tourist leaving India (Section 15)

Q 1. What is the scope of the Section 15 of IGST Act, 2017?

Ans. Section 15 of the IGST Act, 2017 applies to international tourists. The IGST tax paid by the international tourist on the supply of goods is eligible for refund to the said tourist, subject to such conditions and safeguards as may be prescribed.

[Note: *Section 15 of IGST is not effective till date*]

Q 2. Define "Tourist".

Ans. Tourist means a person not normally resident in India, who enters India for a stay of not more than six months for legitimate non-immigrant purposes.

Q 3. Supplies made to Tourists are leviable to which tax?

Ans. All the supplies made to tourists are inter-State supplies in accordance with Section 8 of the IGST Act, 2017 and accordingly are leviable to integrated tax.

Q 4. On what supplies made to him, can the tourist claim refund?

Ans. The tourist can claim refund of integrated tax only on the supply of goods taken out of India. The tourist cannot claim the refund of tax paid on the supply of goods consumed in India or on supply of services.

Q 5. Is the integrated tax paid by tourist on mixed supplies or composite supplies eligible for refund?

Ans. A) In case of Composite Supplies, if the principal supply is of the goods, then same will be eligible for refund, though the element of service could be involved.

B) In case of Mixed Supplies comprising of goods, or goods & services, if the supply of goods attracts highest rate of tax, then same will be eligible for refund. However, if the mixed supply consists of only services, then the same will not be eligible for refund.

Q 6. A tourist has purchased Wine to be taken outside India. Can he claim refund of the tax paid?

Ans. Since there is no levy on the alcoholic liquor for human consumption under GST, the question of refund doesn't arise.

Q 7. Can the crew members of the ship, aircraft or any other conveyance claim refund of tax paid under Section 15?

Ans. Yes, provided they satisfy the conditions as mentioned in Q1 and Q2.

Q 8. Can the NRI's claim refund of tax paid under Section 15?

Ans. Yes, since the NRI's are not normally resident in India they will be treated as tourist if the stay in India is for legitimate non-immigrant purpose for a period of less than 6 months.

MCQ's

Refund to International Tourist - IGST Act, 2017 (Section 15)

Q 1. The Tourist can claim refund of:

(a) CGST and SGST/UTGST on supply of Goods and services

(b) IGST on supply of goods

(c) Tax paid on the supply of scotch to be taken out of India

(d) None of the above

Ans. *(b) IGST on supply of goods*

Q 2. Tourist means a person:

(a) Not normally resident in India

(b) Stays for not more than 6 months in India

(c) Stays for legitimate and Non-Immigrant purpose

(d) All the above

Ans. *(d) All the above*

Chapter V
Zero Rated Supply

FAQ's

Zero Rated Supply (Section 16)

Q 1. What is the meaning of the term "Zero Rated Supply"?

Ans. "Zero Rated Supply" refers to supplies made TO SEZ units / developers or exports of goods or services or both. Zero rated supply doesn't necessarily mean that the above supplies are not leviable to IGST or will taxed at "0" (Zero) Rate or will be exempt from IGST unconditionally.

Q 2. What is the relevance of zero rated supplies?

Ans. Given that the Exports and SEZ play a pivotal role in the economic growth in India, the registered person will have two options, namely;

(a) he can make Zero Rated Supplies without payment of IGST under Letter of Undertaking or Bond and claim refund of input tax credit w.r.t to such supplies; or

(b) he can make Zero Rated Supplies with payment of IGST (either by utilizing Input tax credit or by cash) and claim refund of such tax paid.

However, the registered person will have to abide by the conditions, safeguards and procedures as specified in Rule 96 and 96A of the CGST Rules *(Refer Refund Chapter).*

[Please Note:

- *Notification 37/2017 dated 4.10.2017* of Central Tax provides for the conditions and safeguards for export of goods or services without payment of IGST which supersedes *Notification 16/2017 dated 4.7.2017* of Central tax
- *Circular No. 8/8/2017-GST dated 04th October 2017-* provide Clarification on issues related to furnishing of Bond/LUT for exports
- *Notification No. 55/2017 Central Tax dated 15/11/2017 inter alia* state insertion of Rule 97A where by manual filling of refund is allowed
- *Circular No. 17/7/2017-GST dated 15.11.2017* provide conditions and procedure for manual filing and processing of refund in respect zero rated supplies

  Circular No. 17/7/2017-GST dated 15.11.2017 which stipulated the conditions and procedure for manual filing and processing of refund in respect zero rated supplies

- *Circular No.24/24/2017- GST dated 21-12-2017* provides manual filing and processing of refund claims on account of inverted duty structure, deemed exports and excess balance in electronic cash ledger- This Circular is relevant, as refund of utilized credit on inputs or input services used in making zero rated supplies *]*

Q 3. Are exports and supplies to SEZ units/Developers out of the ambit of GST?

Ans. No. They are leviable under IGST Act, 2017. However, the tax burden on the same will be neutralized by granting refunds to persons making such supplies.

Q 4. Can SEZ unit / Developers claim refund of IGST charged by his supplier?

Ans. No. The IGST Act, 2017 allows the supplier of SEZ unit / developer to claim refund of IGST paid by him on supplies to SEZ unit / Developers.

Q 5. Are supplies made by SEZ units/Developer are Zero rated supplies?

Ans. No. only the supplies made TO SEZ units/Developer are zero rates supplies. However, Exports made BY SEZ units/Developer will be zero rated supplies.

Q 6. How will you calculate refund amount in case of zero-rated supply of goods or services or both without payment of tax under bond or LUT?

Ans. In the case of zero-rated supply of goods or services or both without payment of tax under bond or LUT, refund of input tax credit shall be granted as per the following formula with effect from 23.10.2017 pursuant to *Notification No. 75/2017 – Central Tax dated 29.12.2017*:

Refund Amount = (Turnover of zero-rated supply of goods + Turnover of zero-rated supply of services) x Net ITC ÷Adjusted Total Turnover

Where, -

(A) *Refund amount* means the maximum refund that is admissible;

(B) *Net ITC* means input tax credit availed on inputs and input services during the relevant period other than the input tax credit availed for which refund is claimed under Rules 89(4A) or 89(4B) or both

(C) *Turnover of zero-rated supply of goods* means the value of zero-rated supply of goods made during the relevant period without payment of tax under bond or letter of undertaking, other than the turnover of supplies in respect of which refund is claimed under sub-rules (4A) or (4B) or both;

(D) *Turnover of zero-rated supply of services* means the value of zero-rated supply of services made without payment of tax under bond or LUT

=Payments received during the relevant period for zero-rated supply of services

+ zero-rated supply of services where supply has been completed for which payment had been received in advance in any period prior to the relevant period

-Advances received for zero-rated supply of services for which the supply of services has not been completed during the relevant period

(E) Adjusted Total turnover

=Turnover in a State or a Union territory as per section 2 (112),

Less : value of exempt supplies other than zero-rated supplies

Less :turnover of supplies in respect of which refund is claimed under Rules 89(4A) or 89(4B) or both, if any, during the relevant period;

(F*) "Relevant period"* means the period for which the claim has been filed.

Note:

(1) Where

- Rule 89(4A) states that- "*In the case of supplies received on which the supplier has availed the benefit of Notification No. 48/2017-Central Tax dated 18.10.2017, refund of input tax credit, availed in respect of other inputs or input services used in making zero-rated supply of goods or services or both, shall be granted."*
- Rule 89 (4B) states that- "*In the case of supplies received on which the supplier has availed the benefit of notification No. 40/2017-Central Tax (Rate) dated 23.10.2017 or notification No. 41/2017-Integrated Tax (Rate) dated 23.10.2017, or both, refund of input tax credit, availed in respect of inputs received under the said notifications for export of goods and the input tax credit availed in respect of other inputs or input services to the extent used in making such export of goods, shall be granted.*"

(2) Before 23.10.2017, formula for refund of input tax credit in case of zero-rated supply of goods or services or both without payment of tax under bond or LUT was:

Refund Amount = (Turnover of zero-rated supply of goods + Turnover of zero-rated supply of services) x Net ITC ÷Adjusted Total Turnover

Where,-

(A) *"Refund amount"* means the maximum refund that is admissible;

(B) *"Net ITC"* means input tax credit availed on inputs and input services during the relevant period;

(C) *"Turnover of zero-rated supply of goods"* means the value of zero-rated supply of goods made during the relevant period without payment of tax under bond or letter of undertaking;

(D) *"Turnover of zero-rated supply of services"* means the value of zero-rated supply of services made without payment of tax under bond or letter of undertaking, calculated in the following manner, namely:-

Zero-rated supply of services is the aggregate of the payments received during the relevant period for zero-rated supply of services and zero-rated supply of services where supply has been completed for which payment had been received in advance in any period prior to the relevant period reduced by advances received for zero-rated supply of services for which the supply of services has not been completed during the relevant period;

(E) *"Adjusted Total turnover"* means the turnover in a State or a Union territory, as defined under clause (112) of section 2, excluding the value of exempt supplies other than zero-rated supplies, during the relevant period;

(F) *"Relevant period"* means the period for which the claim has been filed.

Q 7. State in brief the provide conditions and procedure for manual filing and processing of refund in respect zero rated supplies?

Ans. *Circular No. 17/7/2017-GST dated 15.11.2017* which stipulated the conditions and procedure for manual filing and processing of refund in respect zero rated supplies *inter alia* provides that:

- A registered person may make zero-rated supplies of goods or services or both on payment of integrated tax and claim refund of the tax so paid, or make zero-rated supplies of goods or services or both under bond or LUT without payment of integrated tax and claim refund of unutilized input tax credit in relation to such zero rated supplies
- Application for refund

SNo.	Category of Refund	Process of Filing
1	Refund of IGST paid on export of goods	No separate application is required as shipping bill itself will be treated as application for refund.
2	Refund of IGST paid on export of services / zero rated supplies to SEZ units or SEZ developers	Printout of FORM GST RFD-01A needs to be filed manually with the jurisdictional GST officer (only at one place - Centre or State) along with relevant documentary evidences, wherever applicable.
3	Refund of unutilized input tax credit due to the accumulation of credit of tax paid on inputs or input services used in making zero-rated supplies of goods or services or both	FORM GST RFD-01A needs to be filed on the common portal. The amount of credit claimed as refund would be debited in the electronic credit ledger and proof of debit needs to be generated on the common portal. Printout of the FORM GST RFD-01A needs to be submitted before the jurisdictional GST officer along with necessary documentary evidences, wherever applicable

- Entry to be made in the Refund register for receipt of refund applications (by department)
- Against complete application complete an acknowledgement in FORM GST RFD-02 shall be issued within 15 days from the date of filing of the application and entry shall be made in the Refund register
- All communications (issuance of deficiency memo, issuance of provisional and final refund orders, payment advice etc.) shall be done in prescribed Forms manually within the timelines prescribed in the rules
- Provisional refund shall be completed within 7 days as per the CGST Rules and bifurcation of the taxes to be refunded under CGST (CT) /SGST (ST) /UTGST (UT) /IGST (IT) /Cess shall be maintained in the register mandatorily. Thereafter, final order will be issued within 60 days of the date of receipt of the complete application form.
- Amount not sanctioned and eligible for re-credit is to be recredited to the electronic credit ledger by an order made in FORM GST PMT-03. The actual credit of this amount will be done by the proper officer in FORM GST RFD-01B

- There after refund order issued either by the Central tax authority or the State tax/UT tax authority is communicated to the concerned counter-part tax authority within 3 days for the purpose of payment of the relevant sanctioned refund amount of tax or cess, as the case may be.

MCQ's

Zero Rated Supply (Section 16)

Q 1. Zero rated supply includes:

(a) Export of goods and services.

(b) Supply of goods and services to a SEZ developer or SEZ Unit

(c) Supply of goods and services by a SEZ developer or SEZ Unit

(d) Both (a) and (b)

Ans. (d) Both (a) and (b)

Q 2. Is the SEZ developer or SEZ unit receiving zero rated supply eligible to claim refund of IGST paid by the registered taxable person on such supply?

(a) Yes

(b) No

(c) Partially yes

Ans. *(b) No*

Q 3. A registered taxable person is eligible to claim refund in respect of export of goods and services in the following cases:

(a) Under bond, without payment of IGST and claim refund of unutilized input tax credit.

(b) On payment of IGST and claim refund of IGST paid on such goods and services.

(c) None of the above

(d) Both (a) and (b)

Ans. (d) Both (a) and (b)

Q 4. The supply of goods to SEZ unit is treated as _____ in the hands of the supplier:

(a) Exempt Supply – Reversal of credit

(b) Deemed Taxable Supply – No reversal of credit

(c) Export of Supplies

(d) Non-Taxable Supply – Outside the Scope of GST

Ans. *(c) Export of Supplies*

Q 5. Governments has notified, Supplies of goods in respect of which no refund of unutilised input tax credit shall be allowed vide ……..

(a) Notification No. 05/2017-Integrated Tax (Rate),dt. 28-06-2017

(b) Notification No. 06/2017-Integrated Tax (Rate),dt. 28-06-2017

(c) Notification No. 09/2017-Integrated Tax (Rate),dt. 28-06-2017

(d) Notification No. 11/2017-Integrated Tax (Rate),dt. 28-06-2017

Ans. (a) Notification No. 05/2017-Integrated Tax (Rate),dt. 28-06-2017

Chapter VI
Apportionment of Tax and Settlement of Funds

FAQ's

Apportionment of Tax and Settlement of Funds (Section 17 to Section 19)

Q 1. What is the need for apportionment of tax collected between Centre and State?

Ans. As we all know, that unlike CST, GST is destination based consumption tax. The State where the goods or services or both are consumed will get the right upon tax paid on the said goods or services or both so as to ensure the flow of input tax credit to the recipient in the consuming State. Further, in the case of inter-State supplies, where the tax is collected and paid by the supplier in the origin State, the burden is borne by the recipient in the consuming State. Hence, the integrated tax collected by the central government needs to apportioned between center and consuming state in the proportion to CGST and the SGST. In case of consumption in the Union Territories, the entire tax will be retained by the central government though under different account.

Q 2. What is the mechanism of IGST apportionment between Centre and State?

Ans. The IGST paid on the inter-State supplies of goods or services or both TO and Imports by

(a) An unregistered person;

(b) Registered Person paying tax under Section 10 of the CGST Act, 2017 (Composition Levy);

(c) Registered Person who is not eligible for input tax credit on the said supply; and

(d) Registered Person who does not avail credit within due date of filing annual return

will be first apportioned to the Central Government based on the rate of CGST on similar intra-State supply.

The balance amount of integrated tax will be apportioned to the

(a) State Government where such supply takes place; and

(b) Central Government in relation to Union Territories.

Q 3. How will the IGST tax be distributed if the place of supply made by any taxable person cannot be determined?

Ans. Such integrated tax shall be apportioned to each of the States and Central Government in relation to Union Territories, in proportion to the total supplies made by such taxable person to each of such States or Union Territories, as the case may be, in a financial year.

Ex: The following are the taxable supplies made by taxable person from Karnataka to persons specified in Q2

Particulars	Taxable Value	CGST	SGST	IGST
Intra-State Supplies	7,00,000	42,000	42,000	-
Inter-State supplies to:				
- Maharashtra	2,50,000	-	-	30,000
- Tamil Nadu	4,50,000	-	-	54,000
- Chandigarh	3,00,000	-	-	36,000
- Place of Supply Not known	2,25,000	-	-	27,000
Grand Total	19,25,000	42,000	42,000	1,47,000

Note: CGST Rate: 6% ; SGST Rate : 6% ; IGST Rate : 12%

The Apportionment of IGST Tax will be done in the following Manner

Place of Supply in	Apportion to	Tax to be apportioned	Central Government	Maharashtra	Tamil Nadu
	Taxable Value				
- Maharashtra	2,50,000	30,000	15,000	15,000	-
- Tamil Nadu	4,50,000	54,000	27,000	-	27,000
- Chandigarh	3,00,000	36,000	36,000	-	-
- Place of Supply Not known	2,25,000	27,000	8,100	6,750	12,150
Grand Total	12,25,000	1,47,000	86,100	21,750	39,150

Q 4. How will the balance IGST portion after the apportionment to central government be distributed if the taxable person making supplies cannot be identified?

Ans. The balance IGST portion will be distributed to all the States and Central Government in respect of Union Territories based on the amount collected as SGST and UTGST by the

respective States / Central Government in respect of Union Territories during the immediately preceding financial year.

Q 5. How will the Penalty, Interest etc. paid on IGST be distributed?

Ans. The penalty, interest etc will be distributed in the same manner as the IGST is distributed.

Q 6. How will the IGST be apportioned in case of supplies to Registered Person who utilize the same for the payment of CGST, SGST or UTGST?

Ans. The amount will be distributed to Central Government and appropriate State government to the extent the integrated tax credit is utilized for the payment of CGST/UTGST and SGST respectively on the outward supplies.

Ex: The taxable supplies made by registered person in Karnataka is as follows:

Particulars	Taxable Value	CGST	SGST	IGST
Intra-State Supplies	7,00,000	42,000	42,000	-
Inter-State supplies	7,00,000			84,000
Grand Total	14,00,000	42,000	42,000	84,000

Note: CGST Rate: 6%; SGST Rate: 6%; IGST Rate: 12%

The registered person has only IGST credit of ₹ 1,50,000/-

The utilization of IGST Credit and distribution thereof will as follows:

Particulars	CGST	SGST	IGST	Total
Output Tax payable	42,000	42,000	84,000	1,68,000
Utilization of IGST Credit	42,000	24,000	84,000	1,50,000
Net Tax payable in cash	-	18,000	-	18,000

Out of ₹ 1,50,000/- of IGST Credit,

- ₹ 84,000/- will remain in integrated tax account as the same is utilized for payment of IGST.
- ₹ 42,000/- and ₹ 24,000/- will be distributed to Central Government and Karnataka State Government respectively.

Q 7. What is the remedy to the registered person who has paid IGST by treating an intra-State supply as inter-State supply?

Ans. The IGST so paid will be refunded to the registered person as per Rule 96 and 96A of the CGST Rule 2017.

Further, the registered person will not be required to pay interest on the CGST and SGST / UTGST liability arising subsequently.

Q 8. What is the remedy to the registered person who has paid CGST, SGST/UTGST by treating an inter-State supply as intra-State supply?

Ans. The CGST and SGST/UTGST so paid will be refunded to the registered person in such manner and subject to such conditions as may be prescribed.

Further, the registered person will not be required to pay interest on the IGST liability arising subsequently.

MCQ's

Apportionment of Tax and Settlement of Funds (Section 17 to Section 19)

Q 1.Out of IGST paid to the Central Government, which of the following must be apportioned based on tax rate equivalent to the CGST on similar intra-state supply?

(a) Interstate supply of goods and services to an unregistered person.

(b) Interstate supply of goods and services to a taxable person paying tax under sec.10 of the CGST Act, 2017.

(c) Interstate supply of good and services to taxable person not eligible for input tax credit.

(d) All of the above.

Ans. (d) All of the above

Q 2. Can IGST amount apportioned to a State, if subsequently found refundable to any person and refunded to such person, be reduced from the amount apportioned to such State?

(a) Yes

(b) No

(c) Partially

(d) None of the above

Ans. (a) Yes

Q 3. Out of the IGST paid to the Central Government in respect of import of goods or services, if the registered taxable person does not avail the said credit within the specified period and so remains in the IGST account, what is the treatment?

(a) Refund it back to the taxable person.

(b) Can be claimed after the expiry of the specified period.

(c) Apportion to the Central Government based on rate equivalent to CGST on similar intra-State supply and Apportion to the state where such supply takes place.

(d) None of the above.

Ans. (c) Apportion to the Central Government based on rate equivalent to CGST on similar intra-State supply and Apportion to the State where such supply takes place

Q 4. The provisions of apportionment of tax also apply to

(a) Apportionment of interest

(b) Apportionment of penalty

(c) Compounding amount realized in connection with tax so apportioned.

(d) All of the above

Ans. *(d) All of the above*

Q 5. The registered person has paid IGST by treating an intra-State supply as inter-State supply. The officer has levied CGST and SGST as the same is intra-State supply. What is the remedy?

(a) Pay CGST and SGST along with applicable interest

(b) Pay CGST and SGST and Claim refund of IGST

(c) Forgo IGST paid

(d) None of the above

Ans. (b) Pay CGST and SGST and Claim refund of IGST

Chapter VII
Miscellaneous

FAQ's

Application of provisions of the CGST Act (Section 20)
(Similar provisions are there in the UTGST Act, 2017 vide Section 21)

Q 1. What are the provisions of the CGST Act, which have been made applicable to IGST Act by virtue of Section 20 of the IGST Act?

Ans. The following provisions of the CGST Act shall *mutatis mutandis* apply, so far as they may be applicable to the IGST Act:

(i) scope of supply;

(ii) composite supply and mixed supply;

(iii) time and value of supply;

(iv) input tax credit;

(v) registration;

(vi) tax invoice, credit and debit notes;

(vii) accounts and records;

(viii) returns, other than late fee;

(ix) payment of tax;

(x) tax deduction at source;

(xi) collection of tax at source;

(xii) assessment;

(xiii) refunds;

(xiv) audit;

(xv) inspection, search, seizure and arrest;

(xvi) demands and recovery;

(xvii) liability to pay in certain cases;

(xviii) advance ruling;

(xix) appeals and revision;

(xx) presumption as to documents;

(xxi) offences and penalties;

(xxii) job work;

(xxiii) electronic commerce;

(xxiv) transitional provisions; and

(xxv) miscellaneous provisions including the provisions relating to the imposition of interest and penalty,

Q 2. What are the provisions of the CGST Act, which shall apply to IGST Act, but with changes?

Ans. The following provision of the CGST Act shall apply to IGST act, not identically but with the following changes;

1. In case of tax deducted at source, the deductor shall deduct tax at the rate of two per cent. from the payment made or credited to the supplier (instead of one percent under the CGST Act):

2. In case of tax collected at source, the operator shall collect tax at such rate not exceeding two per cent, as may be notified on the recommendations of the Council, of the net value of taxable supplies: (instead of one percent under the CGST Act):

3. The value of a supply shall include any taxes, duties, cesses, fees and charges levied under any law for the time being in force under the CGST Act *(to be read as IGST Act, in the context of IGST Act)*, and the Goods and Services Tax (Compensation to States) Act, if charged separately by the supplier

4. In a case where penalty is leviable under the Central Goods and Services Tax Act and the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, the penalty leviable under this Act shall be the sum total of the said penalties (i.e. sum total of penalties under CGST and SGST).

Q 3. Brief out the provisions related to charging of late fee while filling delayed return under which IGST Act?

Ans. The provisions related with charging of late fee while filling the delayed return is applicable under CGST, SGST/UTGST Act. However, there is an exception in section 20 of IGST Act that does not cover provisions related with charging of late fee in case of filling of delayed return.

Q 4. Who is authorised to accept or reject application of GST Practitioner?

Ans. Assistant Commissioner/Deputy Commissioner, having jurisdiction over the place declared as address in the application for enrolment as GST Practitioner in FORM GST

PCT-1 submitted in terms of section 48(1) of the CGST Act read with Rule 83(2) of CGST Rules, 2017, is authorized to approve or reject the said application.

Applicant shall be at liberty to choose either the Centre or the State as the enrolling authority. The choice will have to be specified by the applicant in Item 1 of Part B of FORM GST PCT-1

Import of Service made on after the appointed day (i.e. IGST Act has come into effect) (Section 21)

Q 5. If services are imported after the commencement of the IGST Act, would such service be liable to IGST, though the transaction has been initiated under service tax law (i.e. before the commencement of the IGST Act)?

Ans. Yes. If a service is imported on or after the day IGST has come into force, then such service shall be liable to IGST, regardless of the fact whether the transaction(s) for such import of services had been initiated before IGST has come into force (i.e. when service tax law was in force)

Q 6. When is a supply of service transaction deemed to be initiated before the commencement of the IGST Act?

Ans. A transaction of supply of service is deemed to have been initiated before the day IGST comes into existence, if either:

1. The invoice relating to such supply or
2. Payment, either in full or in part, has been received or made before IGST Act has come into existence.

Q 7. In the above circumstance, then should tax be paid twice, once under service tax law and secondly under IGST Act?

Ans. No. If service tax on such import of services has already been paid in full under the service tax law, then IGST shall not be payable again at the time of actual import of such service.

Q 8. What if tax is paid only in part under service tax law and part of the tax becomes payable under IGST law?

Ans. In certain cases, part of the consideration for import of service is paid in advance or part of the consideration is paid according to milestone completion method under service tax law. Service tax would not have been paid on the balance consideration since either service would not have been completed or part of the consideration remains payable on the day service tax law is rescinded. In such cases, IGST would be payable on the balance portion of service supplied/ consideration paid under the IGST regime.

Power to make Rules (Section 22)

(Similar provisions are there in the UTGST Act, 2017 *vide* Section 22)

Q 9. Which Section provides the Central Government with the power to make Rules for the IGST Act?

Ans. Section 22 of IGST provides the Central Government with the power to make Rules for the purpose of the IGST Act.

Q 10. What are the matters on which the Central Government may make Rules under the IGST Act?

Ans. The Central Government may make rules for all or any of the matters which under the IGST Act, it is required to prescribe or in respect of which provisions are to be made by way of rules.

Q 11. Can the Central Government make rules with retrospective effect?

Ans. The Government has been given the power to make rules with retrospective effect, from a date, not earlier that the date on which the provisions of the Act, under which the Rules are made have come into force.

Q 12. Does government have the power to prescribe penalty amount in the Rules? Can penalty be prescribed when the Rules are given retrospective effect?

Ans. Yes. The government has the power to enact provisions in the rules stating that contravention thereof would be liable to penalty. However, the penalty amount has been restricted to ₹ 10,000/-.

Q 13. Whether goods moved from State of registration to another State for supply on approval basis is exigible to GST?

Ans. Yes. Goods which are taken for supply on approval basis can be moved from the place of business of the registered supplier to another place within the same State or to a place outside the State on a delivery challan along with the e-way bill wherever applicable and the invoice may be issued at the time of delivery of goods. Further, person carrying the goods for such supply can carry the invoice book with him so that he can issue the invoice once the supply is fructified and charge IGST thereon.

Power of Board to make Regulations (Section 23)

(Similar provisions are there in the UTGST Act, 2017 *vide* Section 23)

Q 14. Who can make rules?

Ans. The Central Board of Excise & Customs has been delegated with the power to make Regulations.

Q 15. What are the conditions subject to which the Regulations may be made by the Board?

Ans. The Regulations made by the Central Board of Excise & Customs must be consistent not only with the GST Act but also the Rules notified by the Central Government.

Laying of Rules, Regulations and Notification before the Parliament (Section 24)

(Similar provisions are there in the UTGST Act, 2017 *vide* Section 24)

Q 16. Whether the Rules and Regulations promulgated by the Central Government and Board respectively must be laid before the Parliament?

Ans. Yes. Every rule made by the Government, every regulation made by the Board and every notification issued by the Government under this Act, shall be laid, as soon as may be after it is made or issued, before each House of Parliament.

Q 17. When and for what period should the Rules, Regulations and Notification be laid before the Parliament?

Ans. The Rules, Regulations and Notification must be laid before the Parliament, 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.

Q 18. What if the Parliament makes modification/ annuls the Rules, Regulations and Notifications so laid?

Ans. If, before the expiry of the aforesaid period, both Houses agree in making any modification in the rule or regulation or in the notification, or both Houses agree that the rule or regulation or the notification should not be made, the rule or regulation or notification, shall *thereafter* have effect only in such modified form or be of no effect.

Q 19. What would be the sanctity of anything done/ omitted to be done on the basis of Rules, Regulations or Notifications, which are subsequently modified/ annulled by the Parliament?

Ans: The modification or annulment made by the Parliament shall be without prejudice to the validity of anything previously done under that rule or regulation or notification, as the case may be.

Removal of Difficulties (Section 25)

(Similar provisions are there in the UTGST Act, 2017 *vide* Section 26)

Q 20. What is the way out, if any difficulty arises in giving effect to the provisions of the IGST Act?

Ans. If any difficulty arises in giving effect to any provisions of the IGST Act, the Central Government may, on the recommendations of the Council, by a general or a special order published in the Official Gazette, make such provisions, which are consistent with

the provisions of the Act, the rules and regulations made thereunder, as may be necessary or expedient for the purpose of removing the said difficulty.

Q 21. Is there any time limit for the Central Government to issue the General Order/ Special Order to remove the difficulty?

Ans. The Central Government has the power to issue General Order/ Special Order to remove the difficulty arising while giving effect to the provisions of this Act, within a period of three years from the date of commencement of the IGST Act.

Q 22. Should the General/ Special Order so passed by the Central Government be laid before the Parliament?

Ans. Yes. Every General/ Special order shall be laid, as soon as may be, after it is made, before each House of Parliament.

MCQ's

Miscellaneous (Section 20 to 25)

Q 1. What provisions of CGST have been made applicable to IGST?

(a) All the provisions

(b) Only a few provisions

(c) The provisions of CGST Act as would be applicable to IGST has not been mentioned

(d) The exact provisions of CGST Act as would be applicable to IGST have not been enumerated. However, a list of items have been mentioned, whose corresponding provisions under CGST would apply to IGST Act.

Ans. (d) The exact provisions of CGST Act as would be applicable to IGST have not been enumerated. However, a list of items have been mentioned, whose corresponding provisions under CGST would apply to IGST Act.

Q 2. What would the TDS and TCS rates be under IGST?

(a) TDS and TCS provisions not applicable to IGST since no such provisions have been incorporated under IGST Act

(b) TDS and TCS @ 1% each

(c) TDS @2% and TCS @ not exceeding 2%

(d) TDS @1% and TCS not exceeding 2%

Ans. (c) TDS @2% and TCS @ not exceeding 2%

Q 3. When is import of services deemed to have been initiated before commencement of IGST Act?

(a) When invoice relating to such supply has been received or made before IGST has come into existence

(b) Payment is made/ received either in part or full before IGST has come into existence

(c) Both of the Above

(d) Any one of the Above

Ans. *(d) Any one of the Above*

Q 4. Canteen Stores Department under the Ministry of Defence, are entitled to claim a refund of ……%. of IGST paid by it on all inward supplies of goods received by it for the purposes of subsequent supply of such goods to the Unit Run Canteens of the CSD or to the authorized customers of the CSD.

(a) 25

(b) 50

(c) 100

(d) 125

Ans. (b) 50

Q 5. Is IGST payable on services imported after the appointed day, though service tax has actually been paid under service tax regime?

(a) No.

(b) Yes. Pay and avail the credit paid of IGST under reverse charge on full value

(c) Yes. If tax has been paid partially under service tax regime and part of the service/ consideration paid has not suffered service tax under service tax regime

Ans. (c) Yes. If tax has been paid partially under service tax regime and part of the service/ consideration paid has not suffered service tax under service tax regime

Q 6. Can government make retrospective rules?

(a) Yes. But cannot impose penalty for contravention of rules for retrospective period

(b) Yes and also can impose penalty for contravention of rules for retrospective period

(c) No

Ans. (a) Yes. But cannot impose penalty for contravention of rules for retrospective period

Q 7. What is the effect, if the parliament annuls the rules/ notifications issued by government?

(a) It is as good as no rules/ notifications were issued by the government

(b) The rules/ notifications issued by the government would be effective for the period from the date of issue till the date they were annulled by the parliament

(c) There would be no sanctity for the action taken by the department/ assessee on the basis of rules/ notification for the period from the date of issue till the date of annulment.

(d) The action taken by the department /assesses on the basis of such rules would be void from the date of annulling the rules/notification.

(e) (a) and (c)

(f) (b) and (d)

Ans. (f) - (b) and (d)

Q 8. What is the maximum period for exercising this power of issuing general or a special order for removal of difficulties?

(a) 4 years

(b) 3 years

(c) 2 years

(d) 1 year

Ans: (b) 3 years