

Changes in GST Act and Rules applicable from 01.02.2019

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The Government notifies the applicability of the following acts from **1st February 2019**:-

- **CGST (Amendment) Act, 2018** vide notification 2/2019- CGST dated 29.01.2019
- **IGST (Amendment) Act, 2018** vide notification 1/2019 – IGST dated 29.01.2019,
- **UTGST (Amendment) Act, 2018** vide notification 1/2019- UTGST dated 29.01.2019
- **GST (Compensation to States) Amendment Act, 2018** vide notification 1/2019- GST Compensation Cess

Government also notified the corresponding changes in the rules through **CGST (Amendment) Rules 2019** vide notification 3/2019- CGST.

It was apprised by the notification that few amendments made by the Acts shall not be made applicable from 01-02-2019 which included the provisions related to new return system and the corresponding changes thereby.

We can say that Government has taken few major steps in making GST a **Good and Simple Tax** for the business but still there are lot more changes that could have been made for the principal of ease of doing business.

Let us dive into the changes made in the **CGST law and IGST law** to analyse their impact on our businesses.

Note: - LETTERS IN BOLD ARE INSERTED BY AMENDMENT

1. Amendment in Definitions in the CGST Act

a. Section 2(4)- Definition of Adjudicating Authority

“adjudicating authority” means any authority, appointed or authorised to pass any order or decision under this Act, but does not include the Central Board of **Excise Indirect** Taxes and Customs, the Revisional Authority, the Authority for Advance Ruling, the Appellate Authority for Advance Ruling, the Appellate Authority, the Appellate Tribunal and **the Authority referred to in sub-section (2) of section 171.**

Analysis:-

- The amendment has been made in relation to the change in the name of CBEC to CBIC.
- Further, National Anti-Profiteering Authority is excluded from the definition of adjudicating authority.

b. Section 2(17)(h)- Definition of Business

“business” includes--

(a)

- (h) ~~services provided by activities~~ of a race club including by way of totalisator or a license to book maker or activities of a licensed book maker in such club; and
(i)

Analysis:-

The amendment is made to confirm that all the activities related to race club are included in the definition of business.

c. Section 2(18)-Definition of 'Business Vertical'

~~"business vertical" means a distinguishable component of an enterprise that is engaged in the supply of individual goods or services or a group of related goods or services which is subject to risks and returns that are different from those of the other business verticals.~~

~~Explanation. For the purposes of this clause, factors that should be considered in determining whether goods or services are related include—~~

~~(a) the nature of the goods or services;~~

~~(b) the nature of the production processes;~~

~~(c) the type or class of customers for the goods or services;~~

~~(d) the methods used to distribute the goods or supply of services; and~~

~~(e) the nature of regulatory environment (wherever applicable), including banking, insurance, or public utilities;"~~

Analysis:-

- The definition of business vertical is omitted from the act.
- Government has now allowed a person having multiple places of business within the state to obtain separate registration for each place of business irrespective of nature of goods etc. Therefore, this concept is deleted from the act.

d. Section 2(35)-Definition of 'Cost Accountant'

"cost accountant" means a cost accountant as defined in clause ~~(e)~~ **(b)** of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959 (23 of 1959);

Analysis:-

This change is made to correct the typographical error.

e. Section 2(69)- Definition of 'Local Authority'

"local authority" means--

(a)

- (b)....
- (c)....
- (d)....
- (e)....
- (f) A Development Board constituted under article 371 and **article 371J** of the Constitution; or
- (g).....

Analysis:-

- A development Board constituted under Article 371 J shall also be considered local authority.
- The article is inserted in the Constitution for the development of backward areas of Hyderabad-Karnataka region.

f. Section 2(102)-Definition of 'Service'

"services" means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged;

Explanation.—For the removal of doubts, it is hereby clarified that the expression "services" includes facilitating or arranging transactions in securities.

Analysis:-

- The terms money and securities are excluded from the definition of goods and services as per CGST Act, 2017.
- However, activities relating to use of money are covered in the definition of services as per CGST Act.
- But now explanation is inserted to give the clarification that facilitating or arranging transactions in securities such as service charge, broking charges etc. are included in the definition of service.

2. Amendment in the definition of IGST Act

a. Section 2(6)-Definition of 'Export of Services'

"export of services" means the supply of any service when,--

- (I)....
- (ii)
- (iii)
- (iv) the payment for such service has been received by the supplier of service in convertible foreign exchange or **in Indian rupees wherever permitted by the Reserve Bank of India**; and
- (v)

Analysis:-

- RBI has permitted the use of Indian Rupees as mode of payment for export to Nepal and Bhutan.
- Amendment to insert that payment for export of service can be received in Indian Rupees wherever permitted by RBI is done to align with the above permission.

b. Explanation to Section 2(16)-Meaning of Governmental Authority

“non-taxable online recipient”.....

Explanation.– For the purposes of this clause, the expression “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 ninety per cent. or more participation by way of equity or control, to carry out any function entrusted to **a Panchayat under article 243G** or to a municipality under article 243W of the Constitution;

Analysis:-

Government added the reference to Panchayat under Article 243 G in meaning of Governmental authority

3. Amendment in the Scope of Supply

a. Section 7(1) and 7(3)- Scope of Supply

(1) For the purposes of this Act, the expression “supply” includes--

(a) 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;

(b) import of services for a consideration whether or not in the course or furtherance of business and;

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

~~(d) the activities to be treated as supply of goods or supply of services as referred to in Schedule II.~~

(1A) where certain activities or transactions constitute a supply in accordance with the provisions of sub-section (1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II

(2).....

(3) Subject to the provisions of **sub-sections (1), (1A) and (2)**, the Government may, on the recommendations of the Council, specify, by notification, the transactions that are to be treated as-

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

(b) a supply of services and not as a supply of goods.

Analysis:-

- There was a lot of ambiguity in the law as Schedule II of the CGST Act only states whether a supply is supply of goods or supply of service and therefore, many litigations arose on the account that merely if any transaction is covered under Schedule II whether the transaction is deemed to be supply even if it cannot be said to be a supply otherwise.
- The Government therefore omitted clause (d) of Section 7(1) to remove Schedule II from the definition of Supply.
- Further Sub-section (1A) to Section 7 was inserted to state that transactions listed in Schedule II will only be taxed when they constitute supply as per sub-section 1 of Section 7.
- Corresponding change have been made in sub section 3 of Section 7
- **This amendment shall be deemed to have been applied from 1-7-2017 i.e. retrospective amendment.**

b. Schedule I- Supply made without consideration

1....

2....

3...

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.

Analysis:-

This amendment is made to cover even the **unregistered persons** who import the services from a related person or his other establishment outside India without any consideration in the ambit of GST and such entities shall be liable to tax.

c. Heading of Schedule II

ACTIVITIES OR **TRANSACTIONS** TO BE TREATED AS SUPPLY OF GOODS OR SUPPLY OF SERVICES

Analysis:-

The word transactions have been inserted and shall be deemed to be always inserted from 1-7-2017 i.e. retrospective amendment.

d. Schedule III- Transactions neither as supply of goods nor supply of services

(1).....

(7) Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India.

8. (a) Supply of warehoused goods to any person before clearance for home consumption;

(b) Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption.”;

‘Explanation 2.– For the purposes of paragraph 8, the expression “warehoused goods” shall have the same meaning as assigned to it in the Customs Act, 1962.

Analysis:-

- The Schedule III is amended to insert few such transactions which are outside the preview of Supply which are :-

- **Merchant Trading** (Supply of goods from Non taxable territory to Non Taxable territory directly)
- **Sale of imported warehoused goods** i.e. before payment of custom duty.
- **High Seas Sales** i.e. Sale after dispatch from port outside India but before reaching the destination port in India.

- Further, section 17(3) is amended to provide that no reversal of common credit shall be required in relation to any transactions listed in Schedule III.

4. Reverse Charge

Section 9(4)- Reverse Charge in case of procurement from Unregistered person

~~**(4) The central tax in respect of the supply of taxable goods or services or both by a supplier, who is not registered, to a registered person shall be paid by such person on reverse charge basis as the recipient and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.**~~

(4) The Government may, on the recommendations of the Council, by notification, specify a class of registered persons who shall, in respect of supply of specified categories of goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of

such supply of goods or services or both, and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to such supply of goods or services or both.

Point to be noted: Same amendment has been made in the Section 5(4) of IGST Act.

Analysis:-

Government has amended the section 9(4) to the effect that only a class of registered person **(as may be notified in future)** procuring category of goods or services or both **(as may be notified)** from unregistered person shall be liable to pay tax on reverse charge.

5. Composition Scheme

a. Section 10- Composition levy

(1) Notwithstanding anything to the contrary contained in this Act but subject to the provisions of sub-sections (3) and (4) of section 9, a registered person, whose aggregate turnover in the preceding financial year did not exceed fifty lakh rupees, may opt to pay, in lieu of the tax payable by him **under sub-section (1) of section 9**, an amount of tax calculated at such rate as may be prescribed, but not exceeding,—

(a) one per cent. of the turnover in State or turnover in Union territory in case of a manufacturer,

(b) 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

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

subject to such conditions and restrictions as may be prescribed:

Provided that the Government may, by notification, increase the said limit of fifty lakh rupees to such higher amount, not exceeding ~~one crore rupees~~ **one crore and fifty lakh rupees**, as may be recommended by the Council.

Provided further that a person who opts to pay tax under clause (a) or clause (b) or clause (c) may supply services (other than those referred to in clause (b) of paragraph 6 of Schedule II), of value not exceeding ten per cent. of turnover in a State or Union territory in the preceding financial year or five lakh rupees, whichever is higher

(2) The registered person shall be eligible to opt under sub-section (1), if--

(a) ~~he is not engaged in the supply of services other than supplies referred to in clause (b) of paragraph 6 of Schedule II~~ save as provided in sub-section (1), he is not engaged in the supply of services.

(b).....

Analysis:-

- It is clarified that Composition tax is the **tax only in lieu of tax paid under normal charge** and the person under composition scheme has to pay tax under reverse charge separately. This change has been given effect by substituting section 9 to Sub-section 1 of section 9.
- Government increased the threshold limit of composition from Rs. 1 Crore to 1.5 Crore in the Act. **However, still the notified limit is 1 Crore and is expected to increase from 1- April-2019.**
- Prior to amendment, a composition dealer was not allowed to supply services (other than restaurant services). However, this amendment allows supply of services (other than restaurant services) to the limit of 10% of the turnover in a State/ Union Territory in the preceding year or Rs. 5,00,000 whichever is higher.
- Corresponding changes have been done in the form GSTR-4 to give effect to supply of services by a composition dealer.
- However, it should be clarified that this limit is for the supply of taxable services** whereas the supply of exempt service along with supply of goods or restaurant service is already allowed by the order no 1/2017 dated 13.10.17.
- It should also be clarified that whether inter-state supply of service is allowed under this amended scheme.

b. Rule 7- Rate of tax of Composition levy

Sl. No.	Category of registered persons	Rate of tax
(1)	(2)	(3)
1.	Manufacturers, other than manufacturers of such goods as may be notified by the Government	half per cent. of the turnover in the State or Union territory
2.	Suppliers making supplies referred to in clause (b) of paragraph 6 of Schedule II	two and a half per cent. of the turnover in the State or Union territory
3.	Any other supplier eligible for composition levy under <u>section 10</u> and the provisions of this Chapter	half per cent. of the turnover of taxable supplies of goods and services in the State or Union territory

Analysis:-

- A trader shall now have to pay the tax @1% (CGST+SGST) on turnover of **taxable supplies of goods and service both**. As a composition dealer is now

allowed to supply service to some extent, this amendment is made to give effect to the same.

- Also, a **notification 05/2019 dated 29.01.2019** has been issued to align the notified rates of the composition with the rule 7 of CGST rules, 2017.

6. Time of Supply

a. Section 12(2)-Time of Supply of Goods

(2) The time of supply of goods shall be the earlier of the following dates, namely:-

(a) the date of issue of invoice by the supplier or the last date on which he is required, under ~~sub-section 1 of~~ section 31, to issue the invoice with respect to the supply; or

(b) the date on which the supplier receives the payment with respect to the supply:

Provided that where the supplier of taxable goods receives an amount up to one thousand rupees in excess of the amount indicated in the tax invoice, the time of supply to the extent of such excess amount shall, at the option of the said supplier, be the date of issue of invoice in respect of such excess amount.

Analysis:-

This amendment is in the view to correct the drafting error to include issue of invoice or other documents contained in Section 31 such as in case of continuous supply, goods sale on approval basis etc. for the purpose of time of supply

b. Section 13(2)- Time of Supply of Services

The time of supply of services shall be the earliest of the following dates, namely:-

(a) the date of issue of invoice by the supplier, if the invoice is issued within the period prescribed ~~under sub-section 2 of~~ section 31 or the date of receipt of payment, whichever is earlier; or

(b) the date of provision of service, if the invoice is not issued within the period prescribed ~~under sub-section 2 of~~ section 31 or the date of receipt of payment, whichever is earlier; or

(c) the date on which the recipient shows the receipt of services in his books of account, in a case where the provisions of clause (a) or clause (b) do not apply:

Provided that where the supplier of taxable service receives an amount up to one thousand rupees in excess of the amount indicated in the tax invoice, the time of supply to the extent of such excess amount shall, at the option of the said supplier, be the date of issue of invoice relating to such excess amount.

Analysis:-

This amendment is in the view to correct the drafting error to include issue of invoice or other documents contained in Section 31 such as in case of continuous supply of services etc. for the purpose of time of supply.

7. Input Tax Credit

a. Section 16(2)(b)- Conditions for availing ITC

(2) Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless,--

(a) he is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or such other tax paying documents as may be prescribed;

(b) he has received the goods or services or both.

Explanation.-For the purposes of this clause, it shall be deemed that the registered person has received the goods or, as the case may be, services--

(i) where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;

(ii) where the services are provided by the supplier to any person on the direction of and on account of such registered person.

Analysis:-

- It is provided that where the services are provided by supplier to any person on the direction of and on account of such registered person, it shall be deemed to be received by the registered person and therefore, he can avail the ITC.
- Prior to amendment, this deeming fiction was applicable only in case of bill-to-ship-to supply of goods but from 01.02.2019, it has been extended to services as well.

b. Section 17(3)- Apportionment of credit

(3) The value of exempt supply under sub-section (2) shall be such as may be prescribed, and shall include supplies on which the recipient is liable to pay tax on reverse charge basis, transactions in securities, sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.

Explanation.-For the purposes of this sub-section, the expression "value of exempt supply" shall not include the value of activities or transactions specified in Schedule III, except those specified in paragraph 5 of the said Schedule.

Analysis

An explanation is inserted to clarify that **no reversal of common ITC shall be required on activities or transactions specified in Schedule III** (other than sale of land and subject to clause (b) of paragraph 5 of Schedule II, sale of building) as it is now excluded from exempt supply.

c. Section 17(5)-Blocked Credit

(5) Notwithstanding anything contained in sub-section (1) of section 16 and subsection (1) of section 18, input tax credit shall not be available in respect of the following, namely:-

(a) motor vehicles ~~and other vehicles~~ **for transportation of persons having approved seating capacity of not more than thirteen persons (including the driver)**, except when they are used for making the following taxable supplies, namely:-

- (A) further supply of such motor vehicles; or
- (B) transportation of passengers; or
- (C) imparting training on driving such motor vehicles;

Analysis:-

- ITC is not available only in respect of motor vehicles used for transportation of persons having seating capacity of not more than 13 persons (including driver) except when they are used for specific purpose as stated above.
- Government amended the provision to remove other vehicles from the blocked credit that means credit in respect of dumpers, work-trucks etc. will be allowed from 01.02.2019.

(aa) **vessels and aircraft except when they are used--**

(i) for making the following taxable supplies, namely:-

- (A) further supply of such vessels or aircraft; or**
- (B) transportation of passengers; or**
- (C) imparting training on navigating such vessels; or**
- (D) imparting training on flying such aircraft;**

(ii) for transportation of goods;

Analysis:-

- ITC is also not available in case of vessels and aircraft except when they are used for above specified purposes.

(ab) services of general insurance, servicing, repair and maintenance in so far as they relate to motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa):

Provided that the input tax credit in respect of such services shall be available-

(i) where the motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) are used for the purposes specified therein;

(ii) where received by a taxable person engaged-

(I) in the manufacture of such motor vehicles, vessels or aircraft; or

(II) in the supply of general insurance services in respect of such motor vehicles, vessels or aircraft insured by him;

<u>Analysis:-</u>

- | |
|---|
| <ul style="list-style-type: none">• No ITC shall be allowed for repairing, insurance service in relation to motor vehicles or vessels and aircraft unless they are used for the purposes specified in clause (a) and clause (aa) respectively.• Also, ITC in relation to repairing, insurance service in relation to motor vehicles or vessels and aircraft shall be available to the manufacturer of such motor vehicles or aircraft or to the taxable person engaged in supply of general insurance services of such motor vehicles or vessels and aircraft. |
|---|

(b) the following supply of goods or services or both-

(i) food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, leasing, renting or hiring of motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) except when used for the purposes specified therein, life insurance and health insurance:

Provided that the input tax credit in respect of such goods or services or both shall be available where an inward supply of such goods or services or both is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply;

(ii) membership of a club, health and fitness centre; and

~~(iii) rent a cab, life insurance and health insurance except where—~~

~~(A) the Government notifies the services which are obligatory for an employer to provide to its employees under any law for the time being in force; or~~

~~(B) such inward supply of goods or services or both of a particular category is 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; and~~

(iii) travel benefits extended to employees on vacation such as leave or home travel concession:

Provided that the input tax credit in respect of such goods or services or both shall be available, where it is obligatory for an employer to provide the same to its employees under any law for the time being in force.

Analysis:-

- ITC in respect of food or beverages, beauty or cosmetic services, health services, life insurance, hiring of motor vehicles, aircraft and vessels shall be available **where inward supply of such goods or services or both is used for making outward supply of same goods or services or both.**
- Further, ITC in respect of food or beverages, beauty or cosmetic services, health services, life insurance, hiring of motor vehicles, aircraft and vessels and travel benefits extended to employee shall be available **where it is obligatory for an employer to provide same to its employees under any law.**
- Also, ITC on leasing, renting or hiring of motor vehicles, vessels or aircraft is available **when used in the purposes specified in clause (a) or clause(aa).**

8. Registration under Act

a. Second proviso to Section 22(1)- persons liable for registration

22. (1)

Provided that

Provided further that the Government may, at the request of a special category State and on the recommendations of the Council, enhance the aggregate turnover referred to in the first proviso from ten lakh rupees to such amount, not exceeding twenty lakh rupees and subject to such conditions and limitations, as may be so notified;

Analysis:-

Government inserted the proviso in the section to **give power to Council** to recommend the increase the **threshold limit of registration in special category states from 10 lakhs to 20 lakhs.**

b. Explanation (iii) to Section 22

Explanation.--For the purposes of this section,--

(i).....

(ii)....

(iii) the expression "special category States" shall mean the States as specified in sub-clause (g) of clause (4) of article 279A of the Constitution **except the State of Jammu and Kashmir and States of Arunachal Pradesh, Assam, Himachal Pradesh, Meghalaya, Sikkim and Uttarakhand.**

Analysis:-

This amendment is made to give effect to increase threshold limit in state of J&K, Arunachal Pradesh, Assam, Himachal Pradesh, Meghalaya, Sikkim and Uttarakhand from 10 Lakhs to 20 Lakhs.

c. Section 24- Compulsory registration in certain cases

(24) Notwithstanding anything contained in sub-section (1) of section 22, the following categories of persons shall be required to be registered under this Act:-

(i).....

(x) every electronic commerce operator **who is required to collect tax at source under section 52**

Analysis:-

Now only those e-commerce operators who are required to collect TCS shall be required to take registration and others may take the benefit of threshold limit.

d. Second proviso to Section 25(1)- Procedure for Registration

25. (1)

Provided that a casual taxable person or a non-resident taxable person shall apply for registration at least five days prior to the commencement of business.

Provided further that a person having a unit, as defined in the Special Economic Zones Act, 2005, in a Special Economic Zone or being a Special Economic Zone developer shall have to apply for a separate registration, as distinct from his place of business located outside the Special Economic Zone in the same State or Union territory

e. Proviso to Rule 8(1) – Application for Registration

(8) (1).....

~~"Provided that a person having a unit(s) in a Special Economic Zone or being a Special Economic Zone developer shall make a separate application for registration as a business vertical distinct from his other units located outside the Special Economic Zone:"~~

f. Proviso to Section 25(2) – Procedure for Registration

25 (2).....

Provided that a person having multiple **business vertical** places of business in a State or Union territory may be granted a separate registration for each such **business vertical** place of business, subject to such conditions as may be prescribed.

g. Rule 11– Separate registration for multiple places of business within a State or a Union territory.

~~11~~....(Substituted)

(1) Any person having multiple places of business within a State or a Union territory, requiring a separate registration for any such place of business under sub-section (2) of section 25 shall be granted separate registration in respect of each such place of business subject to the following conditions, namely:-

(a) such person has more than one place of business as defined in clause (85) of section 2;

(b) such person shall not pay tax under section 10 for any of his places of business if he is paying tax under section 9 for any other place of business;

(c) all separately registered places of business of such person shall pay tax under the Act on supply of goods or services or both made to another registered place of business of such person and issue a tax invoice or a bill of supply, as the case may be, for such supply.

Explanation. - For the purposes of clause (b), it is hereby clarified that where any place of business of a registered person that has been granted a separate registration becomes ineligible to pay tax under section 10, all other registered places of business of the said person shall become ineligible to pay tax under the said section.

(2) A registered person opting to obtain separate registration for a place of business shall submit a separate application in FORM GST REG-01 in respect of such place of business.

(3) The provisions of rule 9 and rule 10 relating to the verification and the grant of registration shall, mutatis mutandis, apply to an application submitted under this rule.

Analysis:-

- The concept of business vertical has been omitted from the act.
- Government has allowed to take the separate registration for each place of business in case of multiple places of business within a state and hence substituted Rule 11 of CGST Rules and amended Section 25.
- It is clarified in Explanation to Rule 11 that if any place becomes ineligible for opting composition scheme, all other places shall also become ineligible for composition scheme.
- It is stated that a person opts normal/ regular scheme for one place of business than he cannot opt for composition scheme in any other place of business.
- Separate application in form REG-1 shall be submitted for each place of business and an amendment to give effect to this provision is also made in FORM REG-1
- It is also provided that in case of branch transfers within state where branches have different registrations a proper tax invoice shall be raised.

- A person having SEZ unit or SEZ developer shall apply for separate registration from his place of business outside SEZ Area. This amendment is made by inserting second proviso to Section 25. Further, a corresponding change was made in rule 8 of CGST Rules.

h. Rule 41A. Transfer of credit on obtaining separate registration for multiple places of business within a State or Union territory.-

(1) A registered person who has obtained separate registration for multiple places of business in accordance with the provisions of rule 11 and who intends to transfer, either wholly or partly, the unutilised input tax credit lying in his electronic credit ledger to any or all of the newly registered place of business, shall furnish within a period of thirty days from obtaining such separate registrations, the details in FORM GST ITC-02A electronically on the common portal, either directly or through a Facilitation Centre notified in this behalf by the Commissioner:

Provided that the input tax credit shall be transferred to the newly registered entities in the ratio of the value of assets held by them at the time of registration.

Explanation.- For the purposes of this sub-rule, it is hereby clarified that the 'value of assets' means the value of the entire assets of the business whether or not input tax credit has been availed thereon.

(2) The newly registered person (transferee) shall, on the common portal, accept the details so furnished by the registered person (transferor) and, upon such acceptance, the unutilised input tax credit specified in FORM GST ITC-02A shall be credited to his electronic credit ledger.

Analysis:-

- A registered person taking multiple registration in State if intends to transfer the ITC to the newly registered entity then he shall file the details of ITC to be transferred in **FORM ITC 02A (newly inserted in Forms) within 30 days of obtaining separate registration.**
- ITC shall be transferred in the ratio of value of assets held by those multiple entities at the time of registration.
- The newly registered person shall accept the details furnished by the transferor which will then reflect into the ITC ledger of newly registered person.

i. Proviso to Section 29(1) and (2)- Cancellation or Suspension of Registration

(1).....

Provided that during pendency of the proceedings relating to cancellation of registration filed by the registered person, the registration may be suspended for such period and in such manner as may be prescribed.

(2)....

Provided further that during pendency of the proceedings relating to cancellation of registration, the proper officer may suspend the registration for such period and in such manner as may be prescribed.

j. Rule 21A- Suspension of Registration

(1) Where a registered person has applied for cancellation of registration under rule 20, the registration shall be deemed to be suspended from the date of submission of the application or the date from which the cancellation is sought, whichever is later, pending the completion of proceedings for cancellation of registration under rule 22.

(2) Where the proper officer has reasons to believe that the registration of a person is liable to be cancelled under section 29 or under rule 21, he may, after affording the said person a reasonable opportunity of being heard, suspend the registration of such person with effect from a date to be determined by him, pending the completion of the proceedings for cancellation of registration under rule 22.

(3) A registered person, whose registration has been suspended under sub-rule (1) or sub-rule (2), shall not make any taxable supply during the period of suspension and shall not be required to furnish any return under section 39.

(4) The suspension of registration under sub-rule (1) or sub-rule (2) shall be deemed to be revoked upon completion of the proceedings by the proper officer under rule 22 and such revocation shall be effective from the date on which the suspension had come into effect.

Analysis:-

- **Proviso to Section 29(1) and 29(2)** is inserted to provide that from the time when a person applies for cancellation of registration till the time such application is proceeded, the registration of the person shall be suspended which will now save the person from the compliance burden during the pendency of application.
- Further **Rule 21A** is inserted to give effect to this amendment which prescribes that the registration shall be suspended till the time proceeding for cancellation of registration are completed where application of cancellation of registration has been given suo moto or when officer has reasons to believe that registration shall be cancelled.
- A person shall not make any taxable supply during the period of suspension and shall not file any return.

9. Credit Notes and Debit Notes

a. Section 34- Credit Notes and Debit Notes

34. (1) Where ~~a tax invoice was issued~~ **one or more tax invoices** have been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to exceed the taxable value or tax payable in respect of such supply, or where the goods supplied are returned by the recipient, or where goods or services or both supplied are found to be deficient, the registered person, who has supplied such

goods or services or both, may issue to the recipient a credit note containing such particulars as may be prescribed.

(2) Any registered person who issues ~~a credit note~~ **one or more credit notes for supplies made in a financial year** in relation to a supply of goods or services or both shall declare the details of such credit note in the return for the month during which such credit note has been issued but not later than September following the end of the financial year in which such supply was made, or the date of furnishing of the relevant annual return, whichever is earlier, and the tax liability shall be adjusted in such manner as may be prescribed:

Provided that no reduction in output tax liability of the supplier shall be permitted, if the incidence of tax and interest on such supply has been passed on to any other person.

(3) Where ~~a tax invoice has~~ **one or more tax invoices have** been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to be less than the taxable value or tax payable in respect of such supply, the registered person, who has supplied such goods or services or both, shall issue to the recipient ~~a debit note~~ **one or more debit notes for supplies made in a financial year** containing such particulars as may be prescribed.

b. Rule 53- Revised tax invoice and credit or debit notes

1) A revised tax invoice referred to in section 31 ~~and credit or debit notes referred to in section 34~~ shall contain the following particulars, namely:-

(a) the word "Revised Invoice", wherever applicable, indicated prominently;

(b) name, address and Goods and Services Tax Identification Number of the supplier;

~~(c) nature of the document~~

(d) a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters hyphen or dash and slash symbolised as "-" and "/" respectively, and any combination thereof, unique for a financial year;

(e) date of issue of the document;

(f) name, address and Goods and Services Tax Identification Number or Unique Identity Number, if registered, of the recipient;

(g) name and address of the recipient and the address of delivery, along with the name of State and its code, if such recipient is un-registered;

(h) serial number and date of the corresponding tax invoice or, as the case may be, bill of supply;

~~(i) value of taxable supply of goods or services, rate of tax and the amount of the tax credited or, as the case may be, debited to the recipient~~

(j) signature or digital signature of the supplier or his authorised representative.

(1A) A credit or debit note referred to in section 34 shall contain the following particulars, namely:–

(a) name, address and Goods and Services Tax Identification Number of the supplier;

(b) nature of the document;

(c) a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters-hyphen or dash and slash symbolised as “-” and “/” respectively, and any combination thereof, unique for a financial year;

(d) date of issue of the document;

(e) name, address and Goods and Services Tax Identification Number or Unique Identity Number, if registered, of the recipient;

(f) name and address of the recipient and the address of delivery, along with the name of State and its code, if such recipient is un-registered;

(g) serial number(s) and date(s) of the corresponding tax invoice(s) or, as the case may be, bill(s) of supply;

(h) value of taxable supply of goods or services, rate of tax and the amount of the tax credited or, as the case may be, debited to the recipient; and

(i) signature or digital signature of the supplier or his authorised representative

Analysis:-

- In **Section 34** amendment is made to enable the registered person to issue a single or multiple credit notes or debit notes against multiple invoices.
- Further, Government amended **Rule 53** to distinguish the mandatory requirements in the issue of Revised invoice and in the issue of debit note or credit note.
- **Revised invoice** can be issued in one month of registration for all supplies done from the date on which registration was applied till the date registration was granted.
- By separating the requirements for revised invoice and debit or credit note the requirement for nature of document in case of Revised invoice remains of no use and hence deleted.
- Also, the requirement for stating the taxable value, rate of tax, amount of tax credited or debited in case of Revised invoice remains of no use and hence deleted.
- However, new **Sub-Rule (1A)** was inserted to provide the mandatory requirements for the issue of credit note or debit note **(As provided above)**.

- Detail of all invoices against which a single credit note or debit note has been issued shall be provided. **Hence, a credit note or debit note shall still be linked with a single or multiple invoices, as the case may be.**
- **The only relief is a single credit note can be issued for multiple invoices.**
- **Should have been done: The requirement of providing corresponding invoice number against which a credit note or debit note has been issued should have been removed.**

10. Accounts and Records

a. Proviso to Section 35(5)- Accounts and Other Records

(5) Every registered person whose turnover during a financial year exceeds the prescribed limit shall get his accounts audited by a chartered accountant or a cost accountant and shall submit a copy of the audited annual accounts, the reconciliation statement under sub-section (2) of section 44 and such other documents in such form and manner as may be prescribed.

Provided that nothing contained in this sub-section shall apply to any department of the Central Government or a State Government or a local authority, whose books of account are subject to audit by the Comptroller and Auditor-General of India or an auditor appointed for auditing the accounts of local authorities under any law for the time being in force.

b. Rule 80(3)-Reconciliation Statement

Every registered person **other than those referred to in the proviso to sub-section (5) of section 35**, whose aggregate turnover during a financial year exceeds two crore rupees shall get his accounts audited as specified under sub-section (5) of section 35 and he shall furnish a copy of audited annual accounts and a reconciliation statement, duly certified, in **FORM GSTR-9C**, electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner.

Analysis:-

The insertion of **Proviso to Section 35(5) and amendment to Rule 80(3)** exempts the department of CG, SG or a local authority whose books are subject to audit by CAG or by an auditor appointed under any law, from the requirement of GST Audit.

11. GST Practitioners

a. Section 48(2)- GST practitioners

(2) A registered person may authorise an approved goods and services tax practitioner to furnish the details of outward supplies under section 37, the details of inward supplies under section 38 and the return under section 39 or section 44 or section 45 **and to perform such other functions** in such manner as may be prescribed.

b. Rule 83(8)- Provisions related to GST Practitioners

~~83(8)~~ (Substituted)

(8) A goods and services tax practitioner can undertake any or all of the following activities on behalf of a registered person, if so authorised by him to-

- (a) furnish the details of outward and inward supplies;**
- (b) furnish monthly, quarterly, annual or final return;**
- (c) make deposit for credit into the electronic cash ledger;**
- (d) file a claim for refund;**
- (e) file an application for amendment or cancellation of registration;**
- (f) furnish information for generation of e-way bill;**
- (g) furnish details of challan in FORM GST ITC-04;**
- (h) file an application for amendment or cancellation of enrolment under rule 58; and**
- (i) file an intimation to pay tax under the composition scheme or withdraw from the said scheme;**

Provided that where any application relating to a claim for refund or an application for amendment or cancellation of registration or where an intimation to pay tax under composition scheme or to withdraw from such scheme has been submitted by the goods and services tax practitioner authorised by the registered person, a confirmation shall be sought from the registered person and the application submitted by the said practitioner shall be made available to the registered person on the common portal and such application shall not be further proceeded with until the registered person gives his consent to the same

Analysis:-

- The amendment in Section 48(2) and substitution of Rule 83(8) allows GST practitioners to perform many other functions as specified above such as furnishing of returns, filing of refunds, generation of e-way bill, cancellation of registration etc.
- It is also provided that if a GST practitioner either files claim for refund or an application for amendment or cancellation of registration or intimation to opt composition scheme or withdraw from it, a confirmation shall be sought from the registered person on common portal for the same and the application shall be processed after his approval.

c. **Second Proviso to Rule 83(3)- Provisions related to GST Practitioners**

(3)....

Provided that....

Provided further that no person to whom the provisions of clause (b) of sub-rule (1) apply shall be eligible to remain enrolled unless he passes the said examination within a period of **eighteen thirty months** from the appointed date.

Analysis:-

- Amendment in Rule 83(3) is made to increase the time limit for passing the GST exam for the persons who were enrolled as sales tax practitioner or tax return preparer under the previous law for a period of not less than five years.
- **The date for passing the GST exam for persons mentioned in above point have been increased from 18 months from appointed date i.e. 31st December, 2018 to 30 months from appointed date i.e. 31st December, 2019.**

12. Payment of Tax

a. **Section 49(5)- Payment of Tax**

(5) The amount of input tax credit available in the electronic credit ledger of the registered person on account of:-

(a)....

(b)....

(c) the State tax shall first be utilised towards payment of State tax and the amount remaining, if any, may be utilised towards payment of integrated tax;

Provided that the input tax credit on account of State tax shall be utilised towards payment of integrated tax only where the balance of the input tax credit on account of central tax is not available for payment of integrated tax

(d) the Union territory tax shall first be utilised towards payment of Union territory tax and the amount remaining, if any, may be utilised towards payment of integrated tax;

Provided that the input tax credit on account of Union territory tax shall be utilised towards payment of integrated tax only where the balance of the input tax credit on account of central tax is not available for payment of integrated tax

Analysis:-

Proviso to clause (c) and clause (d) of Section 49(5) are inserted to provide that credit of SGST/UTGST will be used against the payment of IGST only after full utilisation of the credit of CGST or when balance of ITC on account of CGST is not available for the payment of IGST.

b. Section 49A- Utilisation of ITC subject to certain conditions

Notwithstanding anything contained in section 49, the input tax credit on account of central tax, State tax or Union territory tax shall be utilised towards payment of integrated tax, central tax, State tax or Union territory tax, as the case may be, only after the input tax credit available on account of integrated tax has first been utilised fully towards such payment.

Analysis:-

New Section 49A is inserted to provide that **if ITC of IGST is available then at first, it has to be exhausted wholly by the payment of IGST or CGST or SGST and then only ITC of CGST and SGST can be used** for the payment of IGST, CGST and SGST as the case may be subject to the condition that CGST and SGST cannot be cross utilised for the payment of tax.

c. Section 49B- Order of utilisation of input tax credit

Notwithstanding anything contained in this Chapter and subject to the provisions of clause (e) and clause (f) of sub-section (5) of section 49, the Government may, on the recommendations of the Council, prescribe the order and manner of utilisation of the input tax credit on account of integrated tax, central tax, State tax or Union territory tax, as the case may be, towards payment of any such tax.

Analysis:-

New Section 49B is inserted to provide that Government may decide the order of utilisation of ITC on account of IGST, CGST and SGST subject to the condition that CGST and SGST cannot be cross utilised.

Point to be noted:- Reference of the new sections 49A and 49B have also been given in the Rules 85 and Rule 86 by way of amendment to give effect to the procedure of payment of tax.

13. Refunds

a. Section 54(8)- Refunds

54(8) Notwithstanding anything contained in sub-section (5), the refundable amount shall, instead of being credited to the Fund, be paid to the applicant, if such amount is relatable to-

- (a) refund of tax paid on ~~zero-rated supplies~~ **export** of goods or services or both or on inputs or input services used in making such ~~zero-rated supplies~~ **export**;
- (b)

b. Rule 89(2)(f)- Application for refund of tax

(2) The application under sub-rule (1) shall be accompanied by any of the following documentary evidences in Annexure 1 in **Form GST RFD-01**, as applicable, to establish that a refund is due to the applicant, namely:-

(a)....

(f) ~~a declaration to the effect....~~ **(Substituted) a declaration to the effect that tax has not been collected from the Special Economic Zone unit or the Special Economic Zone developer, in a case where the refund is on account of supply of goods or services or both made to a Special Economic Zone unit or a Special Economic Zone developer.**

Analysis:-

- Section 54(8) provides with the situations where Refund of Tax can be claimed by applicant without checking the principal of unjust enrichment.
- Principal of unjust enrichment means that no person can take refund of tax without actually bearing the incidence of tax. As GST is an indirect tax it is assumed that the incidence of tax is borne by the recipient of supply.
- Prior to the amendment, refund on the account of zero rated supply could be applied by person making such supply where zero rated supply means (i) Export or (ii) Supply to SEZ Unit or SEZ developer.
- Government is proposing to allow DTA unit to recover the tax amount from SEZ Unit or SEZ Developer and allow the ITC of the same to SEZ unit. Therefore, in this case SEZ unit will bear the tax burden, so, refund should be claimed by SEZ unit/ Developer.
- Hence, Government wants to apply principal of unjust enrichment on supply made to SEZ Unit or SEZ developer and therefore the Refund of tax will now be applied by the person bearing the tax burden, may it be DTA or SEZ Unit.
- In the above context, If a person supplying goods to SEZ unit or SEZ Developer is applying for refund than **a declaration in this regard shall be required that no tax has been collected from SEZ unit on account of such supply.**
- Corresponding changes have also been made in **GST RFD-01 and GST-RFD 01A.**

c. Explanation 2(e) to Section 54- Relevant Date for Refund of Unutilised ITC

(e) ~~(e) in the case of refund of unutilised input tax credit under sub-section (3), the end of the financial year in which such claim for refund arises~~ in the case of refund of unutilised input tax credit under clause (ii) of the first proviso to sub-section (3), the due date for furnishing of return under section 39 for the period in which such claim for refund arises;

Analysis:-

Relevant date for claiming refund of unutilised ITC in case of **inverted duty structure** shall be the **due date for furnishing of return for the period in which such claim for refund arises.**

d. Rule 91- Grant of provisional refund

(2) 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 under sub-rule (1) is due to the applicant in accordance with the provisions of sub-section (6) of section 54, 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 the acknowledgement under sub-rule (1) or sub-rule (2) of rule 90.

Provided that the order issued in FORM GST RFD-04 shall not be required to be revalidated by the proper officer.

(3) The proper officer shall issue a payment advice in FORM GST RFD-05 for the amount sanctioned under sub-rule (2) and the same shall be electronically credited to any of the bank accounts of the applicant mentioned in his registration particulars and as specified in the application for refund.

Provided that the payment advice in FORM GST RFD-05 shall be required to be revalidated where the refund has not been disbursed within the same financial year in which the said payment advice was issued.

Analysis:-

Government inserted the **proviso to Rule 91(2) and Rule 91(3)** to provide that in the case where refund is not disbursed, the order issued by officer in **GST RFD-04 form** for grant of provisional refund shall not be revalidated and only payment advice issued in **FORM GST RFD 05** shall be revalidated if refund is not disbursed within same financial year in which said payment advice was issued.

e. Rule 92- Order Sanctioning Refund

(4) Where the proper officer is satisfied that the amount refundable under sub-rule (1) or sub-rule (2) is payable to the applicant under sub-section (8) of section 54, he shall make an order in **FORM GST RFD-06** and issue a payment advice in **FORM GST RFD-05** for the amount of refund and the same shall be electronically credited to any of the bank accounts of the applicant mentioned in his registration particulars and as specified in the application for refund.

Provided that the order issued in FORM GST RFD-06 shall not be required to be revalidated by the proper officer:

Provided further that the payment advice in FORM GST RFD-05 shall be required to be revalidated where the refund has not been disbursed within the same financial year in which the said payment advice was issued.

Analysis:-

Government inserted the **proviso to Rule 92(4)** to provide that in the case where refund is not disbursed order issued by officer in **GST RFD-06** form for grant of refund under section 54(8) shall not be revalidated and only payment advice issued in **FORM GST RFD 05** shall be revalidated if refund is not disbursed within same financial year in which said payment advice was issued.

f. Rule 96A- Export of goods or services under bond or Letter of Undertaking

(1) Any registered person availing the option to supply goods or services for export without payment of integrated tax shall furnish, prior to export, a bond or a Letter of Undertaking in FORM GST RFD-11 to the jurisdictional Commissioner, binding himself to pay the tax due along with the interest specified under sub-section (1) of section 50 within a period of -

(a) fifteen days after the expiry of three 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

(b) fifteen days after the expiry of one 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 **or in Indian rupees, wherever permitted by the Reserve Bank of India**

Analysis:-

RBI has permitted the use of Indian Rupees as mode of payment for export to Nepal and Bhutan.

Amendment to insert payment of export of services in Indian Rupees wherever permitted by RBI is done to align with the above permission.

Point to be noted: Same amendment has been made in the Explanation 2(c) of Section 54 to align it with RBI permission.

14. Recovery of Tax

Section 79(4)- Recovery of Tax

(4) Where the amount recovered under sub-section (3) is less than the amount due to the Central Government and State Government, the amount to be credited to the account of the respective Governments shall be in proportion to the amount due to each such Government.

Explanation.- For the purposes of this section, the word person shall include "distinct persons" as referred to in sub-section (4) or, as the case may be, sub-section (5) of section 25.

Analysis:-

Government inserted the **explanation to Section 79(4)** in order to ensure that recovery of tax can be made from the distinct persons present in different states/ UTs for fast recovery from other establishments of registered person.

15. Appeals

a. Section 107(6)- Appeals to Appellate Authority

(6) No appeal shall be filed under sub-section (1), unless the appellant has paid-

(a) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and

(b) a sum equal to ten per cent of the remaining amount of tax in dispute arising from the said order **subject to a maximum of twenty-five crore rupees**, in relation to which the appeal has been filed.

b. Section 112(8)- Appeals to Appellate Tribunal

(8) No appeal shall be filed under sub-section (1), unless the appellant has paid--

(a) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him, and

(b) a sum equal to twenty per cent of the remaining amount of tax in dispute, in addition to the amount paid under sub-section (6) of section 107, arising from the said order subject to a maximum of **subject to a maximum of fifty crore rupees**, in relation to which the appeal has been filed.

Analysis:-

- As per the amendment in Section 107(6) an appellant shall pay 10% of the disputed tax amount but **subject to the ceiling limit of Rs. 25 Crore** for filing the appeal to Appellate Authority.
- As per the amendment in Section 112(6) an appellant shall pay 20% of the disputed tax amount but **subject to the ceiling limit of Rs. 50 Crore** for filing the appeal to Appellate Tribunal.
- Changes are also made in the **FORMS GST APL-01 and GST APL-05** in correspondence with the above changes

Point to be noted: In correspondence of above amendment, A new proviso to Section 20 of IGST Act has been inserted to put a ceiling of 50 Crore for filing appeal to Appellate Authority and Rs. 100 Crore for filing appeal to Appellate Tribunal.

16. Detention or Seizure of Goods

Section 129(6)- Detention, seizure and release of goods and conveyances in transit

(6) Where the person transporting any goods or the owner of the goods fails to pay the amount of tax and penalty as provided in sub-section (1) within ~~seven days~~ **fourteen days** of such detention or seizure, further proceedings shall be initiated in accordance with the provisions of section 130.

Analysis:-

Amendment is made to increase the time limit for a person to pay tax on detention of goods **from 7 days of such detention to 14 days of such detention.**

17. Transitional Provisions

Section 140(1)- Detention, seizure and release of goods and conveyances in transit

1) A registered person, other than a person opting to pay tax under section 10, shall be entitled to take, in his electronic credit ledger, the amount of CENVAT credit of **eligible duties** carried forward in the return relating to the period ending with the day immediately preceding the appointed day, furnished by him under the existing law in such manner as may be prescribed

Explanation 1.-For the purposes of sub-sections **[(1)* (not yet notified)]**, (3), (4) and (6) the expression "eligible duties" means-

(i)...

(iv) ~~the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Textile and Textile Articles) Act, 1978;~~

(v)...

Explanation 2.-For the purposes of sub-sections **[(1)* (not yet notified)]** and (5), the expression "eligible duties and taxes" means-

(i)...

(iv) ~~the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Textile and Textile Articles) Act, 1978;~~

(v) ...

Explanation 3.-For removal of doubts, it is hereby clarified that the expression "eligible duties and taxes" excludes any cess which has not been specified in Explanation 1 or Explanation 2 and any cess which is collected as additional duty of customs under sub-section (1) of section 3 of the Customs Tariff Act, 1975.

Analysis:-

- **This amendment is deemed to be applied from 01-07-2017.**
- The amendment is made in order to allow carry-forward of only **eligible duties** as the transitional credit.
- Also, the additional duty of excise leviable under section 3 of Additional Duties of Excise Act, 1978 is removed from the list of eligible duties as per Explanation 1 and Explanation 2.
- It is further clarified that 'eligible duties and taxes' shall exclude any tax or cess not specified under Explanations 1 and 2 and it shall also exclude any cess which is collected as additional duty of customs under subsection (1) of Section 3 of Customs Tariff Act, 1975.

18. Job Work

Second Proviso to Section 143(1) - Job Work procedure

(1) A registered person (hereafter in this section referred to as the "principal") may under intimation and subject to such conditions as may be prescribed, send any inputs or capital goods, without payment of tax, to a job worker for job work and from there subsequently send to another job worker and likewise, and shall,–

(a) bring back inputs, after completion of job work or otherwise, or capital goods, other than moulds and dies, jigs and fixtures, or tools, within one year and three years, respectively, of their being sent out, to any of his place of business, without payment of tax;

(b) supply such inputs, after completion of job work or otherwise, or capital goods, other than moulds and dies, jigs and fixtures, or tools, within one year and three years, respectively, of their being sent out from the place of business of a job worker on payment of tax within India, or with or without payment of tax for export, as the case may be:

Provided.....

Provided further that the period of one year and three years may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding one year and two years respectively.

Analysis:-

A registered person can send **inputs and capital goods** to job worker without payment of tax with a condition to **either bring back or supply** such inputs or capital goods within **1 year and 3 years respectively**.

Now amendment is made that this time limit of 1 year for inputs and 3 years for capital goods can be extended on a sufficient cause for a further period of 1 year in case of inputs and 2 years for capital goods.

19. Place of Supply (IGST Act)

a. Section 12(8) of IGST Act- Place of supply of Transportation Services

(8) The place of supply of services by way of transportation of goods, including by mail or courier to,–

(a) ...

(b)

Provided that where the transportation of goods is to a place outside India, the place of supply shall be the place of destination of such goods

Analysis:-

A new proviso is inserted in Section 12(8) of IGST **in order to boost the export** that in case of goods supplied from a place in India to a place outside India by a registered person located in India, **the place of supply shall be outside India.**

b. Section 13(3) of IGST Act- Place of supply of performance based services

(3) The place of supply of the following services shall be the location where the services are actually performed, namely:-

(a)...

(b)...

Provided that....

Provided further that nothing contained in this clause shall apply in the case of services supplied in respect of goods which are temporarily imported into India for repairs or **for any other treatment or process** and are exported after repairs or **treatment or process** without being put to any other use in India, other than that which is required for such repairs **or treatment or process**;

Analysis:-

This amendment is made by inserting **treatment or process** in the proviso so that the Job work on any such goods which are temporarily imported in India and exported after any treatment or process remains out of the ambit of tax.

These are the major amendments as made effective by the applicability of the amendment acts passed.

Trust the same is useful for you.

By **CA Kumar Kedia**