Study Notes

Chapter 6: - Time of Supply

Section 31	**Issue of Tax invoice under GST (Extract)**
Section 12	**Time of Supply of Goods**
Section 13	**Time of Supply of Services**
Section 14	**Change in rate of tax in respect of supply of goods or services**

Section 31 Extract of Issue of Tax Invoice under GST

Goods	Services
Section 31 (1) A registered taxable person shall issue a tax invoice showing descriptions, quantity and value of goods, tax charged thereon and other prescribed particulars, before or at the time of a. Removal of goods for supply to the recipient, where supply involves movement of goods or b. Delivery of goods or making available thereof to the recipient in other cases.	**Section 31 (2)** A registered person supplying taxable services shall, before or after the provision of service but within a prescribed period, issue a tax invoice, showing the description, value, tax charged thereon and such other particulars as may be prescribed. In case of Insurance, Banks or Financial Institution & NBFC's the above limit is extended to 45 days. An insurer or a banking company or a financial institution, including a NBFC, or a telecom operator, making taxable supplies of services between distinct persons as specified in section 25, may issue the invoice before or at the time such supplier records the same in his books of account or before the expiry of the quarter during which the supply was made.
Section 31 (4) In case of continuous supply of goods, where successive statements of accounts or successive payment are involved, the invoice shall be issued before or at the time each such statement is issued or, as the case may be, each such payment is received.	**Section 31 (5)** In case of continuous supply of services (a) if due date is ascertainable from the contract, invoice shall be issued on or before such due date of payment; (b) where the due date is not ascertainable, the invoice shall be issued before or at the time of receiving 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.
Section 31 (7) The goods being sent or taken on approval for sale or return are removed before the supply takes place, the invoice shall be issued before or at the time of supply or six months from the date of removal, whichever is earlier.	**Section 31 (6)** In a case where the supply of services ceases under a contract before the completion of the supply, the invoice shall be issued at the time when the supply ceases and such invoice shall be issued to the extent of the supply made before such cessation.

Section 12 must be read with section 31, which prescribes in detail the date on which tax invoice must be issued in various situations.	Section 13 must be read with section 31 and rule 47, which prescribes in detail the date on which tax invoice must be issued in various situations.

Section 12 Time of Supply of Goods & Section 13 Time of Supply of Services

Time of supply of Goods (Sec. 12)	Time of supply of Services (Sec.13)
Time of supply of goods [Sec. 12 (2)] The time of supply of goods shall be the earlier of the following – (a) Date of issue of invoice by the supplier or the last date of which he is required U/s 31 ~~(1)~~ to issue the Invoice with respect to the supply, Or (b) Date of receipt of payment by the supplier with respect to the supply** *** Notification No. 66/2017-Central Tax, Dated 15/11/2017 (a supplier of goods needs not to pay tax on advances). So time of supply of goods shall be earlier of Date of issue of invoice or last date of issue of invoice.* *This notification is not applicable on registered person who opted for composition levy U/s 10 of CGST Act, 2017. A composition supplier has to pay, in lieu of tax payable by him, an amount calculated at the prescribed rate applied on his 'turnover in the State/Union Territory' for a quarter. Therefore, the composition supplier is not required to pay any tax on advance received as the same does not form part of taxable supplies and, in turn, also does not form part of the 'turnover in a State/Union Territory' at the end of the quarter (tax period).*	**Time of supply of services [Sec. 13 (2)]** The time of supply of services shall be the earlier of- (a) Invoice issued U/s 31 ~~(2)~~ (within 30 days): Date of issue of invoice by the supplier, or the date of receipt of payment, whichever is earlier, or (b) Invoice not issued U/s 31 ~~(2)~~ (not within 30 days): Date of provision of service or the date of receipt or payment, whichever is earlier, or (c) Date of which recipient shows the receipt of services in his books of account, in case where the provision of (a) or (b) as above do not apply.

Example 1: Normal supply of goods:

Last date to invoice	Date of Invoice	Date of receipt of payment	Time of Supply (TOS)
12.06.2018	12.06.2018	50% advance on 30.05.2018 & balance on 01.07.2018	12.06.2018
12.06.2018	30.05.2018	50% advance on 30.05.2018 & balance on 01.07.2018	30.05.2018
12.06.2018	02.07.2018	50% advance on 30.05.2018 & balance on 01.07.2018	12.06.2018

Example 2: Continuous Supply of goods:

Date of issue of statement of accounts (As per contract 2nd of successive month)	Last date to issue invoice	Date of Invoice	Date of receipt of payment (As per contract 5th of successive month)	Time of Supply (TOS)
02.02.0219	02.02.0219	02.02.0219	05.02.0219	02.02.0219
02.02.0219	02.02.0219	31.01.2019	05.02.0219	31.01.2019
02.02.0219	02.02.0219	01.03.2019	05.02.0219	02.02.2019

Study Notes

02.02.0219	02.02.0219	02.02.0219	31.01.2019	02.02.0219

Date of receipt of payment shall be the date on which the payment is entered in his books of account or the date on which the payment is credited to his bank account, whichever is earlier

Where amount received is in excess of invoice with amount upto Rs. 1,000, supplier has option to choose time of supply as date of issue of fresh invoice for the said excess amount.

Example 3: ABC enterprises, raised Rs. 49,500 invoice on 14.02.2018. Recipient made round off payment of Rs. 50,000 on 02.03.2018. In this case, time of supply for Rs. 49.500 will be 14.02.2018. But for balance Rs. 500, time of supply shall at the option of supplier.

Reverse Charge [Sec. 12 (3)] The time of supply in case of reverse charge, shall be the earliest of the following dates: (a) the date of receipt of the goods, or (b) the date of payment, or (c) the date immediately following thirty days (31st day) from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier. If it is not possible to determine the time of supply under clause (a), (b) or (c) above, the time of supply shall be the date of entry in the books of account of the recipient of supply. This proviso will bear its impact on provisional entries passed on month end or year-end closing i.e. provision of expenses made for those vendors who do not submit their bills.	**Reverse Charge [Sec. 13 (3)]** The time of supply shall be the earlier of the following dates: (a) the date of payment, or (b) the date immediately following sixty days (61st day) from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier. If it is not possible to determine the time of supply under clause (a), or (b) above, the time of supply shall be the date of entry in the books of account of the recipient of supply. In case of supply by 'associated enterprises', where the supplier of service is located outside India, the time of supply shall be the date of entry in books of account of the recipient of supply or the date of payment, whichever is earlier.

Date of self-invoicing by the recipient will not hold any importance in arriving at the TOS for reverse charge cases. For determining TOS under reverse charge, date of invoice of supplier or any other document issued by the supplier, by any name whatsoever (whether registered or unregistered) will be relevant.

Supply of Voucher [Sec. 12 (4)] In case of supply of vouchers by a supplier, the time of supply shall be: (a) the date of issue of voucher, if supply is Identifiable at that point; or (b) the date of redemption of voucher, in all the other cases.	**Supply of Voucher [Sec. 13 (4)]** In case of supply of vouchers by a supplier, the time of supply shall be: (a) the date of issue of voucher, if supply is Identifiable at that point; or (b) the date of redemption of voucher, in all the other cases.
Residuary Supply [Sec. 12 (5)] Where it is not possible to determine the time of supply under the provisions of sub-section (2) or sub-section (3) or sub-section (4), the time of supply shall: (a) in a case where a periodical return has to be filed, be the date on which such return is to be filed; or (b) in any other case, be the date on which the tax is paid.	**Residuary Supply [Sec. 13 (5)]** Where it is not possible to determine the time of supply under the provisions of sub-section (2) or sub-section (3) or sub-section (4), the time of supply shall: (a) in a case where a periodical return has to be filed, be the date on which such return is to be filed; or (b) in any other case, be the date on which the tax is paid.
Example 4: Investigation reveals clandestine (secretively) removal of goods by a supplier who is not registered under GST. The evidence is in the form	

of noting, often undated, and some corroborative material. The supplier voluntarily pays tax during the investigation, to close the case. The time of supply will be the date on which the tax is paid, as being unregistered, the supplier is not required to file periodical returns.	
Additional consideration like interest, fee & penalty [Sec. 12 (6)] Date on which supplier receives such additional value.	**Additional consideration like interest, fee & penalty [Sec. 13 (6)]** Date on which supplier receives such additional value.

Section 14 Change in rate of Tax in respect of supply of goods or services

Section 12 & 13 has been over-ruled by this section i.e. in case of change in rate of tax, time of supply of goods or service or both shall be determined under this section: -

Taxable goods or services or both has been supplied before the change in rate of Tax	**Taxable goods or services or both has been supplied after the change in rate of Tax**
Invoice issued – Before Change Receipt of payment – After Change Time of Supply – Date of Invoice	Invoice issued – Before Change Receipt of payment – After Change Time of Supply – Date of payment
Invoice issued – After Change Receipt of payment – After Change Time of Supply – Date of Invoice or payment, Whichever is earlier	Invoice issued – Before Change Receipt of payment – Before Change Time of Supply – Date of Invoice or payment, Whichever is earlier
Invoice issued – After Change Receipt of payment – Before Change Time of Supply – Date of payment	Invoice issued – After Change Receipt of payment – Before Change Time of Supply – Date of invoice
Date of receipt of payment shall be the date on which the payment is entered in his books of account or the date on which the payment is credited to his bank account, whichever is earlier. However, the date of receipt of payment shall be the date of credit in the bank account if such credit in the bank account is after 4 working days from the date of change in the rate of tax.	
Example 5: Date of change in rate of tax is 15th June 2017. Earlier rate of tax was 15% and the same has been changed to 18%	
Invoice issued – 10th June 2017 Receipt of payment – 20th June 2017 Time of Supply – 10th June 2017 (15%)	Invoice issued – 10th June 2017 Receipt of payment – 20th June 2017 Time of Supply – 20th June 2017 (18%)
Invoice issued – 20th June 2017 Receipt of payment – 25th June 2017 Time of Supply – 20th June 2017 (18%)	Invoice issued – 5th June 2017 Receipt of payment – 25th May 2017 Time of Supply – 25th May 2017 (15%)
Invoice issued – 20th June 2017 Receipt of payment – 10th June 2017 Time of Supply – 10th June 2017 (15%)	Invoice issued – 20th June 2017 Receipt of payment – 10th June 2017 Time of Supply – 20th June 2017 (18%)
Example 6: Mr. A buys a motor car from a car dealer. Mr. A has made payment and car dealer has issued an invoice on 25th December 2017. The car was to be delivered on new year i.e. 1st Jan'18. The applicable rate of car is changed upward on 26th December 2017. As per section 14 (b) (ii), the time of supply is earlier of the two events namely, issuance of invoice or receipt of payment, both of which are before the change in rate of tax, and thus, the old rate of tax remains applicable.	

Example 7: Payment is credited in books of accounts on 29th April. Payment is credited in the bank account on 8th May. Date of change in tax rate is 1st May. In this scenario, date of payment shall be treated as 8th May as the actual credit in the bank account has occurred after more than 4 working days. If suppose payment is credited in bank account on 3rd May then date of payment shall be treated on 29th April (credited in books of accounts)

Special procedure under section 148 for payment of tax in case of joint development agreements in real estate sector

In a Joint Development Agreement (JDA), a landowner transfers the land/ development rights over the land to a developer to develop and construct a real estate project and in return gets a certain percentage of constructed area in the project, depending upon the terms and conditions agreed upon between them. The developer receives consideration for the construction service provided by him, from
(i) landowner, in the form of land /development rights; and
(ii) from other buyers (of the constructed area), normally in the form of money.
In exercise of the powers conferred by section 148, the Central Government, on the recommendations of the GST Council, has issued Notification Nos. 4/2018 CT (R) & 4/2018 IT (R) both Dated 25.01.2018 to defer the liability to pay GST in case of

- supply of development rights against consideration in the form of construction service of complex, building or civil structure;
- supply of construction service of complex, building or civil structure against consideration in the form of transfer of development rights

to the time when the possession or right in the property is transferred to the land owner by entering into a conveyance deed or similar instrument (e.g. allotment letter).

Example 8 (ICAI): Mr. X enters into a joint development agreement with SM Constructions Ltd. on 12th January whereby the development right over the plot of land owned by Mr. X is transferred to SM Constructions to build a residential complex. SM Constructions agrees to transfer 3 flats out of 20 flats to be built in the residential complex to Mr. X as a consideration for transfer of development rights.
The other details are:
Land development rights are transferred on 31st January Construction begins on 1st April
Construction of 3 flats gets completed on 30th June
Construction of entire complex gets completed on 30th November Allotment letter for 3 flats issued to Mr. X on 25th December
By virtue of the special procedure notified under section 148, payment of GST on transfer of development rights by Mr. X and supply of construction service by SM Constructions to Mr. X is postponed to the date of allotment letter i.e., 25th December.

Notification No. 06/2019-CT (Rate) & 06/2019-IT (Rate) Dated 29th March 2019

With effect from 01.04.2019, supply of services by a landowner to a developer by way of –

(i) transfer of transferable development rights (TDR) or floor space index (FSI);
(ii) granting of long term lease,

for construction of residential apartments have been exempted subject to the condition that the constructed flats are sold before issuance of completion certificate or first occupation of the project, whichever is earlier, and tax is paid on them.
Such exemption for TDR, FSI, long term lease (premium) shall not be available in case of flats which remain un-booked on the date of issuance of completion certificate or first occupation of the project, whichever is earlier. The promoter (developer) shall be liable to pay tax at the applicable rate, on reverse charge basis, on such proportion of (i) value of development rights and/or FSI, or (ii) upfront amount paid for long term lease, as is attributable to such un-booked residential apartments.

In view of the above change, **with effect from 01.04.2019**, a special procedure for payment of tax has been laid down for following classes of registered persons, namely:-

(i) a promoter who receives development rights or Floor Space Index (FSI) (including additional FSI) on or after 1st April, 2019 for construction of a project against consideration payable or paid by him, wholly or partly, in the form of construction service of commercial or residential apartments in the project or in any other form including in cash;

(ii) a promoter, who receives long term lease of land on or after 1st April, 2019 for construction of residential apartments in a project against consideration payable or paid by him, in the form of upfront amount (called as premium, salami, cost, price, development charges or by any other name),

as the registered persons in whose case the liability to pay central tax on, -

(a) the consideration paid by him in the form of construction service of commercial or residential apartments in the project, for supply of development rights or FSI (including additional FSI);

(b) the monetary consideration paid by him, for supply of development rights or FSI (including additional FSI) relatable to construction of residential apartments in project;

(c) the upfront amount (called as premium, salami, cost, price, development charges or by any other name) paid by him for long term lease of land relatable to construction of residential apartments in the project; and

(d) the supply of construction service by him against consideration in the form of development rights or FSI(including additional FSI),

shall arise on the date of issuance of completion certificate for the project, where required, by the competent authority or on its first occupation, whichever is earlier.

Question & Answer

Q1. A Machine has to be supplied at site. It is done by sourcing various components from vendors and assembling the machine at site. The details of the various events are:

17th September	Purchase order with advance of Rs. 50,000 is received for goods worth Rs. 12 Lacs and entry duly made in the seller's books of account
20th October	The machine is assembled, tested at site, accepted by buyer
23rd October	Invoice raised
4th November	Balance payment of Rs. 11.50 Lacs received

Determine the time of supply(ies) in the above scenario?

A. The time of supply of goods is 20th October 2017 which is the date on which the goods were made available to the recipient as per section 12 (2) (a) and the invoice should have been issued on this date [Section 31 (1) (b)].

Q2. Determine the time of supply from the given information.

May 4	Supplier invoices goods taxable on reverse charge basis to Bridge & Co. (30 days from the date of issuance of invoice elapse on June 3)
May 12	Bridge & Co receives the goods
May 30	Bridge & Co makes the payment

A. Here, May 12 will be the time of supply, being the earliest of the three stipulated dates namely, receipt of goods, date of payment and date immediately following 30 days of issuance of invoice [Section 12(3)]. (Here, date of invoice is relevant only for calculating thirty days from that date.)

Q3. Determine the time of supply from the given information.

May 4	Supplier invoices goods taxable on reverse charge basis to Pillar & Co. (30 days from the date of issuance of invoice elapse on June 3)
June 12	Pillar & Co receives the goods, which were held up in transit
July 3	Payment made for the goods

A. Here, June 4 will be the time of supply, being the earliest of the three stipulated dates namely, receipt of goods, date of payment and date immediately following 30 days of issuance of invoice [Section 12(3)].

Q4. ABC Ltd. sells food coupons to a company, which gives these to its employees as part of the agreed perquisites. The coupons can be redeemed for purchase of any item of food/provisions in the outlets that are part of the program.

A. As the supply against which the coupon will be redeemed is not known on the date of the sale of the coupon, the time of supply of the coupon will be on the date on which the employee redeems it against food/provision items of his choice.

Q5. With each purchase of a large pizza during the Christmas week from Perfect Pizza, one can buy a voucher for Rs. 20 which will be redeemable till 5 Jan for a small pizza.

A. As the supply against which the voucher will be redeemed is known on the date of the sale, the time of supply is the date of issue of the voucher.

Q6. Determine the time of supply from the given information.

6th May	Booking of convention hall, sum agreed Rs. 15,000, advance of Rs. 3,000 received
15th September	Function held in conventional hall
27th October	Invoice issued for Rs. 15,000, indicating balance of Rs. 12,000 payable
3rd November	Balance payment of Rs. 12,000 received

A. As per Section 31 read with rule 47 of CGST Rules, the tax invoice is to be issued within 30 days of supply of service. In the given case, the invoice is not issued within the prescribed time limit. As per section 13 (2) (b), in a case where the invoice is not issued within the prescribed time, the time of supply of service is the date of provision of service or receipt of payment, whichever is earlier.

Therefore, the time of supply of service to the extent of Rs. 3,000 is 6^{th} May as the date of payment of Rs. 3,000 is earlier than the date of provision of service. The time of supply of service to the extent of the balance Rs. 12.000 is 15^{th} September which is the date of provision of service.

Q7. Investigation shows that ABC & Co carried out service of cleaning and repairs of tanks in an apartment complex, for which the Apartment Owners' Association showed a payment in cash on 4th April to them against work of this description. The dates of the work are not clear from the records of ABC & Co. ABC & Co have not issued invoice or entered the payment in their books of account.

A. The time of supply cannot be determined vide the provisions of clauses (a) and (b) of section 13 (2) as neither the invoice has been issued nor the date of provision of service is available as also the date of receipt of payment in the books of supplier is also not available. Therefore, the time of supply will be determined vide clause (c) of section 13 (2) i.e., the date on which the recipient of service shows receipt of the service in his books of account.

Thus, time of supply will be 4^{th} April, the date on which the Apartment Owner's Association records the receipt of service in its books of account.

Q8. Determine the time of supply from the given information (assuming that service being supplied is taxable under reverse charge).

May 4	The supplier of service issues invoice for service provided. There is as dispute about amount payable, and payment is delayed.
August 21	Payment made to the supplier of service.

A. Here, July 4 will be the time of supply, being the earliest of the two stipulated dates namely, date of payment and date immediately following 60 days since issue of invoice.

Q9. Determine the time of supply from the given information

May 4	A Germany company issues email informing its associated company ABC Ltd., of the cost of technical services provided to it.
July 2	ABC Ltd. transfers the amount to the account of the German company.

A. As there is no prior entry of the amount in the books of account of ABC Ltd, July 2 will be the time of supply, being the date of payment in terms of second proviso to section 13 (3).

Q10. A supplier of services received an advance when rate of tax on services was 18%. However, while raising the invoice, tax rate on service was reduced to 5%. How will the invoice be raised?

A. As per provision of section 14 of CGST Act, 2017, in case wherein service has been supplied after change in rate of tax and invoice has also been issued after change in rate of tax but payment is received before change in rate of tax, time of supply shall be date of issue of invoice.

Therefore, in the instant cases assuming as service has been supplied after change in rate of tax and invoice has also been issued after change in rate of tax, therefore tax rate applicable at the time of raising of invoice for supply of service would be 5%. Excess tax collected at the time of receipt of advance can be adjusted against future liabilities.

Q11. What is the time of supply in case of addition in value by way of Interest, late fees or penalty for delayed payment of any consideration?

A. The time of supply in case of addition in value by way of Interest, late fees or penalty for delayed payment of any consideration would be the date on which the supplier receives such addition in value.
Example: Mr. A had supplied services to Mr. B for Rs.1,00,000 on 1st March. Mr. B had to make the payment to Mr. A within one month of the supply otherwise interest was chargeable at the rate of 15%. Mr. B fails to make the payment within one month and makes the payment after a delay of one month i.e. by 30th April. Mr. A raises a debit note against Mr. B for the interest on delayed payment of Rs. 1,250 on 10th May. Mr. B makes the payment of the Interest of Rs. 1,250 on 15th June.
The time of supply in such case would not be the date of raising of debit note i.e. 10th May but it would be the date when Mr. B makes the payment of the interest to Mr. A i.e. 15th June.

Q12. Time of supply of services under reverse charge mechanism where the supplier of service is associated enterprises?
A. 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	September 14, 2018	September 14, 2018
Date on which payment is debited to bank account	September 17, 2018	September 17, 2018
Date of issuance of invoice	September 10, 2018	September 10, 2018
Sixty days from the date of issuing invoice	November 10, 2018	November 10, 2018
Date of entry in the books of accounts of the recipient	September 10, 2018	September 10, 2018
Time of supply	September 14, 2018	September 10, 2018

Q13. Time of supply where services are supplied online?
A. 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 will apply for services supplied online.

Q14. From the following information determine the time of supply of goods where supply involves movement of goods:

Invoice Date	Removal of goods	Delivery of goods	Receipt of payment	Remarks
16-11-2018	10-11-2018	16-11-2018	16-11-2018	
01-12-2018	01-12-2018	04-12-2018	20-11-2018 10-12-2017	Rs. 5,00,000 is received as advance and balance payment Rs. 6,20,000 received on 10-12-2017

A.

Invoice Date	Removal of goods	Delivery of goods	Receipt of payment	Time of Supply	Remarks
16-11-2018	10-11-2018	16-11-2018	16-11-2018	10-11-2018	
01-12-2018	01-12-2018	04-12-2018	20-11-2018 10-12-2017	01-12-2018	Time of supply is date of issue of invoice. Advance received is not liable to be taxed at the time of receipt vide notification no. 66-2017 Dated 15-11-2017

Q15. From the following information determine the time of supply if goods are supplied on approval basis:

Removal of goods	**Issue of Invoice**	**Accepted by recipient**	**Receipt of payment**
01-12-2017	15-12-2017	05-12-2017	25-12-2017
01-12-2017	25-07-2018	25-07-2018	20-07-2018

A.

Removal of goods	Issue of invoice	Accepted by recipient	Receipt of payment	Time of Supply	Remarks
01-12-2017	15-12-2017	05-12-2017	25-12-2017	05-12-2017	Time of supply shall be the date of acceptance by the recipient as invoice was issued after that date.
01-12-2017	25-07-2018	25-07-2018	20-07-2018	02-06-2018	Time of supply shall be date after expiry of 6 months from the date of removal.

Q16. Determine the time of supply in each of the following independent cases in accordance with provisions of CGST Act, 2017:

Date of Actual provision of services	Date of Invoice	Date on which payment received
10-11-2017	30-11-2017	15-12-2017
10-11-2017	30-11-2017	15-11-2017
10-11-2017	30-11-2017	15-11-2017 and 10-12-2017
10-11-2017	30-11-2017	06-11-2017 and 09-11-2017
10-11-2017	30-11-2017	06-11-2017 and 16-11-2017
10-11-2017	12-12-2017	30-04-2018
10-11-2017	12-12-2017	05-11-2017 and 25-12-2017
10-11-2017	22-12-2017	12-12-2017

A.

Date of Actual provision of services	Date of Invoice	Date on which payment received	Time of Supply
10-11-2017	30-11-2017	15-12-2017	30-11-2017
10-11-2017	30-11-2017	15-11-2017	15-11-2017
10-11-2017	30-11-2017	15-11-2017 and 10-12-2017	15-11-2017 and 30-11-2017 for the respective amounts
10-11-2017	30-11-2017	06-11-2017 and 09-11-2017	06-11-2017 and 09-11-2017 for the respective amounts
10-11-2017	30-11-2017	06-11-2017 and 16-11-2017	06-11-2017 and 16-11-2017 for the respective amounts
10-11-2017	12-12-2017	30-04-2018	10-11-2017
10-11-2017	12-12-2017	05-11-2017 and 25-12-2017	05-11-2017 and 10-11-2017 for the respective amounts
10-11-2017	22-12-2017	12-12-2017	10-11-2017

Q17. Determine the time of supply in each of the following independent cases in accordance with provisions of CGST Act, 2017:

Date of Actual provision of services	Date of Invoice	Payment entry in supplier's book	Credit in bank account	Remarks
20-10-2017	21-10-2017	26-10-2017	30-10-2017	
20-10-2017	30-10-2017	24-10-2017	22-10-2017	
16-11-2017	26-12-2017	28-01-2018	29-01-2018	
01-12-2017	30-10-2017 30-10-2017	30-10-2017 06-12-2017	30-10-2017 08-12-2017	Rs, 5,00,000 is received in advance on 30-10-2017 and balance amount Rs. 6,80,000 is

				received on 06-12-2017

A.

Date of Actual provision of services	Date of Invoice	DOP- earlier of the date of payment is entered in books or credited in bank account	Time of Supply	Remarks
20-10-2017	21-10-2017	26-10-2017	21-10-2017	
20-10-2017	30-10-2017	22-10-2017	22-10-2017	
16-11-2017	26-12-2017	28-01-2018	16-11-2017	
01-12-2017	30-10-2017 30-10-2017	30-10-2017 06-12-2017	30-10-2017 30-10-2017	Rs, 5,00,000 is received in advance on 30-10-2017 and balance amount Rs. 6,80,000 is date of invoice

Q18. Determine the time of supply in each of the following independent cases in accordance with provisions of CGST Act, 2017 if recipient is liable to pay tax on reverse charge basis:

Date of Invoice	Date of receipt of goods	Date of payment in Books	Date when payment debited in bank account
01-10-2017	05-10-2017	10-10-2017	12-10-2017
01-10-2017	15-10-2017	10-10-2017	12-10-2017
01-10-2017	15-10-2017	12-10-2017	10-10-2017
01-10-2017	15-11-2017	18-11-2017	20-11-2017

A.

Date of Invoice	Date of receipt of goods	Date of payment in Books	Date when payment debited in bank account	Time of Supply
01-10-2017	05-10-2017	10-10-2017	12-10-2017	05-10-2017
01-10-2017	15-10-2017	10-10-2017	12-10-2017	10-10-2017
01-10-2017	15-10-2017	12-10-2017	10-10-2017	10-10-2017
01-10-2017	15-11-2017	18-11-2017	20-11-2017	01-11-2017

Q19. Determine the time of supply in the following cases assuming that GST is payable under reverse charge:

Date of payment by recipient of services	Date of issue of invoice by supplier of services
10-10-2017	29-08-2017
10-10-2017	01-08-2017
Part payment made on 30-08-2017 and balance amount paid on 01-11-2017	29-08-2017
Payment is entered in the books of account on 28-08-2017 and debited in recipient's bank account on 30-08-2017	01-08-2017
Payment is entered in the books of account on 30-08-2017 and debited in recipient's bank account on 26-08-2017	29-08-2017

A.

Date of Invoice issued by supplier of services	Date immediately following 60 days from invoices	Date of payment by recipient of services	Time of supply of services (earlier of Date immediately following 60 days from invoice or Date of payment by recipient of services)
29-08-2017	29-10-2017	10-10-2017	10-10-2017
01-08-2017	01-10-2017	10-10-2017	01-10-2017
29-08-2017	29-10-2017	Part payment made on 30-08-2017 and balance amount paid on 01-11-2017	30-08-2017 for part payment and 29-10-2017 for balance amount
01-08-2017	01-10-2017	Payment is entered in the books of account on 28-08-2017 and debited in recipient's bank account on 30-08-2017	28-08-2017 (i.e. when payment is entered in the books of account of the recipient)
29-08-2017	29-10-2017	Payment is entered in the books of account on 30-08-2017 and debited in recipient's bank account on 26-08-2017	26-08-2017 (i.e. when payment is debited in the recipient's bank account)

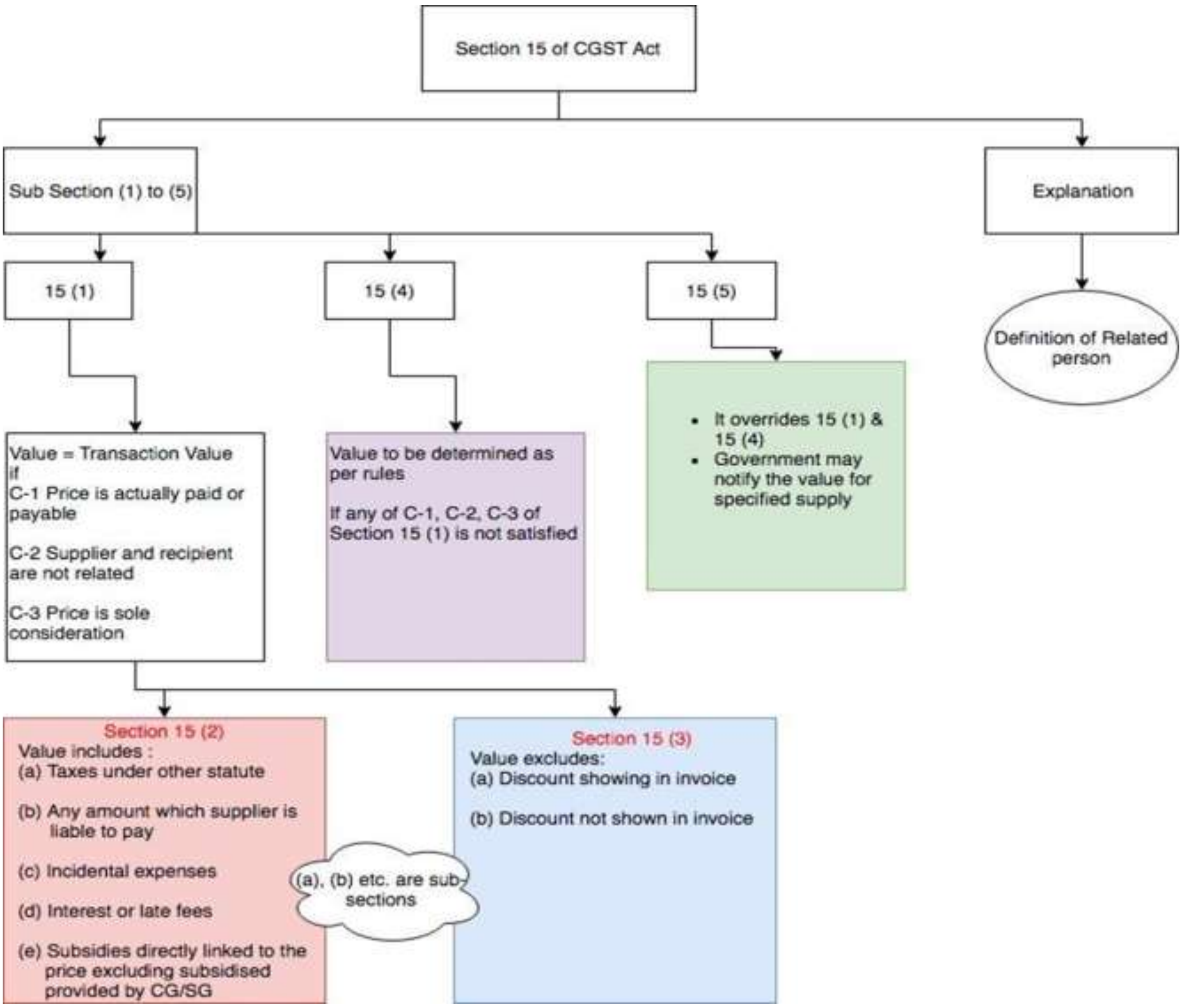
Q20. Mehra Sons, a registered supplier, is a wholesale supplier of ready-made garments located in Bandra, Mumbai. On 5th September, 20XX, Subhadra, owner of Aura Boutique located in Dadar, Mumbai, approached Mehra Sons for supply of a consignment of customised dresses for ladies and kids.
Mehra Sons gets the consignment ready by 2nd December, 20XX and informs Subhadra about the same. The invoice for the consignment was issued the next day, 3rd December, 20XX. Due to some reasons, Subhadra could not collect the consignment immediately. So, she collects the consignment from the premises of Mehra Sons on 18th December, 20XX and hands over the cheque for payment on the same date. The said payment is entered in the accounts on 20th December, 20XX and amount is credited in the bank account on 21st December, 20XX. You are required to determine the time of supply of the readymade garments supplied by Mehra Sons to Subhadra elaborating the relevant provisions under the GST law.

(CA Inter – MTP- May 2018)

Ans. Given transaction is supply transaction involving movement of goods. Sec 31 requires supplier of goods to issue invoice upto the time of removal of goods which includes even collection of goods by the recipient. In given case, date of removal (collection by buyer) is 18.12.XX while invoicing has been done on 03.12.XX. Thus, given case is one where the supplier has issued invoice upto time of removal of goods. For purposes of determination of time of supply, the date of payment is considered to be earlier of the date of receipt of payment in bank account (21.12.XX) or date of entry in books of accounts (20.12.XX). Thus, in instance case, the date of receipt of payment is 20.12.XX.
As per Sec 12 read with Notification No. 66/2017 CT Dated 15.11.2017, Time of Supply for the supplier of the goods shall be the date of invoice (03.12.XX) or the last date on which invoice is required to be issued (18.12.XX). Thus, Time of Supply for the given supply transaction shall be 03.12.XX.

Chapter 7: - Value of Supply

Section 15	**Value of Taxable Supply**
Rule 27	**Value of supply of goods or services where the consideration is not wholly in money**
Rule 28	**Value of supply of goods or services or both between distinct or related persons, other than through an agent**
Rule 29	**Value of supply of goods made or received through an agent**
Rule 30	**Value of supply of goods or services or both based on cost**
Rule 31	**Residual method for determination of value of supply of goods or services or both**
Rule 31A	**Value of supply in case of lottery, betting, gambling and horse racing**
Rule 32	**Determination of value in respect of certain supplies**
Rule 33	**Value of supply of services in case of pure agent**
Rule 34	**Rate of exchange of currency, other than INR, for determination of value**
Rule 35	**Value of supply inclusive of IGST, CGST, SGST & UTGST**



Section 15 Value of Taxable Supply

Meaning [Sec. 15 (1)]

1. The value of a supply of goods and/or services shall be the Transaction Value.
2. Transaction value applicable: -

• Where the supplier and the recipient of the supply are not related and • Price is sole consideration for the supply	The price actually paid or payable for the said supply of goods and/or services.

3. Free Supply: - No GST: When no consideration is received (either in monetary or non-monetary form) for a taxable supply, then there is no value, consequently no GST as well (except Schedule I activities)
4. Power of Government to notify manner of valuation [Sec. 15 (4) & (5)]: When the value of the supply of goods or services or both cannot be determined U/S 15 (1), Government on the recommendation of the GST Council, notify the manner of determination of value of such supplies.

Inclusions [Sec. 15 (2)]:

The value of supply includes –

(a) Any Taxes, Duties, Cesses, Fees and Charges separately charged by the supplier other than GST Tax (CGST, IGST, SGST/UTGST, Cess).
The CBIC vide circular No. 76/50/2018-GST Dated 31.12.2018, has clarified that for the purpose of determination of value of supply under GST, Tax collected at source (TCS) under the provisions of the Income Tax Act, 1961 would not be includible as it is an interim levy not having the character of tax. Central excise duty continues to be levied on tobacco along with GST, then Central excise duty will be included in the transaction value for supply of tobacco for the chargeability of GST.

(b) Any amount that the supplier is liable to pay in relation to such supply, but which has been actually, incurred by the recipient and which is not included in the price.
Example 1: ABC contractor got supply contract at Rs. 10 Lacs + GST for constructing shed. However, recipient supplied cement and paint (amounting to Rs. 1 Lac) on "Free of cost – FOC" basis to ABC contractor. ABC Ltd. will raise invoice of Rs. 9 lacs + GST on Rs. 10 Lacs (Value of supply Rs. 9 Lacs + Rs. 1 Lacs), so total invoice value shall be Rs. 9 Lacs + Rs. 1.80 Lacs (Rs. 10 Lacs * 18%) = Rs. 10.80 Lacs.

(c) Incidental expenses i.e. commission, packing etc. charged by the supplier. Thus expenses like weighment, loading in factory, inspection, testing before supply will be includible in 'value'. Design charges incurred before supply will be also included. Any amount charged for anything done by the supplier in respect of the supply of goods or services, at the time of, or before delivery of goods or supply of services.

(d) Interest or late fee or penalty for delayed payment of any consideration for supply.

(e) Subsidies directly linked to the price excluding subsidies provided by the Central Government and State Government.

Exclusions [Sec. 15 (3)]:

(a) Before or at the time of the supply: Such discount has been duly recorded in the invoice issued in respect of such supply.

(b) After the supply has been effected:
  (i) Such discount is established in terms of an agreement_ entered into at or before the supply and specifically linked to relevant invoices, and
  (ii) Input tax credit has been reversed by the recipient of the supply as it is attributable to the discount on the basis of document issued by the supplier.

Thus, discount after supply is permissible as deduction only if it was known before or at the time of supply.

In some cases, goods are packed in returnable packing, like gas cylinder, drums etc. In such case, tax is payable only on consideration received for the supply. {S No. 61 of Tweet FAQ released by CBE&C on 26-6-2017}. Thus, it is not required to add amortized cost of durable and returnable packing.

Where the Value of Supply cannot be determined by the u/s 15 (1), then the Value shall be determined as per the CGST Rules. Such valuation may be required in following situations:-

- The consideration, whether paid or payable, is not in money, wholly or partly.
- The supplier and the recipient of the supply are related.

Circular No. 47/21/2018 GST Dated 08.06.2018 has clarified that while calculating the value of the supply made by the component manufacturer using moulds and dies owned by Original Equipment Manufacturers (OEM) sent free of cost (FOC) to him, the value of such moulds and dies shall not be added to the value of supply made by him because the cost of moulds/dies was not to be incurred by the component manufacturer and thus, does not merit inclusion in the value of supply in terms of section 15(2)(b).
However, if the contract between OEM and component manufacturer was for supply of components made by using the moulds/dies belonging to the component manufacturer, but the same have been supplied by the OEM to the component manufacturer on FOC basis, the amortised cost of such moulds/dies shall be added to the value of the components.

Related Person, shall be: -

1. They are officers or directors of one another's businesses;
2. Legally recognized partners in business;
3. Employer and employee;
4. 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;
5. One of them directly or indirectly controls the other;
6. Both of them are directly or indirectly controlled by a third person;
7. Together they directly or indirectly control a third person; or
8. Members of the same family
9. Persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire, however described, of the other, shall be deemed to be related.

The term "person" includes legal persons

This has been copied from Rule 2 (2) of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and Rule 2 (2) of Customs Valuation (Determination of Value of Export Goods) Rules, 2007, except that in clause (4) mentioned above, the percentage shareholding has been increased from 5% to 25%.

In case of FOR basis contracts, the supplier arranges transport. In that case, he pays GST under reverse charge on outward freight. He then charges outward freight in the tax invoice. In such case, the outward freight charged is part of value of goods and GST is payable on value including outward freight. Similarly, packing charges, weighment charges and other charges are includible in value of levy of GST. The GST rate is same as applicable to goods, as this is a composite supply as per section 2 (30) of CGST Act. It is not correct to charge freight separately and charge GST @ 5% as the service of supplier of goods is not GTA services at all.

Example 2: The selling price of a notebook is Rs. 50. For notebooks sold to students in Government Schools, a company uses its CSR funds to pay the seller Rs. 30, so that the students pay only Rs. 20 per notebook. The taxable value of the notebook will be Rs. 50, as this is a non-government subsidy. If the same subsidy is paid by the Central Government or State Government, the taxable value of the notebook would be Rs. 20.

Example of discount deductible from value of supply

Example 3: ABC gives a discount of 30% on the list price to its distributors. Thus, for a carton of Krack bisk, in the invoice in the list price is mentioned as Rs. 200, on which a discount of 30% is given to arrive at the final price of Rs. 140. The taxable value is Rs. 140, as the discount is allowed at the time of supply and shown in the invoice.

Example 4: The agreement of ABC with its dealers is that sale of rice cookers over 100 pieces in the Diwali month will entitle them to discount of 5% per cooker sold in the next month. The next month's stock has already been dispatched when the sales figures for the Diwali month are worked out. However, as the agreement was in existence at the time of supply, and the discount can be worked out for each invoice, the taxable value will be billed price minus 5%. The dealer must reverse the proportionate input tax credit on the relevant stock to bring it in line with the reduced tax.

Example of non- deductible discount

Example 5: A company announces turnover discounts after reviewing dealer performance during the year. The discounts are based on performance slabs and are given as cash-back. As these discounts were not known at the time of supply of the goods, they will not be deducted from taxable value of those goods.

Example of Related Parties

Example 6:

- **(i)** Mr. A is holding shares having voting rights of 25% or more in ABC Ltd. and XYZ Ltd., then both ABC Ltd. and XYZ Ltd. shall be deemed to be related persons in GST.
- **(ii)** Mr. B is a major shareholder of ABC Ltd. and Mr. A is a major shareholder of XYZ Ltd. If Mr. A is appointed as an officer/director in ABC Ltd., and Mr. B is appointed as officer/director in XYZ Ltd., then ABC Ltd. & XYZ Ltd. will be treated as related persons in GST.
- **(iii)** ABC Ltd. plays significant role in policy decisions, quality control, HR planning of XYZ Ltd. it may be said that ABC Ltd. controls XYZ Ltd., and hence to be treated as related persons in GST.
- **(iv)** If ABC Ltd. and MNO Ltd. together controls XYZ Ltd., then ABC Ltd. and MNO Ltd., shall be treated as related persons in GST.
- **(v)** If ABC enterprises is sole distributor of goods manufactured by XYZ Ltd., then ABC enterprises and XYZ Ltd., shall be treated as related persons in GST.

Rule 27 Value of supply of goods or services where the consideration is not wholly in money: -

APPLY IN THIS ORDER

- **Rule 27 (a)** — Open Market Value of such supply
- **Rule 27 (b)** — If Open Market Value is not available then sum of total consideration in money & money equivalent to consideration not in money (if such amount is known at the time of supply)
- **Rule 27 (c)** — If the value of supply is not determinable under clause (a) & (b) above then the value of supply of goods or services or both of like kind and quality
- **Rule 27 (d)** — Residuary option if value not determinable under clause (a), (b) & (c) above then the sum of total of consideration in money and such further amount in money that is equiavalent to consideration not in money as determined by the applicable of rule 30 or rule 31 in that order.

Open Market Value, is the full value in money (excluding taxes) payable by an unrelated party as sole consideration of such supply at the same time when supply being valued, is made.

"Supply of goods or services or both of like kind and quality" means:-

- Any other supply of goods or services or both;
- Made under similar circumstances i.e. value of a product in Delhi may be higher than the value of the product in Salem (Tamilnadu) due to different circumstances prevailing. Therefore, it is provided that supply under similar circumstances shall be prevailed;
- That, in respect of the characteristics, quality, quantity, functional components, materials, and the reputation of the goods or services or both first mentioned, is the same as, or closely or substantially resembles, that supply of goods or services or both i.e. hotel prices differ hugely due to their reputation.

Example 7: Where a new phone is supplied for Rs. 20,000 along with exchange of an old phone and if the price of the new phone without exchange is Rs. 24,000, the open market value of the new phone is Rs. 24,000.

Example 8: ABC Ltd. supplies a customised laptop for Rs. 1,00,000 along with exchange of old laptop to Mr. A. Similar type of customised laptop in terms of configuration, quality, functional components etc., was supplied to another customer Mr. B few days back (without exchange) for Rs. 1,25,000. Thus value of customized laptop supplied to Mr. A shall also be Rs. 1,25,000.

Example 9: Where a laptop is supplied for Rs. 40,000 along with the barter of a printer that is manufactured by the recipient and the value of the printer known at the time of supply is Rs. 4,000 but the open market value of the laptop is not known, the value of the supply of the laptop is Rs. 44,000.

Example 10: Mr. A supplied goods to Mr. B for consideration of Rs. 5,00,000 (excluding taxes). Mr. B also gave some material to Mr. A as consideration for supply whose value was Rs. 20,000 (excluding taxes). Mr. A has supplied the same goods to another person at price of Rs. 5,10,000.

In this case it will be open market value i.e. 5,10,000 as per Rule 27 (a)

If suppose above open market is not available then as per Rule 27 (b), it is Rs. 5,00,000+Rs. 20,000 = Rs. 5,20,000

If suppose even open market value is also not available but at the time of supply of goods, identical goods have been supplied at value of Rs. 5,25,000 then as per Rule 27 (c), it is Rs. 5,25,000.

Rule 28 Value of supply of goods or services or both between distinct or related persons, other than through an agent: -

Rule 28(a)
- Open Market Value of such supply

Rule 28 (b)
- If Open Market Value is not available then the value of supply of goods or services or both of like kind and quality

Rule 28 (c)
- If the value of supply is not determinable under clause (a) & (b) above then the value as determined by the application of rule 30 or rule 31, in that order

APPLY IN THIS ORDER

Note: -
- If goods are intended for further supply as such by the recipient, value shall, at the option of supplier be equivalent to 90% of price charged for LIKE KIND AND QUALITY by the recipient to his customer (they should not be related)
- Where recipient is eligible for ITC, value declared in invoice shall be deemed to be open market value. This is very sensible provision as when the recipient can take entire ITC, there cannot be any intention to evade tax.

Example 11: ABC Ltd. manufactures a customized product in Maharashtra and supplies it to its another establishment, located in West Bengal (distinct person). The contracted sale price is Rs. 10,00,000. The cost of production is Rs. 12,00,000. ABC Ltd. is the sole manufacturer of this product.

The value of supply is to be determined as per Rule 28 (c) read with Rule 30 or CGST Rules, 2017 i.e. 110% of the cost of production (12,00,000*110%) = Rs. 13,20,000.

If suppose West Bengal unit is eligible for full ITC, then value declared in invoice i.e. Rs. 10,00,000, will be taken as per Rule 28.

Example 12: ABC Ltd. was the only Indian company making and selling a customize product to companies. However, the international prices of this product dropped and the companies began to import rather than buying from ABC Ltd. The promoters of ABC Ltd. then set up another company, which had a manufacturing unit that could use 'A' with common directors and senior management for better integration of functionality. ABC Ltd. started suppling to this unit at low margins. This unit is not eligible for full ITC.

As per provision of Rule 28, the invoice value could not be the basis of valuation for a supply made to a related person if the recipient is not eligible for full ITC. Under rule 28 (a), the open market value of this product should be value of taxable supply i.e. imported price plus custom duties should be adopted for valuation after excluding the component of IGST on import.

Rule 29 Value of supply of goods made or received through an agent (this rule is applicable only for supply of goods): -

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Rule	
Rule 29 (a)	•Open Market Value of such supply, or •At the option of the supplier, be 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, where the goods are intended for further supply by the said recipient.
Rule 29 (b)	•If the value of supply is not determinable under clause (a) above then the value as determined by the application of rule 30 or rule 31, in that order

Rule 28 is applicable wherever there is supply of goods or services or both between distinct or related persons. But this rule is not applicable when such supplies are made through an agent. Meaning thereby reference to Rule 29 has to be made for all cases of supply of goods made or received between principal & agent and vice versa even if they are related person.

Example 13: P (principal) supplies groundnuts to A (agent). A in turn sells groundnuts at Rs. 5,000 per quintal. Another independent supplier sells groundnuts at Rs. 4,550 per quintal.
Thus, the open market value of groundnut is Rs. 4,550 per quintal. 90% of A's selling price in the normal course of trade is Rs. 4,500 per quintal.
P has the option to adopt the open market price (Rs. 4,550) or 90% of A's onward selling price (Rs. 4,500) as the taxable value of the groundnuts supplied by him to A.

Rule 30 Value of supply of goods or services or both based on cost: -

Where the value of supply of goods or services or both is not determinable by any of the preceding rules of this Chapter, the value shall be 110% of the

- cost of production or manufacture; or
- cost of acquisition of such goods; or
- cost of provision of such services.

Service providers have the option to directly move to rule 31 bypassing rule 30.

Rule 31 Residual method for determination of value of supply of goods or services or both: -

Where the value of supply of goods or services or both cannot be determined under rules 27 to 30, the same shall be determined using reasonable means consistent with the principles and the general provisions of section 15 and the provisions of this Chapter.

Service providers have the option to directly move to rule 31 bypassing rule 30.

Study Notes

Rule 31A Value of supply in case of lottery, betting, gambling and horse racing: -

Rule	Provision
Rule 31A (2)(a)	•Lottery run by State Governments: 100/112 of the face value of ticket or of the price notified in official gazette by organizing State, whichever is higher. "lottery run by State Governments" means a lottery not allowed to be sold in any State other than the organizing State.
Rules 31A (2) (b)	•Lottery authorized by State Governments: 100/128 of the face value of ticket or of the price notified in official gazette by organizing State, whichever is higher. "lottery authorized by State Governments" means a lottery which is authorized to be sold in State(s) other than the organizing State also.
Rules 31A (3)	•the value of supply of actionable claim in the form of chance to win in betting, gambling or horse racing in a race club shall be 100% of the face value of the bet or the amount paid into the totalisator.

Example 14: Government of Manipur has organized a lottery:

- The face value of the tickets issued in Manipur is Rs. 336 Lacs. Price notified in official gazette is Rs. 310 lacs. So higher of Face Value or Notified Price i.e. Rs. 336 Lacs. Value 100/112 of 336 Lacs = Rs. 300 Lacs
- The face value of the tickets authorized to be issued in other states is Rs. 250 Lacs. Prices notified in official gazette is Rs. 256 Lacs. So higher of Face Value or Notified Price i.e. Rs. 256 Lacs. Value 100/128 of 256 Lacs = Rs. 200 Lacs

Example 15: Mr. A has placed an amount of Rs. 100 lacs into the totalisator on Horse No. 9. If he wins, he gets 10 times the amount. The value of such supply = 100% of the amount paid into the totalisator = Rs. 100 Lacs.

Rule 32 Determination of value in respect of certain supplies: -

Rule	Provision
	• This rule provides the valuation methods for five specific supplies. • This rule overrides other rules of valuation. Thus, the supplies prescribed in this rule need not be valued by sequentially following rule 27 to 31. • The valuation methods prescribed under this rule are optional; the supplier can use them if he so desires. He can also opt to value his supplies in accordance with other valuation rules.
32 (2)	Value of Supply of services in relation to the purchase or sale of foreign currency, including money changing, is determined by either of two methods: - (a) Case 1: Transaction where one of the currencies exchanged is INR Where Currency exchanged from/to INR The value of supply, shall be computed by the following method : - Value= {Difference between Buying or Selling Rate and RBI Reference rate} * Total units of currency Where RBI reference rate is not available, value shall be 1% of Gross amount of INR provided/received by the person changing the money.

Example 16: On 10th May, Mr. Doshi converted US $ 100 into Rs. 6,400 @ Rs. 64 per US $ through Eastern Money Changers. RBI reference rate on 10th May for US $ is 63. The value of supply in this case is (Rs. 63-Rs. 64) * US $ 100 = Rs. 100 and GST will be levied on this amount. If the RBI reference rate is not available, then 1% of Rs. 6,400 i.e. Rs. 64 will be the value of supply of service.

Case 2: Transaction where neither of the currencies exchanged is INR

The value of supply is 1% of the lesser of the two amounts the person changing the money would have received by converting (at RBI reference rate) any of the 2 currencies in INR

Example 17: US $ 9,000 are converted into UK pound 4,500. RBI reference rate at that time for US $ is Rs. 63 per US $ and for UK pound is Rs. 82 per UK pound. In this case, neither of the currencies exchanged is INR.

Hence in the given case, value of taxable service would be 1% of the lower of the following: -

(a) US dollar converted into INR = US $ 9,000* Rs. 63 = Rs. 5,67,000

(b) UK pound converted into INR = UK Pound 4,500 * Rs. 82 = Rs. 3,69,000

Value of taxable service = 1% of Rs. 3,69,000 = Rs. 3,690

(b) The person supplying the service may also exercise the following option (based on slab rates) to ascertain the value of service, however, once opted he cannot withdraw it during the remaining part of the financial year:

Currency Exchanged	Value of Supply
Upto Rs 1 lacs	1% of Gross Amount of currency exchanged, min Rs 250/-
Above 1 lacs and upto 10 Lacs	Rs. 1,000 + 0.50% of the gross amount of currency exchanged for an amount exceeding 1 Lacs & upto 10 Lacs
Above 10 Lacs	Rs 5,500 +0.1% of amount exceeding Rs 10 lac, subject to maximum amount or Rs. 60,000

Example 18: Mr. X, a money changer, has exchanged US $ 10,000 to INR @ Rs. 65 per US $. Mr. X wants to value the supply in accordance with rule 32 (2) (b) of CGST Rules.

Determine the value of supply made by Mr. X.

Value of currency exchanged in INR [Rs. 65 * US $ 10,000] = Rs. 6,50,000

Upto 1,00,000	= Rs. 1,000
For Rs. 5,50,000	= Rs. 2,750
Value of Supply	= Rs. 3,750

32 (3) Value of service provided by the air travel agent, in case of booking of air ticket shall be calculate as follow: -

Nature of Travel	Value
Domestic Travel	5% of Basic Fare
International Travel	10% of Basic Fare

Basic fare means that part of air fare on which commission is normally paid to air travel agent by the airlines.

Example 19:

Particulars	Basic Fare	Other Charges & Fee	Taxes	Total Value of tickets
Domestic Booking	1,00,900	10,000	5,000	1,15,900
International Booking	3,16,880	20,000	16,000	3,52,880

Value of Supply: -

Domestic Booking Rs. 1,00,900*5% = Rs. 5,045

International Booking Rs. 3,16,880*10%= Rs. 31,688

32 (4) Value of supply in relation to life insurance business shall be: -

(a) The gross premium charged from a policy holder reduced by the amount allocated

	for investment, or savings on behalf of the policy holder, if such an amount is intimated to the policy holder at the time of supply of service (b) In case of single premium annuity policies, value shall be 10% of single premium charged from the policy holder [other than covered in (a)] (c) In all other case, 25% of premium charged from the policy holder for 1st year and 12.5% from subsequent year. If policy with only risk cover then entire premium charged from the policy will be taxable value. Example 20: ABC Life Insurance Company Ltd. (ALICL) has charged gross premium of Rs. 180 Lacs from policy holders with respect to life insurance policies in the 2017-18, out of which Rs. 100 Lacs have been allocated for investment on behalf of the policy holders. Amount allocated for investment intimated to policy holder at the time of supply of service then value of service = Rs. 180 Lacs – Rs. 100 Lacs = Rs. 80 Lacs If it is Single Premium Annuity policy then taxable value Rs. 180 * 10% = Rs. 18 Lacs. Amount allocated for investment not intimated to policy holder at the time of supply of service then value of service = 25% of Rs. 180 Lacs = Rs. 45 Lacs. If premium is only towards risk cover then value of service Rs. 180 Lacs.
32 (5)	Value of supply in case of second hand goods shall be the difference in selling price and purchase price, subject to ITC is not availed. If the value so arrived is negative, then it shall be ignored (Intra- State supplies of second hand goods by an unregistered supplier to registered second hand goods dealer exempt from GST) Further, purchase value of goods repossessed from defaulting borrower (who is not registered), shall be the purchase value as reduced by 5% points per quarter or part thereof, between the date of purchase and date of disposal. The provision applies to all taxable persons dealing in second hand goods, including old and used empty bottles. {PIB press release, Dated 15-7-2017 15:35 IST – CBE&C press release No. 79/2017, Dated 15-7-2017} **When ITC is not availed [Margin Scheme]** • Value = Selling price - Purchase price • Selling price < Purchase price ⇒ Ignore negative value • CGST on second hand goods received from unregistered supplier exempt **When ITC is availed** • Normal valuation as per other applicable provisions Example 21: A company X Ltd, which deals in buying and selling of second hand cars, purchases a second hand Maruti Alto Car of March, 2014 for Rs. 3 Lacs from an unregistered person and sells the same after minor furbishing for Rs. 3.5 Lacs. The supply of the car to the company for Rs. 3 Lacs shall be exempted and the supply of the same by the company to its customer shall be taxed at (Rs. 3.5 Lacs – Rs. 3 Lacs) = Rs. 50,000 shall be taxed. If margin scheme is opted for a transaction of second hand goods, the person selling the car to the company shall not issue any taxable invoice and the company purchasing the car shall not claim any ITC.

	Example 22: Mr. A purchased a motor car on 1st October 2017 for Rs. 20,00,000. 80% of the purchase price of car was finance by ABC Finance Ltd. The loan was payable in 60 monthly installments beginning with 1st November 2017. Mr. X defaulted in repayment of loan and ABC Finance Ltd. repossessed the car on 15th May 2018. The car was disposed on 10th December 2018 for Rs. 15,50,000. So, number of quarter is 5 (total percentage 25%). So, purchase value of car is Rs. 15,00,000. Sale price of car is Rs. 15,50,000 and Purchase value of car is Rs. 15,00,000 so value of taxable supply is Rs. 50,000.
32 (6)	Value of a token, or a voucher, or a coupon, or a stamp (other than postage stamp) which is redeemable against a supply of goods or services or both shall be equal to the money value of the goods or services or both redeemable against such token, voucher, coupon or stamp. Example 23: ABC Coupons Ltd. sells coupons that are redeemable against specified luxury food products at retail outlets. Each coupon has a face value of Rs. 900 but it redeemable for supplies worth Rs. 1,000. In terms of rule 32 (6) of the CGST rules relating to valuation, the value of a coupon is the money value of goods redeemable against it. Therefore, though the coupon is sold for Rs. 900, its value is Rs. 1,000.
32 (7)	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 said Act between distinct persons as referred to in Section 25, where ITC is available, shall be deemed to be NIL.

Rule 33 Value of supply of services in case of pure agent: -

Value of supply in case of services provided by the pure agent shall exclude the expenditure or cost incurred by the him, if: -

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

(ii) Payment made by pure agent and the same has been shown separately on his invoice.

(iii) Supplies procured by the pure agent from the third party are in addition to the supplies on his own account.

Who is a pure Agent?

A person who -

1. Enters into a contract to act as a pure agent to incur expenditure or cost in course of supply of goods or services or both
2. Neither intends nor hold any title of goods or services or both
3. Doesn't use his own interest on goods/service procured
4. Receives only the actual amount incurred (100% reimbursement)

Example 24: Corporate services firm A is engaged to handle the legal work pertaining to the incorporation of Company B. Other than its service fees, A also recovers from B, registration fee and approval fee for the name of the company paid to the Registrar of Companies. The fees charged by the registrar of Companies for the registration and approval of the name are compulsorily levied on B. A is merely acting as a pure agent in the payment of those fees. Therefore, A's recovery of such expenses is a disbursement and not part of the value of supply made by A to B.

Example given in Service Tax Law

Example 25: X contracts with Y, a real estate agent to sell his house and thereupon Y gives an advertisement in television. Y billed X including charges for television advertisement and paid service tax on the total consideration billed. In such a case, consideration for the service provided is what X pays to Y. Y does not act as an agent on behalf of X when obtaining the television advertisement even if the cost of television advertisement is mentioned separately in the invoice issued by X. Advertising service is an input service for the estate agent in order to enable or facilitate him to perform his services as an estate agent.

This illustration clearly shows distinction between payments made as 'pure agent' and payment made as 'Principal'.

Rule 34 Rate of exchange of currency, other than Indian rupees, for determination of value: -

Applicable rate shall be: -

Rate of Exchange For	Applicable Rate
Taxable Goods	Rate notified by Board under Sec 14 of Customs Act, 1962 for the date of time of supply of such goods in terms of section 12 of the Act.
Taxable Services	Rate as per generally accepted accounting principles for the date of supply of such services in terms of section 13 of the Act.

Rule 35 Value of supply inclusive of integrated tax, central tax, State tax, Union territory tax: -

Where value of supply includes tax amount, i.e. Integrated tax, central tax, State tax or union territory tax, then tax amount shall be calculated by following method :-
Tax Amount = (Value inclusive of Tax * Tax Rate in %) / (100+ sum of tax rate in %)

Note that the provision applies only the value of supply included GST. The rule doesn't say that the value is deemed to be inclusive of GST.

Circular No. 86/05/2019 GST Dated 01.01.2019

Issue: What is the value to be adopted for the purpose of computing GST on services provided by BF/BC to a banking company?

Clarification: As per RBI's Circular and subsequent instructions on the issue (referred to as 'guidelines' hereinafter), banks may pay reasonable commission/fee to the BC, the rate and quantum of which may be reviewed periodically. The agreement of banks with the BC specifically prohibits them from directly charging any fee to the customers for services rendered by them on behalf of the bank. On the other hand, banks (and not BCs) are permitted to collect reasonable service charges from the customers for such service in a transparent manner. The arrangements of banks with the BCs specify the requirement that the transactions are accounted for and reflected in the bank's books by end of the day or the next working day, and all agreements/contracts with the customer shall clearly specify that the bank is responsible to the customer for acts of omission and commission of the BF/BC.

Hence, banking company is the service provider in the BF model or the BC model operated by a banking company as per RBI guidelines. The banking company is liable to pay GST on the entire value of service charge or fee charged to customers whether or not received via BF or BC.

Circular No. 92/11/2019-GST Dated 07/03/2019

Free samples and gifts

- It is a common practice among certain sections of trade and industry, to provide free samples and gifts. For example, pharmaceutical companies often provide drug samples to their stockists, dealers, medical practitioners, etc., without charging any consideration.
- Samples which are supplied free of cost, without any consideration, do not qualify as 'supply' under GST (except where the activity falls within the ambit of Schedule I of the CGST Act).
- ITC shall not be available on the inputs, input services and capital goods to the extent they are used in relation to the gifts or free samples distributed without any consideration.

- However, where the activity of distribution of gifts or free samples falls within the scope of supply in terms of the provisions contained in Schedule I of the CGST Act, the supplier of gifts/ free samples would be eligible to avail ITC.

Buy one, get one free offer (BOGO)

- Sometimes, companies announce offers like 'Buy One, Get One free'. It may appear at first glance that in case of offers like 'Buy One, Get One Free', one item is being supplied free of cost without any consideration. Let say, "buy one soap and get one soap free".
- In fact, it is not an individual supply of free goods but a case of two or more individual supplies where a single price is being charged for the entire supply.
- Taxability of such supply will depend upon whether it is a composite or a mixed supply and the rate of tax shall be determined accordingly.
- ITC shall be available with respect to inputs, input services and capital goods used in relation to supply of goods or services as a part of such offers.

Discounts including 'Buy more, save more' offers

- Sometimes, the supplier offers staggered discount to the customers (i.e. increase in discount rate with increase in purchase volume). Such discounts are shown on the invoice itself.
- Some suppliers also offer periodic/ year ending discounts to their stockists, etc. Such discounts are not shown on the invoice as the actual quantum of such discount gets determined after the supply has been effected, generally at the year end. However, such discounts are established in terms of an agreement entered into at or before the time of supply. Further, the discount is passed on by supplier through credit notes.
- Such discounts offered by the suppliers to customers (including staggered and post supply discounts) shall be excluded to determine the value of supply provided they satisfy the parameters laid down in Section 15(3) of the CGST Act.4
- Further, the supplier shall be entitled to avail the ITC on inputs, input services and capital goods used in relation to such supply of goods or services at discount.

Get 10 % discount for purchases above Rs. 5,000/-, 20% discount for purchases above Rs. 10,000/- and 30% discount for purchases above Rs. 20,000/-.

Secondary Discounts

- These are the discounts which are not known at the time of supply or are offered after the supply is already over.
- In such cases, financial / commercial credit notes can be issued by the supplier for passing of discount, even if the conditions mentioned in Section 15(3)(b) of the CGST Act are not satisfied.
- However, such discounts shall not be excluded while determining the value of supply as such discounts are not known at the time of supply and the conditions laid down in Section 15(3)(b) of the CGST Act are not satisfied.
- In this case, there will be no impact on availability of ITC in the hands of supplier.

Study Notes

Question & Answer

Q1. ABC suppliers Ltd. Mumbai has issued following invoices on 22th July 2017:

(a) XYZ Ltd. Ahmedabad, Value of goods Rs. 20,000. Packing charges Rs. 800, Outward Freight Charges Rs. 1,200.

(b) CDE Ltd. Pune, Value of goods Rs. 50,000, weighment charges Rs. 1,600, discount for prompt payment Rs. 1,200.

(c) Brain cert, USA – FOB value Rs. 40,000.

The tax rates were as follows: - CGST 9%, SGST 9%, IGST 18%. Calculate the tax liability in each case.

A. (a) Tax is payable on value plus packing plus outward freight i.e. Rs. 22,000. Since customer is from out of state, IGST is payable @ 18%. Hence IGST payable is Rs. 3,960.

(b) Tax is payable on 50,000+1,600-1,200 = Rs. 50,400. The supply is within the State. Hence, tax payable is as follows, SGST @ 9% = Rs. 4,536 & CGST @ 9% = Rs. 4,536

(c) Since the goods are exported, IGST is not payable assuming ABC has LUT.

Q2. A taxable person engaged in trading of second hand cars has given following information for Sept'17:

(a) Purchased second hand car at Rs. 4,00,000 and sold at Rs. 5,00,000.

(b) Purchased second hand car at Rs. 3,00,000 and sold at Rs. 2,90,000.

(c) Purchased second hand car at Rs. 7,00,000. He could not sale in that month.

The tax rates were as follows: - CGST 14%, SGST 14%, IGST 28%, Compensation Cess 3%.

A. The taxable person can pay under margin scheme as follows:

(a) Value Rs. 1,00,000 [5,00,000-4,00,000], CGST @ 14% Rs. 14,000, SGST @ 14% Rs. 14,000 & Compensation Cess @ 3% 3,000. Total Rs. 31,000.

(b) No tax payable as value of supply is negative.

(c) No tax as the car is not sold.

Q3. A CA in Mumbai supplied service relating to incorporation of a company to Mr. Amit in Kolkata. He charged fees as follows:

(a) Professional fees for incorporate of company Rs. 1,00,000.

(b) Filing fees and registration charges paid to ROC Rs. 90,000.

(c) Reimbursement of Travelling and out of pocket expenses Rs. 10,000.

The tax rates were as follows: - CGST 9%, SGST 9%, IGST 18%. Calculate the tax liability in each case.

A. Rs. 90,000 are received as pure agent. So, this is not includible in value. The travelling & out of pocket expenses are part of value of supply and includible in value. Hence tax is payable on Rs. 1,10,000. Since the recipient is out of State, IGST is payable @ 18% = Rs. 1,10,000*18% = Rs. 19,800.

Q4. A in Kolkata supplied machinery of Rs. 2,00,000 to B in Kolkata in July 2017. He charged Rs. 24,000 as charges for erection and commissioning of the machinery and Rs. 20,000 as machine design charges. As per payment terms, the payment was to be made within 30 days. However, B did not pay within 30 days. Hence A recovered Rs. 6,000 as interest for late payment in Sept'17.

The tax rates were as follows: - CGST 9%, SGST 9%, IGST 18%. Calculate the tax liability in each case.

A. Tax is payable on Rs. 2,00,000+ Rs. 24,000+ Rs. 20,000 + Rs. 6,000 = Rs. 2,50,000. Tax payable CGST @ 9% of Rs. 2,50,000 = Rs. 22,500. SGST @ 9% = Rs. 22,500.

Q5. A manufacturer of drugs from Ahmedabad sales the product @ Rs. 5,000 for a box of medicines to wholesalers in Gujarat in Oct'17. He is sending to same goods to his consignment agent in Delhi in Oct'17.

The consignment agent is selling the box of medicines @ Rs. 5,300 per box. Calculate the GST payable. The tax rates were as follows: - CGST 2.5%, SGST 2.5%, IGST 5%. Calculate the tax liability in each case.

A. (a) for sale to wholesales in Gujarat the tax is as follows –
CGST @ 2.5% of Rs 5,000 = Rs. 125. SGST @ 2.5% = Rs. 125.
(b) for supplies to consignment agent in Delhi he can charge tax on 90% of the sale price in Delhi i.e. 90% of 5,300 = Rs. 4,770. IGST @ 5% of Rs. 4,770 = Rs. 238.50

Q6. A manufacturer of refrigerators from Punjab sales the refrigerator Rs. 50,000 to wholesalers in Punjab. He is sending to same refrigerators to his depot in Karnataka. He is selling the refrigerators in Karnataka Rs. 46,000 due to heavy competition. The tax rates were as follows: - CGST 14%, SGST 14%, IGST 28%. Calculate the tax liability for supply to Karnataka.

A. Since the entire tax paid in Punjab will be available as ITC in Karnataka, the tax can be paid on any value while sending goods from Punjab.

Q7. An AC manufacturer in Chennai has made an exchange offer. As per terms of offer, if you return your old AC of any make, you will get new AC of specified high capacity for Rs. 56,000, excluding taxes. The normal price of the new air conditioner of that capacity is Rs. 68,000, excluding taxes. You made enquiry with dealers of second hand AC and they are willing to purchase your AC for Rs. 7,000. You are staying at Chennai. The tax rates were as follows: - CGST 14%, SGST 14%, IGST 28%. Calculate the tax payable.

A. Tax is payable on Rs. 68,000. Tax payable – CGST @ 14% - Rs. 9,520, SGST @ 14% Rs. 9,520.

Q8. How value of supply to be arrived at in case of supply of goods or services between related persons?

A. Let's understand it with an example wherein Mr. A who is brother of Mr. B, comes to the shop of Mr. B. He selects goods worth Rs. 50,000 from the shop. The following would be the steps to find out the value of supply between Mr. A and Mr. B: -

(a) If the open market value of the goods or services supplied by the supplier is known then open market value of the goods or services supplied would be the value of supply.
Example: Mr. A who is brother of Mr. B, comes to the shop of Mr. B. He selects goods worth Rs 50,000 on the shop and asks how much he has to pay for it. Mr. B asks Mr. A to pay Rs 40,000. In this transaction, as Mr. B is brother of Mr. A, Mr. B has charged lesser price from Mr. A. Thus, the open market price in the given case would be Rs. 50,000.

(b) If open market value is not available, it will be the value of supply of goods or services of like kind and quality.
Example: Mr. A who is brother of Mr. B, comes to the shop of Mr. B. Supposedly, goods selected by him have been imported for the first time from outside the country and no price has been specified on such goods. Mr. B asks Mr. A to pay Rs. 40,000. In this transaction, as Mr. B is brother of Mr. A and the open market value is not available, price of goods with similar features would be the value of supply of the goods. Supposedly, similar goods are available for Rs. 45,000 in the market, therefore value of supply would be Rs. 45,000.

(c) If value is not determinable under either of the two methods above, value of supply would be the value as determined by application of Rule 30 or Rule 31 of Central Goods and Services Tax Rules, 2017, in that order.

(d) Where the goods are intended for further supply as such by the recipient, the value at the option of the supplier, be an amount equivalent to ninety per cent of the price charged for the supply of goods of like kind and quality by the recipient to his customers not being his related person.

(e) If the recipient is eligible for full input tax credit, the value declared in the invoice shall be deemed to be open market value of the goods or services.

Q9. Is GST Leviable on Securities Transaction Tax and Stamp Duty?

A. The liability to pay STT and Stamp Duty on purchase or sale of share is that of either purchaser or seller and not of stock broker. The stock broker collects and deposits the same on behalf of the purchaser or seller and in the capacity of the pure agent. Thus, GST is not payable on STT and Stamp Duty as long as the sub – broker satisfies the conditions of pure agent as specified in Rule 33 of the CGST Rules, 2017.

Q10. Admission to ABC Theater is Rs. 100 per ticket for a Kannada Movie as well as for a Hindi Movie plus entertainment tax Rs. 10% on Kannada Movie and 20% on other languages. In the month of November, ABC Theater sold 2000 tickets of Tamil Movie and 2000 tickets of Hindi Movie. Find the value of taxable supply of service. Applicable rate of GST 18%. Find the GST liability if any?

A. For GST law add all other taxes (other than part of GST family i.e. CGST, SGST, IGST etc.) in value of supply. So, entertainment tax shall be part of assessable value.

Kannada Movie total collection = 2000*110 {100+(100*10%)}= Rs. 2,20,000

Hindi Movie total collection = 2000*120 {100+(100*20%)}= Rs. 2,40,000

GST Tax Liability

CGST = Rs. 4,60,000*9%= Rs. 41,400

SGST = Rs. 4,60,000*9%= Rs. 41,400

Q11. ABC Gas sells cooking gas cylinders. Subsidy directly transferred to the account of the customer whose account are linked with Aadhar card. Selling price per cylinder is Rs. 900. Customer received subsidy Rs. 300 directly from Government to his bank account. Net outflow of the buyer is Rs. 600. Find the value of supply of goods (per cylinder) in the hands of ABC Gas. Calculate assessable value to levy tax.

A. Supplier is liable to pay GST on transaction value which shall be exclusive of subsidy received from government. However, exclusion of subsidy is applicable if Government is paying that to the supplier for making the supply.

In this case, Government has not paid subsidy to the supplier, rather it has been paid to the buyer directly. Supplier is not impacted by such subsidy. He shall be liable to pay whatever transaction value he has charged to buyer.

Hence, transaction value is Rs. 900 per cylinder.

Q12. ABC owns a coaching institute in Pune. The institute charges Rs. 18,000 per student for giving training in international taxation. However, this training programmes is subsidized by different institutions as follows – State Government of Maharashtra : Rs. 500 per student, XYZ Charitable Trust : Rs. 200 per student and Government of USA: Rs. 200 per student. Calculate tax liability assuming CGST & SGST @ 9% each.

A. In this case, subsidies given by different institutions are directly linked to the price charged by ABC. State Government subsidy can be excluded but subsidy paid by others will be included in taxable value.

Value of taxable supply = Rs. 18,000 – Rs. 500 (subsidy from Government of Maharashtra) = Rs. 17,500

GST Tax Liability

CGST = Rs. 17,500*9%= Rs. 1,575

SGST = Rs. 17,500*9%= Rs. 1,575

Q13. ABC has provided the following details relating to goods sold:-

Particulars	Amount
List price of the goods (excluding of taxes, subsidy and discounts)	50,000

Tax levied by Municipal Authority	5,000
Packing charges (not included in the price above)	2,000
Subsidy received from NGO	2,500
Trade discount offered @ 2% on list price	
Recipient pay 10% brokerage on list price at the request of supplier	
Recipient pay freight & insurance charges on behalf of supplier	5,000

Calculate the value of taxable supply.

A.

Statement showing calculation of value of taxable supply

Particulars	Amount
List price of the goods (excluding of taxes and discounts)	50,000
Add:-	
Tax levied by Municipal Authority {included in the value as per section 15 (2) (a)}	5,000
Packing Charges {included in the value as per section 15 (2) (c)}	2,000
Subsidy received from NGO {since subsidy is received from a non-government body, the same is included in the value of terms of section 15 (2) (e)}	2,500
Recipient pay 10% brokerage on the request of supplier {included in the value as per section 15 (2) (b)}	5,000
Recipient pay freight & insurance charges on behalf of supplier {included in the value as per section 15 (2) (b)}	5,000
Total	69,500
Less: Trade discount {since discount is known at the time of supply, it is deductible from the value of terms of section 15 (3) (a)}	1,000
Value of Taxable Supply	68,500

Q14. ABC buys the 'Super Motor' in Rajasthan from XYZ. Both agreed for the below conditions:

Value of Motor (including GST @ 5%)	Rs. 3,00,000
Taxes (other than GST) paid - Not included in above value	Rs. 5,000

Below items are being paid by recipient though supplier is liable to pay

Freight Expenses	Rs. 3,500
Consultancy charges for erection	Rs. 2,000
Testing Charges	Rs 500
Insurance Charges	Rs 4,500
Other details:-	
Subsidy received from Rajasthan Government (deducted from value)	Rs. 10,000
Subsidy received from manufacturer for supply of power generator (deducted from value)	Rs. 25,000
Trade discount shown in Invoice	Rs. 2,000
Cash discount due to instant payment	Rs. 5,500

If such supply is inter-State supply, calculate the value of taxable supply and GST.

A.

Sr. No.	Action	Particulars	Amount	Remarks
1		Value of Motor	3,00,000	
2	Add	Taxes (other than GST) paid	5,000	Section 15 (2) (a) – Value of supply shall include any taxes, duties, cesses, fees

				and charges levied under any law other than GST
3	Add	Freight Expenses	3,500	Section 15 (2) (b) – Any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of supply.
4	Add	Consultancy charges for erection	2,000	
5	Add	Testing Charges	500	
6	Add	Insurance Charges	4,500	
7	Add	Subsidy received from manufacturer	25,000	Section 15 (2) (e) – Value shall include subsidies directly linked to the price excluding subsidies provided by the CG/SG.
8	Less	Trade Discount	- 2,000	Section 15 (3) (a) – Value of the supply shall not include any discount which is given before or at the time of the supply if such discount has been duly recorded in the invoice issued in respect of such supply.
9	Less	Cash Discount	-5,500	Section 15 (3) (b) – Value of the supply shall not include any discount which is given after the supply has been effected, if such discount is established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices.
10	Total	Value (including GST Value)	3,33,000	
11	Less	IGST @ 5% {Rs. 3,33,000*5/105)	15,857	Inter-State supply
12	Net	Taxable Value	3,17,143	

Q15. ABC footwear, a registered supplier of Kanpur, has a non-moving stock worth Rs. 10,00,000 of a particular variety of shoes that are out of fashion. It has not been able to find market inspite of huge discount offered. It was able to sell this stock at a very low price of Rs. 2,00,000 to a retailer in Maharashtra with a condition that the retailer would display hoardings of ABC footwear in all their retail outlets in the State. Determine the taxable value of supply.

A. In this case the supplier and recipient are not related persons. Although a condition is imposed on the recipient on effecting the sale, such a condition has no bearing on contract price. This is a case of distress sale, and in such a case, it cannot be said that the supply is lacking 'sole consideration'. Therefore, the price of Rs. 2,00,000 will be accepted as value of supply.

Q16. ABC is facing serious liquidity problems and requests XYZ to pay within 2 days. It offers additional 1% cash discount. XYZ agrees and pays.

A. As per section 15 (3) (b), this discount was not known at the time of supply, and so it cannot be claimed as a deduction from the transaction value for GST calculation.

Q17. ABC Ltd. is a registered manufacturer of pendrive. It sells its pendrive exclusively through distributors appointed across the country. The MRP printed on package of a pendrive is Rs. 1,000. ABC Ltd. sells the pendrives to distributors at Rs. 700 per pendrive (exclusive of GST). The applicable rate of GST is 18%.

The stock is dispatched to the distributors on quarterly basis – stock for a quarter being dispatched in the second week of the month preceding the relevant quarter. However, additional stock is dispatched at any point of the year if the company receives a requisition of that effect from any of its distributors. The company charges Rs. 100 per pendrive from distributors (excluding all charges and taxes).

The company has a policy of offer a discount of 10% on pendrive supplied to the distributors for a quarter, if the distributors sell 500 pendrives in the preceding quarter. The discount is offered on the price at which the pendrive are sold to the distributors (excluding all charges and taxes).

The company appoints XYZ Ltd. as a distributor on 1st April and dispatches 750 pendrives on 8th April as stock for the quarter April-June. XYZ Ltd. places a purchase order of 1000 pendrives with the company for the quarter July-September. The order is dispatched by the company on 10th June and the same is received by the distributor. The distributor reports sale of 700 pendrives for the quarter April-June and 850 pendrives for the quarter July-September.

Compute the taxable value for the quarter July-September in respect of transaction between ABC & XYZ Ltd.

A. As per section 15 (3) (b), the value of supply shall not include any discount which is after the supply has been affected, if

i. such discount is established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices, and
ii. ITC as is attributable to the discount on the basis of document issued by the supplier has been reversed by the recipient of the supply.

XYZ Ltd. is entitled to 10% discount on pendrives supplied by ABC Ltd. for the quarter July-September as it has sold more than 500 pendrives in the preceding quarter. However, since the entire stock for the quarter July-September has already been dispatched by ABC Ltd. in the month of June, the discount on the pendrives supplied to XYZ Ltd. for the quarter July-September will be post-supply discount. This discount shall be allowable since the discount policy was known before the time of such supply and the discount can be specifically linked to relevant invoices provided XYZ Ltd. reverses the ITC attributable to the discount on the basis of credit note issued by ABC Ltd.

Value of Taxable Supply (Amount in INR):-

Price at which the pendrives are supplied to XYZ Ltd.	700
Add: Packing Charges {incidental expenses need to be added as per section 15 (2) (c)}	100
Less: Discount {As explained above all the conditions specified in section 15 (3) (b) have been satisfied, so the post-supply discount will be allowed, subject to reversal of ITC by XYZ Ltd.}	-70
Value of Taxable supply of one unit of pendrive	730
Value of Taxable supply of 1000 units supplied for the quarter July-September (Rs. 730*1000)	7,30,000

Note:-XYZ Ltd. need to reverse ITC = Rs. 70 discount * 1000 * 18% = Rs. 12,600.

Q18. ABC provides management consultancy to a group of companies for annual retainership fees of Rs. 22 Lakhs. It is given an office cabin in head office of the group for its exclusive use. ABC pays GST on the amount of Rs. 22 Lakhs. Is the value for the service provided by ABC, correct under GST laws? Please explain.

A. The value of Rs. 22 Lakhs for the service provided by ABC, is not correct under GST laws. ABC gets an office cabin free of cost, which is an additional non-monetary consideration for its services. The market value of the rent of the room must be added to the fees (Rs. 22 Lakhs) in order to arrive at the value of the taxable service provided by ABC, as per Rule 27 of CGST Rules 2017.

Q19. Mr. A located in Pune purchases 2,000 parker pen for Rs. 2,00,000 from ABC Ltd. (wholesaler) located in Indore. Mr. A's son is an employee in ABC Ltd. The price of each parker pen in the open market is Rs. 120. The supplier additionally charges Rs. 5,000 for delivering the goods to the recipient's place of business.

A. Mr. A and ABC Ltd. would not be treated as related persons merely because the son of the recipient is an employee of the supplier, although such son and the supplier would be treated as related persons (employer and employee relationship).

Therefore, the transaction value will be accepted as the value of the supply. Transaction value will be Rs. 2,00,000+Rs. 5,000 = Rs. 2,05,000. IGST will be leviable since it is inter-State transaction.

Q20. ABC Ltd. owned by XYZ Ltd. is popularly known for assembly of large machines. PQR Ltd. (also owned by XYZ Ltd.) is engaged in fabrication of small machines. A factory contracts ABC Ltd. of its machinery, for a fee of Rs. 6,00,000. ABC Ltd. sub-contracts the work to PQR Ltd. for Rs. 4,00,000 and ensures supervision of the work performed by them. Generally, PQR Ltd. charges a fixed sum of Rs. 1,200 per man hour to its clients; its spends 400 hours on this project. Determine taxable value of supply.

A. Since ABC Ltd. & PQR Ltd. is controlled by XYZ Ltd., the two companies will be treated as related persons. Therefore, Rs. 4,00,000 being the sub-contract price will not be accepted as transaction value. The value of the service shall be open market value being Rs. 4,80,000 (Rs. 1,200*400).

Q21. ABC Ltd. (Mumbai) has 10 agents located across Maharashtra (except Mumbai). The stock of water purifier is dispatched on Just in time basis from ABC Ltd., to the location of the agents, based on receipt of orders from various dealers, on a fortnightly basis. ABC Ltd. is also engaged in wholesale supply of water purifier in Mumbai. An agent places an order for dispatch of 20 water purifier on 10-12-2017. ABC Ltd. had sold 20 water purifier to a retailer in Mumbai on 8-12-2017 for Rs. 1,30,000. The agent effects the sale of the 20 units to a dealer who would affect the sale on MRP basis i.e. Rs. 7,000- per unit. Calculate taxable value of supply.

A. The law deems these supplies between the principal and agent to be supplies for the purpose of GST. Therefore, the transfer of goods by the principal (ABC Ltd.) to its agent for him to effect sales on behalf of the principal would be deemed to be a supply although made without consideration. The value would be either the open market value, or 90% of the price charged by the recipient of the intended supply to its customers, at the option of the supplier. Thus, the value of the supply by ABC Ltd. to its agent would be either Rs. 1,30,000 or Rs. 1,26,000 (i.e. 90% * 7,000 * 20), based on the option chosen by ABC Ltd.

Q22. ABC Insurance provides you the following information for the month of September, 2018. You are required to compute value of taxable supply of services under Rule 32 (4) of Determination of value of supply Rules, 2017.

1. General policies: Total premiums collected Rs. 12,000 Lakhs (out of which 1st year premium is Rs. 5,000 Lakhs)
2. Single premium annuity policies : Premium collected Rs. 850 Lakhs
3. Only risk cover policies : Premium collected Rs. 500 Lakhs
4. Life micro-insurance policies where insured amount does not exceed Rs. 2,00,000 : Premium collected Rs. 10 Lakhs.

5. Variable Insurance Policies : Premium collected Rs. 8,000 Lakhs. (80% of the amount is allocated for investments on behalf of policy holder for which policy holder is given separate break up in premium receipts).

A. Computation of value of taxable supply of services (Rs. In Lakhs):

Particulars	Amount	Rate	Taxable Value
General policies:			
(i) First year premium	5,000	25%	1,250
(ii) Subsequent years i.e. policies issued in earlier	7,000	12.5%	875
years	850	10%	85
Single premium annuity policies	500	100%	500
Only Risk cover policies since the entire premium is for risk cover, hence, the option under Rule 32 (4) is not available.	10	Exempt	-
Life micro-insurance policies {Exempt vide Entry 36 of Notification no. 12/2017-Ct (Rate)}	8,000	-	1,600
Variable Insurance Policies [Gross Premium – Amount allocated towards investment]			
Total Taxable Value			4,310

Q23. Will the Section 15 read with Chapter IV of the CGST Rules, 2017 apply to IGST payable on import of goods? How valuation will be done in case of import of services?

A. No. As per Proviso to Sec. 5(1) of IGST Act, Customs Law will be applicable for valuation of imported goods. U/s 15 read with Chapter IV of the CGST Rules, 2017 will apply for valuation of import of services.

Q24. Is reference to the CGST Rules required in all cases?

A. 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.

Q25. If related persons transact at arm's length price, can the valuation still be questioned?

A. 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.

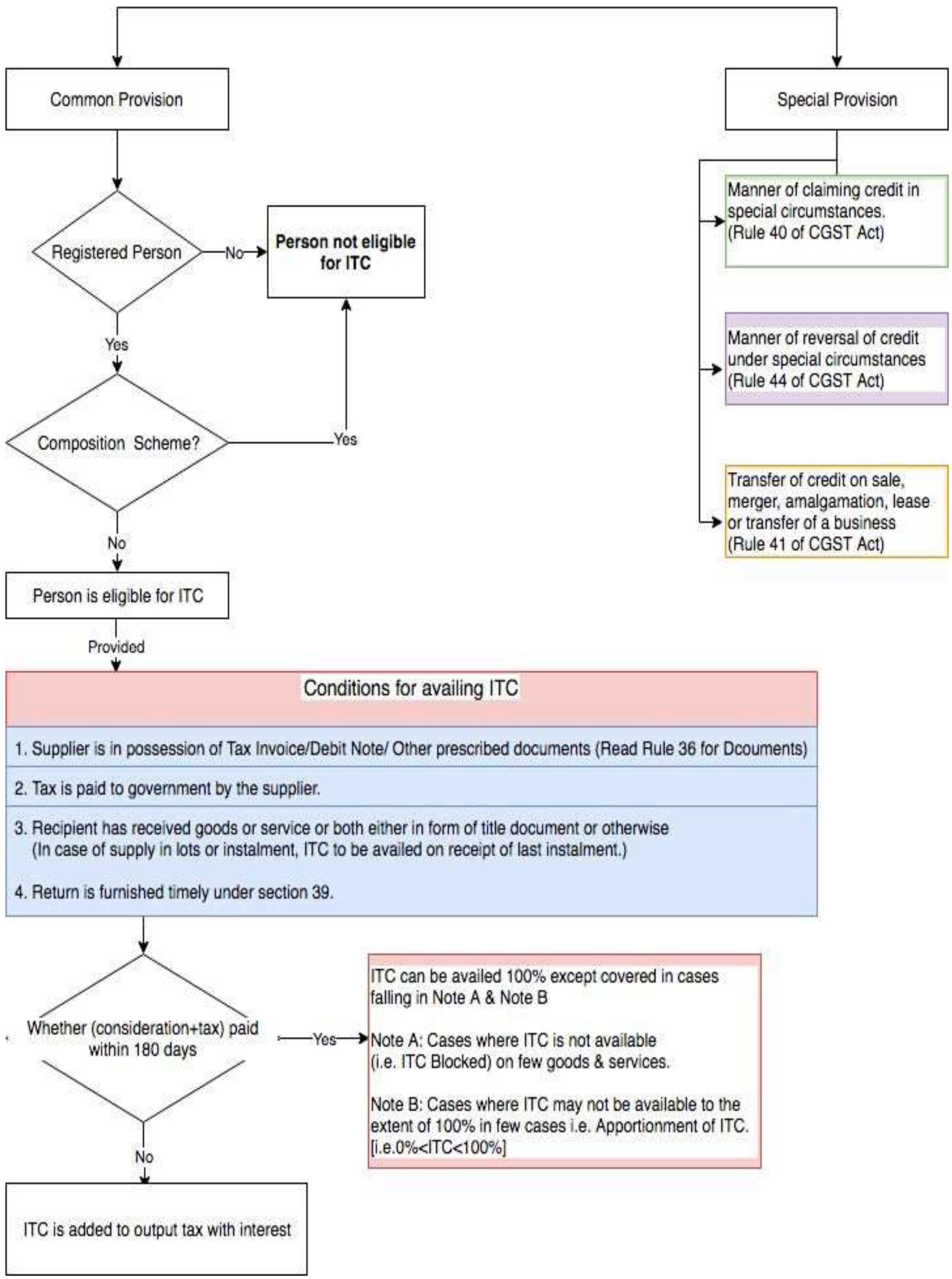
Q26. What is the meaning of the term "Price is not the sole consideration"?

A. 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.

Study Notes

Chapter 8: - Input Tax Credit

Section 16	Eligibility and conditions for taking input tax credit
Rule 36	Documentary requirements and conditions for claiming input tax credit
Rule 37	Reversal of input tax credit in the case of non-payment of consideration
Section 17	Apportionment of credit and blocked credits
Rule 38	Claim of credit by a banking company or a financial institution
Rule 42	Manner of determination of ITC in respect of inputs or input services and reversal thereof
Rule 43	Manner of determination of ITC in respect of capital goods and reversal thereof in certain cases
Rule 88A	Order of utilization of ITC
Section 18	Availability of credit in special circumstances
Rule 40	Manner of claiming credit in special circumstances
Rule 41	Transfer of credit on sale, merger, amalgamated, lease or transfer of a business
Rules 41A	Transfer of credit on obtaining separate registration for multiple places of business within a State or Union territory
Rule 44	Manner of reversal of credit under special circumstances
Section 19	Taking ITC in respect of inputs & capital goods sent for job work
Rule 45	Conditions and restrictions in respect of inputs and capital goods sent to the job worker
Section 20	Manner of distribution of credit by input service distributor
Section 21	Manner of recovery of credit distributed in excess
Rule 39	Procedure for distribution of ITC by Input Service Distributor


Common Provision
Special Provision
Registered Person
No
Person not eligible for ITC
Yes
Composition Scheme?
Yes
No
Person is eligible for ITC
Provided
Manner of claiming credit in special circumstances. (Rule 40 of CGST Act)
Manner of reversal of credit under special circumstances (Rule 44 of CGST Act)
Transfer of credit on sale, merger, amalgamation, lease or transfer of a business (Rule 41 of CGST Act)
Conditions for availing ITC
1. Supplier is in possession of Tax Invoice/Debit Note/ Other prescribed documents (Read Rule 36 for Dcouments)
2. Tax is paid to government by the supplier.
3. Recipient has received goods or service or both either in form of title document or otherwise
(In case of supply in lots or instalment, ITC to be availed on receipt of last instalment.)
4. Return is furnished timely under section 39.
Whether (consideration+tax) paid within 180 days
Yes
ITC can be availed 100% except covered in cases falling in Note A & Note B
Note A: Cases where ITC is not available (i.e. ITC Blocked) on few goods & services.
Note B: Cases where ITC may not be available to the extent of 100% in few cases i.e. Apportionment of ITC. [i.e.0%<ITC<100%]
No
ITC is added to output tax with interest

ITC

Section 16
Eligibilities & Conditions for taking ITC

(1) Registered person is entitled
(2) Conditions

- Invoice + Receipt of Goods/Services/Both + Tax paid to government + Return furnished by recipient
- First proviso - goods received in lots
- Second proviso - amount not paid to supplier within 180 days - ITC to be added to output liability along with interest
- Third proviso - ITC may again be availed after 180 days only on payment

(3) Depreciation or ITC (only one)
(4) Last date of claiming ITC

Section 17
Apportionment of credit & blocked credits

Section	Title		Rule
17 (1)	Apportion-ment of ITC	Business + Non - Business	
17 (2)		Taxable Supply + Exempt Supply	Input/Input Services - Rule 42 Capital Goods - Rule 43
17 (3)			
17 (4)		ITC for Banks + FIs	Rule 38
17 (5)	Blocked Credit		

Section 18
Availability of credits in special circumstances

Section	Title	Rule
18 (1) (a)	Unregistered to Registered (liable to be registered)	
18 (1) (b)	Voluntary Registration (not liable to register)	42, 44
18 (1) (c)	Composition to Regular Tax Payer	
18 (1) (d)	Exempt Supply to Taxable Supply	
18 (2)	ITC not available after expiry of 1 year from date of issue of tax invoice for cases of 18 (1)	
18 (3)	Change in constitution due to sale, merger, amalgamation, lease or transfer	41
18 (4)	Regular Taxpayer to Composition Taxpayer Taxable Supply to Exempt Supply	44
18 (5)	Referring to rule 44 for 18 (1) + 18 (4)	40 & 44
18 (6)	Reversal of credit for capital goods	

Section 16 Eligibility and conditions for taking input tax credit

Section 16(1)

Eligible Person: Every registered person shall be entitled to take credit of ITC, subject to section 49 (Section 49 prescribes provisions relating to payment of tax, interest, penalty & other amounts), on any supply of goods or services or both to him.

Conditions: Goods or Services are used or intended to be used in the course or furtherance of his business.

Credited to Electronic Ledger: The said amount shall be credited to the electronic credit ledger of such person.

***Note:** Electronic Credit Ledger shall be maintained for each registered person eligible for ITC under the Act on the Common Portal and every claim of ITC under the Act shall be credited to the said Ledger.*

Section 16(2)

Registered person shall be entitled to the ITC, 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 or such other tax paying documents as may be prescribed;

(b) He has received the goods or services or both

(i) it shall be deemed that the registered person has received the goods where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer 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.

(c) subject to the provision of section 41, the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilization of ITC admissible in respect of the said supply; and

(d) He has furnished the return under section 39:

- If goods against an invoice are received in lots or installments, the registered person shall be entitled to take ITC upon receipt of the last lot of installment;
- If the recipient fails to make payment to the supplier against the invoice within a period of 180 days from the date of issuance of invoice, then the recipient shall add back the amount of ITC claimed to the output tax liability along with interest, in the manner as may be prescribed. This provision shall not apply on tax paid on reverse charge basis {Section 9 (3) & 9 (4)}. If partial payment is made, the reversal will be proportionate to the amount not paid to the supplier.
- If the recipient later makes payment to supplier, he can take ITC – third proviso to section 16 (2) of CGST Act.

At present, ITC to be taken in GSTR 3B by taxable person on his own. Of course, supplier has to upload his supplies in his GSTR-1. The recipient has to make sure that he can take ITC only on basis of details of invoices as uploaded by supplier.

Section 16(3)

Where the registered person has claimed depreciation on the tax component of the cost of capital goods and plant and machinery under the provisions of the Income-Tax Act, 1961, the ITC on the said tax component shall not be allowed.

Section 16(4)

A registered person shall not be entitled to take ITC in respect of any invoice or debit note for supply of goods or services or both after the 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.

Rule 36 Documentary requirements and conditions for claiming ITC

Rule 36 (1): ITC shall be availed by registered person including the Input service distributor on the basis of any of the following documents, namely: -

- An invoice;
- An invoice for reverse charge, subject to payment of tax (reverse charge);
- A debit note;
- A bill of entry or any similar document prescribed under the Custom Act, 1962 or rules made thereunder for the assessment of integrated tax on imports;
- An Input service distributor invoice or input service distributor credit note or any document issued by an input service distributor in accordance with the provisions of sub-rule (1) of rule 54.

Rule 36 (2): ITC shall be availed by a registered person only if all the applicable particulars as specified in the provisions of Chapter VI are contained in the said document, and the relevant information, as contained in the said document, is furnished in Form GSTR-2 by such person.

Now, it is provided that if the said document doesn't contain all the specified particulars but contains the details of the amount of tax charged, description of goods or services, total value of supply of goods or services or both, GSTN of the supplier and recipient and place of supply in case of inter-State supply, input tax credit may be availed by such registered person.
{Proviso inserted vide notification No. 39/2018-CT, Dated 04.09.2018}

Rule 36 (3): No ITC shall be availed by a registered person in respect of any tax that has been paid in pursuance of any order where any demand has been confirmed on account of any fraud, willful misstatement or suppression of facts.

As per CBIC tweet, ITC of RCM can be claimed in same month in which it is paid. Let say ITC of RCM of July paid in August can be used for payment of liability of July

Rule 37 Reversal of ITC in the case of non-payment of consideration

Rule 37 (1): After availing ITC, recipient fails to pay to the supplier the amount towards the value of supply along with tax payable within 180 days from the date of issue of invoice. The amount of value not paid and the amount of ITC availed or proportionate to such amount not paid to the supplier in Form GSTR-2 for the month immediately following the period of 180 days from the date of the issue of the invoice.

Provided that the value of supplies made without consideration as specified in Schedule I of the said Act shall be deemed to have been paid for the purpose of the second proviso to sub-section (2) of section 16.

Provided further that the value of supplies on account of any amount added in accordance with the provisions of clause (b) of sub-section (2) of section 15 shall be deemed to have been paid for the purposes of the second proviso to sub-section (2) of section 16.
{Inserted vide notification No. 26/2018-Central Tax, Dated 13.06.2018}
Any amount that the supplier is liable to pay in relation to supply but which has been incurred by the recipient of the supply and not included in price actually paid or payable for the goods or services or both.

In case the supplier has issued invoice after the due date on which invoice should have been issued in terms of Section 31 of the CGST Act, calculation of 180 days will commence from the date of issue of invoice by the supplier and not from the due date by which invoice should have been issued.

Rule 37 (2): The amount of ITC referred in sub-section (1) will be added to output tax liability for the month in which the details are furnished.

Rule 37 (3): The registered person shall be liable to pay interest [Sec. 50 (1)] from the date of availment of credit till the date when the amount is added to the output tax liability.

Rule 37 (4): The time limit specified in Sec. 16 (4) shall not apply to a claim for re-availing of any credit, in accordance with the provisions of the Act or the provisions of this chapter, that had been reversed earlier.

Example1: A is a trader who places order on B and instruct to deliver goods at C and in turn he raised invoice on C. Though the goods are not physically received at the premises of A, the condition of section 16 (2) (b) is satisfied and A is entitled to take ITC.

Example 2: XYZ makes an advance payment along with GST in August. The supplier raises a bill in the month of August but delivered goods in installment till November. XYZ can take ITC only in November.

Example 3: Due to a quality dispute, ABC withheld payment on a machine supplied by a vendor till it could be rectified. Over 180 days went by in this dispute. The credit taken by ABC and thus, it had to pay back the credit. Only after the vendor rectified the machine and ABC released the payment, could ABC take the credit again.

Example 4: Hercules Machinery delivered a machine to XYZ in January 2018 under Invoice No. 49 Dated 28th January 2018 for Rs. 4,15,000 plus GST and undertook trial runs and calibration of the machine as per the requirements of XYZ. The amount chargeable for post-delivery activities was covered in a debit note raised in April 2018 for Rs. 50,000 plus GST. XYZ did not file its annual return till October 2018. Though the debit note was received in the next financial year, it relates to an invoice received in the financial year ending March 2018. Therefore, the time limit for taking ITC available on Rs. 50,000 as well as on Rs. 4,15,000 is 20th October 2018; earlier of the date of filing the annual return for 2017-18 or the return for September 2018.

Example 5: XYZ received goods from ABC Ltd. on 21.09.2018 worth Rs. 1 Lac for which invoice was issued on 21.09.2018 along with GST of Rs. 18,000. XYZ claimed credit for the month of the same in form GSTR-3B of September month, but, failed to pay the invoice amount to the supplier till April, 2019. In this case, 180 days calculated from 21.09.2018, will expire on 20.03.2019. Thus, XYZ will reverse credit of Rs. 18,000 in its GSTR-3B for the month of March 2019 and interest computation to start from date of availing of credit and not from the date of invoice.

Section 17 Apportionment of credit & blocked credits

Section 17(1): If goods or services or both are used partly for the purpose of business & partly for other purposes, the ITC shall be restricted for the purpose of business.

Section 17(2): If goods or services or both are used for taxable supplies, zero rated supply & exempt supply, the ITC shall be restricted to taxable supplies & zero rated supply.

Section 17(3): Value of exempt supply shall include supply as may be prescribed, and –

a. Supply where GST is payable on reverse charge basis
b. Transactions in securities
c. Sale of land
d. Sale of building (except construction of complex where supply is made before obtaining certificate). *This exception has been made as in fact, GST is payable and hence it is not 'exempted supply'.*

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 {Sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building}.

For determining the value of exempt supply as per section 17 (3) – (a) the value of land and building shall be taken as same as adopted for the purpose of paying stamp duty, and (b) the value of security shall be taken as one percent of the sale value of such security – Explanation below Rule 45 of CGST Rules, 2017.

Section 17(4): A banking company or Financial Institution including NBFC;

a. as per provision of section 17 (2) i.e. proportionate credit; or
b. avail an amount equal to 50% of the eligible input tax credit on inputs, capital goods and input services in that month and the balance 50% shall lapse.

Provided that option once exercise shall not be withdrawn during the remaining part of financial year.

Provided further that the restriction of fifty percent, shall not apply to the tax paid on supplied made by one registered person to another registered person having the same PAN.

Rule 38 Claim of credit by Banking company or a financial institution (condition on choosing above option (b): (a) The said company or institution shall not avail the credit of – (i) tax paid on Inputs & Input Services that are used for non-business purposes, and (ii) the credit attributable (blocked credits) to supplies specified U/s 17 (5), in Form GSTR-2 (b) 50% of the input tax shall be the ITC admissible to the company or the institution and shall be furnished in Form GSTR -2

Section 17(5): Notwithstanding anything contained in Sec. 16 (1) and Sec. 18 (1), ITC shall not be available: -

17 (5)(a), (aa), (ab)	(a) motor 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; (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 (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; As per section 2(28) of the Motor Vehicles Act, 1988, "motor vehicle" or "vehicle" means any mechanically propelled vehicle adapted for use upon roads whether the power of propulsion is transmitted thereto from an external or internal source and includes a chassis to which a body has not been attached and a trailer; but does not include a vehicle running upon fixed rails or a vehicle of a special type adapted for use only in a factory or in any other enclosed premises or a vehicle having less than four wheels fitted with engine capacity of not exceeding twenty-five cubic centimetres. Noticeable, for first three exceptions viz., further supply of such vehicles or conveyance, transportation of passengers and imparting training on driving, flying, navigating such vehicles or conveyance, the supply must be an outward taxable supply of the registered person. While, in case of transportation of goods, there is no such requirement of making taxable supply. The confusion regarding ITC availability on special purpose vehicles such as dumpers, work-trucks, fork-lift trucks, etc. also gets settled with this amendment, since this clause restricts ITC of only such motor vehicles which are used for transportation of passengers. Therefore, all types of vehicles used for transportation of goods are allowed to avail ITC without any restrictions under this sub-section. Example 6: Dealer 'A' procures cars from Hyundai for further supply to various customers from its showroom. ITC available for this. Example 7: ABC Ltd., purchased cars for employees' official use. ITC not available for this. Example 8: A cab operator/transport agencies procures car for transportation of passengers. ITC available for this. Example 9: XYZ Ltd., purchased buses for daily commuting of employees. ITC available since credit not restricted on motor vehicles for transportation of passengers with capacity > 13 person. Example 10: ABC Ltd. bought truck for transportation of tiles manufactured by it. ITC available for this.

Study Notes

	Example 11 : A driving school purchases car for imparting training to trainees. ITC available for this. Example 12: ABC Ltd. purchased a trailor which is used inside the factory for movement of semi-finished goods to main plant. ITC available since it is not motor vehicle.
17 (5)(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) 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. Example 13: ABC Ltd., organized a dealer meet in a hotel and was charged GST on food bills of that hotel. ITC not available. Example 14: ABC Ltd., pays GST on monthly purchase of mineral water bottles for its employees. ITC not available. Example 15: Director of ABC Ltd., has taken membership of club for which the fee is paid by the company. ITC not available. Example 16: ABC Ltd. pays monthly subscription fee for FICCI etc. for their employees to attend their various programmes for knowledge enrichment. ITC available. Example 17: ABC Ltd., pays GST on cab services availed for onsite visit of its employees. ITC not available. Example 18: A hotel pays GST on cab services availed for airport pick up and drop facilities for its guests. In turn, the hotel recovers the same from its guests as part of composite supply of hotel stay services and cab. ITC available. Example 19: ABC caterers received a big contract for providing catering services to its client on occasion of marriage. They availed services of another caterer to render quality services and paid GST to the other caterer for his services. ITC available. Example 20: ABC Ltd., avails services of a caterer for running canteen for its employees which is mandatory as per Factories Act, 1948. ITC available. Example 21: ITC on aircraft purchased by a manufacturing company for official use of its CEO is blocked. Example 22: ITC on aircraft purchased by an Aviation School providing training on flying aircrafts, is allowed. Example 23: ITC on general insurance taken on a car used by employees of a manufacturing company for official purposes, is blocked. Example 24: ITC on maintenance & repair services availed by a company for a truck used for transporting its finished goods, is allowed. Example 25: ITC on outdoor catering services availed by a company, for a team development event organised for its employees, is blocked. Example 26: ITC on outdoor catering service availed by a company to run a canteen in its factory. The Factories Act, 1948 requires the company to set up a canteen in its factory. ITC on such outdoor catering is allowed.
17 (5)(c)	Work contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service;

	Example 27: ABC Ltd., availed services of a builder for construction of its factory which will be used for manufacturing taxable goods. The builder charged GST on invoice raised to ABC Ltd. ITC not available to ABC Ltd. Example 28: ABC Ltd., availed services of a building for renovating his office. If this is capitalized then ITC not available. But let say it is minor expenses and expensed out in Profit & Loss account then ITC available. Example 29: ABC Ltd., availed works contract services for constructing foundation of pillars supporting the machinery and paid GST charged thereupon. ITC available.
17 (5)(d)	goods or services or both received by a taxable person for construction of immovable property (other than plant & machinery) on his own account including when such goods or services or both are used in the course or furtherance of business .
17 (5)(e)	Goods or services or both on which tax has been paid under composition scheme.
17 (5)(f)	Goods or services or both received by a Non-resident taxable person except goods imported by him.
17 (5)(g)	Goods or services or both used for personal consumption. Example 30: ABC Ltd., is engaged in manufacturing tiles. 50 packs of tiles were taken by the MD of the company for its newly constructed home. ITC not available. Example 31: ABC & Co. is a CA Firm and provide advice on taxation matters. Two ACs were purchased for installing in the office. ITC available.
17 (5)(h)	Goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples.
17 (5)(i)	Any tax paid in accordance with the provisions of sections, 74, 129 and 130.

Subject to the provisions of section 17(5) of the CGST Act, if event management services, hotel, accommodation services, consumables etc. are received by a SEZ developer or a SEZ unit for authorised operations, as endorsed by the specified officer of the Zone, the benefit of zero rated supply shall be available in such cases to the supplier. [Circular No. 48/22/2018 Dated 14.06.2018]

Section 17(6): The Government may prescribe the manner in which the credit referred to in Sec 17(1) & Sec. 17 (2) may be attributed.

Note: - Sec 17 (5) (c) & (d), expression "construction" includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalization, to the said immovable property. "Plant & Machinery" 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.

Rule 42 Manner of determination of ITC in respect of inputs or input services and reversal thereof

The ITC in respect of Inputs or Input Services U/s 17 (1)/(2), being partly used for the purposes of business and partly for other purposes, or partly used for effecting taxable supplies including zero rated supplies and partly for effecting exempt supplies, shall be attributed to the purposes of business or for effecting taxable supplies in the following manner, namely , -

	Particulars
T	Total Input tax involved on inputs and input services in a tax period
T1	Amount of Input Tax, out of 'T', attributable to Inputs and Input Services intended to be used exclusively for purposes other than business
T2	Amount of Input Tax, out of 'T', attributable to Inputs and Input Services intended to be used exclusively for effecting Exempt Supplies
T3	Amount of Input Tax, out of 'T', in respect of Input and Input Services on which credit is not available u/s 17 (5)
C1	Amount of ITC credited to the Electronic credit ledger of Registered person C1 = T – (T1+T2+T3)
T4	Amount of ITC attributable to Input & Input Services intended to be used exclusively for effecting supplies other than exempted but including zero rated supplies
C2	Input Tax Credit left after attribution of ITC under T4 shall be called common credit, and calculated as: C2 = C1-T4
	Note: 'T1', 'T2', 'T3' and 'T4' shall be determined and declared by the registered person at the invoice level in Form GSTR-2 and at summary level in FORM GSTR-3B
D1	Amount of ITC attributable towards Exempt Supplies **is calculated as follows –** D1 = (E/F) * C2 Where 'E' is the aggregate value of exempt supplies during the tax period, and 'F' is the total turnover in the State of the registered person during the tax period.
	Note: Where the registered person doesn't have any turnover during the said tax period or the aforesaid information is not available, the value of 'E/F' shall calculated by taking values of 'E' and 'F' of the last tax period for which details of such turnover are available, previous to the month during which the said value of 'E/F' is to calculated. For the purposes of this clause, the aggregate value of exempt supplies and total turnover shall exclude the amount of any duty or tax levied under entry 84 and entry 92A of List I of the Seventh Schedule to the Constitution and entry 51 and 54 of List II of the said Schedule
D2	Amount of credit attributable to non-business purposes if common inputs and inputs services are used partly for business and partly for non-business purposes and shall be equal to 5% of C2
C3	Remainder of the common credit shall be the eligible ITC attributed to the purposes of business and for effecting supplies other than exempted supplies but including zero rated supplies – C3 = C2 – (D1+D2)
	Note: • the amount 'C3','D1' and 'D2' shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax and declared in FORM GSTR-3B or through FORM GST DRC-03 • The amount equal to aggregate of 'D1' & 'D2' shall be reversed by the registered person in FORM GSTR-3B or through FORM GST DRC-03 • Where the amount of Input Tax relating to Inputs or Input Services used partly for purposes other than business and partly for effecting exempt supplies has been identified and segregated at invoice level by the registered person, the same shall be included in 'T1' and 'T2' respectively, and the remaining amount of credit on such inputs or input services shall be included in 'T4'

The ITC determined shall be calculated finally for the financial year before the due date for furnishing of the return for the month of September following the end of the financial year to which such credit related.

Where the aggregate of the amounts calculated finally in respect of 'D1' and 'D2' exceeds the aggregate of the amounts determined in respect of 'D1' and 'D2', such excess shall be reversed by the registered person in FORM GSTR-3B or through FORM GST DRC-03 in the month not later than the month of September following the end of the financial year to which such credit related.

The said person shall be liable to pay interest on the said excess amount at the rate specified u/s 50 (1) for the period starting from first day of April of the succeeding financial year till the date of payment.

Or

Where the aggregate of the amounts determined in respect of 'D1' and 'D2' exceeds the aggregate of the amounts calculated finally in respect of 'D1' and 'D2', such excess amount shall be claimed as credit by the registered person in his return for a month not later than the month of September following the end of the financial year to which such credit relates.

Example 32: Out of 10 containers purchased by a registered person engaged in taxable supply of goods, 5 are used for storing non-taxable goods (exempt supply) such as petroleum. ITC on 5 containers used for non-taxable goods cannot be availed.

Example 33: A registered person (partnership firm) purchases 5 laptops but one of the laptop is being used by the son of one of the partners of the firm. ITC will not be available on such laptop as it is used for personal purposes.

Example 34: ABC Ltd. provides taxable as well as exempted services. Turnover of ABC Ltd. during the month of Nov'17 is as under:

Particulars	Amount
Value of exempted supply of services	30,00,000
Value of taxable supply of services	64,00,000
Value of Zero rated taxable supply of services	16,00,000
Supply of services made for personal use	10,00,000
Total	**1,20,00,000**

Details of ITC for the month of Nov'17 are as under:

Particulars	CGST	SGST	IGST
Total ITC available	1,08,000	1,08,000	54,000
The above ITC on input services includes the following:			
(i) Credit on input services exclusively used for supplying exempted services	18,000	18,000	7,200
(ii) Credit on input services exclusively used for supplying taxable services (including zero rated supplies)	54,000	54,000	3,600
(iii) Credit availed on inputs which are not eligible u/s 17(5)	18,000	18,000	6,300
(iv) Credit on input services exclusively used for supplying services for personal use	10,800	10,800	5,400

Please calculate entitlement of ITC for the month of Nov'17.

Particulars	CGST	SGST	IGST
Total ITC available	1,08,000	1,08,000	54,000
Less:			
(i) Credit on input services exclusively used for supplying services for personal use [T1]	10,800	10,800	5,400
(ii) Credit on input services exclusively used for supplying exempted services [T2]	18,000	18,000	7,200
(iii) Credit availed on inputs which are not eligible u/s 17(5) [T3]	18,000	18,000	6,300
Amount of ITC to the electronic credit ledger C1 = T – [T1+T2+T3]	**61,200**	**61,200**	**35,100**

Less: Credit on input services exclusively used for supplying taxable services including zero rated supplies [T4]	54,000	54,000	3,600
Common Credit of input & input services used for providing supply of services [C2 = C1-T4]	**7,200**	**7,200**	**31,500**
Total inadmissible common ITC [D1+D2]**	2,160	2,160	9,450
Net eligible common credit [C3 = C2 – (D1+D2)]	**5,040**	**5,040**	**22,050**
Total credit eligible [T4+C3]	**59,040**	**59,040**	**25,650**
Amount to be reversed by registered person [D1+D2]	**2,160**	**2,160**	**9,450**

** Calculation of amount of ITC exempt supplies and supply made for non-business use :

Particulars	CGST	SGST	IGST
Aggregate Value of Exempted supply of services [E]	30,00,000	30,00,000	30,00,000
Total turnover for Nov'17 [F]	1,20,00,000	1,20,00,000	1,20,00,000
Credit attributable towards exempt supplies [D1 = (E/F)*C2]	1,800	1,800	7,875
Credit attributable for supplies made for non-business purpose [D2 = 5% *C2]	360	360	1,575
Total inadmissible common credit [D1+D2]	**2,160**	**2,160**	**9,450**

Rule 43 Manner of determination of ITC in respect of capital goods and reversal thereof in certain cases

(1) Subject to the provisions of sub-section (3) of section 16, the ITC in respect of capital goods, which attract the provisions of sub-sections (1) and (2) of section 17, being partly used for the purposes of business and partly for other purposes, or partly used for effecting taxable supplies including zero rated supplies and partly for effecting exempt supplies, shall be attributed to the purposes of business or for effecting taxable supplies in the following manner, namely, -

(a) the amount of 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 FORM GSTR-3B and shall not be credited to his electronic credit ledger;

(b) the amount of input tax in respect of capital goods used or intended to be used exclusively for effecting supplies other than exempted supplies but including zero rated supplies shall be indicated in FORM GSTR-2 and FORM GSTR-3B and shall be credited to the electronic credit ledger;

(c) the amount of input tax in respect of capital goods not covered under clauses (a) and (b), denoted as 'A', shall be credited to the electronic credit ledger and the useful life of such goods shall be taken as five years from the date of the invoice for such goods:

Provided that where any capital goods earlier covered under clause (a) is subsequently covered under this clause, the value of 'A' shall be arrived at by reducing the input tax at the rate of five percentage points for every quarter or part thereof and the amount 'A' shall be credited to the electronic credit ledger;

Explanation. - An item of capital goods declared under clause (a) on its receipt shall not attract the provisions of sub-section (4) of section 18, if it is subsequently covered under this clause.

(d) the aggregate of the amounts of 'A' credited to the electronic credit ledger under clause (c), to be denoted as 'Tc', shall be the common credit in respect of capital goods for a tax period:

Provided that where any capital goods earlier covered under clause (b) is subsequently covered under clause (c), the value of 'A' arrived at by reducing the input tax at the rate of five percentage points for every quarter or part thereof shall be added to the aggregate value 'Tc';

(e) the amount of input tax credit attributable to a tax period on common capital goods during their useful life, be denoted as 'Tm' and calculated as

$$Tm = Tc \div 60$$

(f) the amount of input tax credit, at the beginning of a tax period, on all common capital goods whose useful life remains during the tax period, be denoted as 'Tr' and shall be the aggregate of 'Tm' for all such capital goods;

(g) the amount of common credit attributable towards exempted supplies, be denoted as 'Te', and calculated as

$$Te = (E \div F) \times Tr$$

where,
'E' is the aggregate value of exempt supplies, made, during the tax period, and 'F' is the total turnover in the State of the registered person during the tax period:

Provided that where the registered person does not have any turnover during the said tax period or the aforesaid information is not available, the value of 'E/F' shall be calculated by taking values of 'E' and 'F' of the last tax period for which the details of such turnover are available, previous to the month during which the said value of 'E/F' is to be calculated;

Explanation:- For the purposes of this clause, it is hereby clarified that the aggregate value of exempt supplies and the total turnover shall exclude the amount of any duty or tax levied under entry 84 and entry 92A of List I of the Seventh Schedule to the Constitution and entry 51 and 54 of List II of the said Schedule [excluding Central & State excise duty , CST & VAT on non-GST supplies, being petroleum products and alcoholic liquor};

(h) the amount 'Te' along with the applicable interest shall, during every tax period of the useful Life of the concerned capital goods, be added to the output tax liability of the person making such claim of credit.

(i) The amount Te shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax and declared in FORM GSTR3B.

There is no provision to make final calculations at end of every financial year.

Notes for rule 42 & 43:

i. If the registered person does not have any turnover during the said tax period, or the above information is not available, the values for the last tax period may be used.

ii. Here, exempt supplies include supplies charged to tax under reverse charge, transactions in securities, sale of land and sale of building when entire consideration is received either after issuance of completion certificate by the competent authority or its first occupation, whichever is earlier. Thus, ITC attributable to such supplies will need to be reversed.

iii. Here, exempt supplies exclude-

~~a. supply of services having place of supply in Nepal or Bhutan, against payment in Indian rupees as specified in Notification No. 42/2017 IT (R) Dated 27.10.2017.~~

b. supply of services by way of accepting deposits, extending loans or advances where the consideration is either interest or discount. However, value of such services is included in the exempt supply when the same are provided by a banking company or a financial institution including a NBFC.

c. transportation of goods by a vessel from the customs station of clearance in India to a place outside India.

Thus, ITC attributable to such supplies need not be reversed.

iv. Aggregate value of exempt supplies and total turnover excludes the central excise duty, State excise duty. CST and VAT.

v. The value of exempt supply in respect of land and building is the value adopted for paying stamp duty and for security is 1% of the sale value of such security.

Example 35: ABC Ltd., purchased following capital goods in the month of April 2018

Capital Goods	Value of Capital Goods (in INR)	Amount of GST paid (in INR) @ 18%
A	15,00,000	2,70,000
B	14,00,000	2,52,000

C	50,00,000	9,00,000

Out of these capital goods, capital good 'A' is meant exclusively for making exempt supplies, whereas, capital good 'B' is meant exclusively for making taxable supplies. Capital good 'C' is meant to be used commonly for making taxable as well as exempt supplies.

In the month of April 2018, ABC Ltd. has made exempted supplies of Rs.60,00,000, whereas total taxable supplies were Rs. 2,50,00,000.

Reversal of common credit for different months shall be made as under-

ITC Reversal for the month of April 2018		
Particulars	Amount in INR	Computation
Step 1: Segregation of ITC in various heads		
ITC for capital goods used exclusively for exempt supplies	2,70,000	
ITC for capital goods used exclusively for taxable supplies	2,52,000	
ITC for capital goods used commonly [T_c]	9,00,000	
Step 2: Computing common ITC for a month		
Common ITC for a month	15,000	$T_m = T_c$ / 60 = 9,00,000 / 60
Step 3: Computing common ITC at the beginning of a tax period		
Common ITC at beginning of tax period [T_r]	15,000	$T_r=T_m+T_m+T_m$........
Step 4: Computing Credit pertaining to exempt supplies		
Aggregate value of exempt supplies during the tax period [E]	60,00,000	
Total turnover in the State of the registered person during the tax period [F]	3,10,00,000	60,00,000+2,50,00,000
ITC towards exempt supply	2,903 [This has to be added to the output tax liability for the month of April 2018]	T_e=E/F * T_r =60,00,000/3,10,00,000 * 15,000

In the above example, suppose in the month of May 2018, following more capital goods were purchased:-

Capital goods	Value of capital goods (in INR)	GST (in INR @ 18%)
D	10,00,000	1,80,000
E	9,00,000	1,62,000

Out of these capital goods, capital good 'D' is meant exclusively for making taxable supplies, while capital goods 'E' is meant to be used commonly for making taxable as well as exempt supplies.

Further, the capital good 'B' purchased in April 2018, which was meant exclusively for making taxable supplies is decided to be used commonly from the month of May 2018 for effecting both taxable as well as exempt supplies.

In the month of May 2018, ABC Ltd. has made exempted supplies of Rs. 30,00,000, whereas total taxable supplies was Rs. 2,00,00,000.

Now, calculation of ITC reversal for the month of May 2018 shall be done as under:

ITC Reversal for the month of May 2018		
Particulars	Amount in INR	Computation
Step 1: Segregation of ITC in various heads		
ITC for capital goods used exclusively for exempt supplies	NIL	
ITC for capital goods used exclusively for taxable supplies	1,80,000	
ITC for capital goods used commonly [A]	1,62,000	
Addition to 'A'	2,39,400	=2,52,000-5% for one quarter
Total common ITC [T_c]	4.01.400	=1,62,000+2,39,400
Step 2: Computing common ITC for a month		
Common ITC for a month	6,690	$T_m = T_c$ / 60 = 4,01,400 / 60
Step 3: Computing common ITC at the beginning of a tax period		
Common ITC at beginning of tax period [T_r]	21,690	$T_r=T_m+T_m+T_m$........ =15,000+6,690
Step 4: Computing Credit pertaining to exempt supplies		
Aggregate value of exempt supplies during the tax period [E]	30,00,000	
Total turnover in the State of the registered person during the tax period [F]	2,30,00,000	30,00,000+2,00,00,000
ITC towards exempt supply	2,829 [This has to be added to the output tax liability for the month of May 2018]	T_e=E/F * T_r =30,00,000/2,30,00,000*21,690

Note: It may be noted that common credit of Rs. 9,00,000 availed in April, 2018, shall form part of the common credit and will be subject to proportionate reversal for the next 60 months, i.e. upto March 2023. From April 2023 onwards Rs. 9,00,000 shall not form part of the common credit. Similarly, will happen for common credit availed in subsequent months.

Rule 88A Order of utilization of ITC

Input tax credit on account of integrated tax shall first be utilised towards payment of integrated tax, and the amount remaining, if any, may be utilised towards the payment of central tax and State tax or Union territory tax, as the case may be, in any order:

Provided that 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.

Use IGST ITC to pay IGST liability then exhaust IGST ITC balance to pay CGST or SGST liability in any order & proportion before using CGST/SGST ITC.

- Original set-off provision was applicable for tax period July 2017 to January 2019
- Section 49A was made effective from 1 February 2019 and accordingly was applicable for tax period
- Provisions of Rule 88A shall be applicable for tax period March 2019 onwards

Example 36:

Head	Tax Liability	ITC available	Original set-off provision		After introduction section 49A		Rule 88A	
			Discharge of liability	ITC balance	Discharge of liability	ITC balance	Discharge of liability	ITC balance
IGST	NIL	800	NIL	NIL	NIL	NIL	NIL	NIL
CGST	800	500	CGST – 500 IGST – 300 Cash - NIL	NIL	IGST - 800 CGST – NIL Cash - NIL	500	IGST – 300 CGST – 500 Cash - NIL	NIL
SGST	800	200	SGST – 200 IGST – 500 Cash - 100	NIL	IGST – NIL SGST – 200 Cash - 600	NIL	IGST – 500 SGST – 200 Cash - 100	NIL

Example 37:

Head	**Tax liability**	**ITC available**	**Original set-off provision**		**After introduction section 49A**		**Rule 88A**	
			Discharge of liability	**ITC balance**	**Discharge of liability**	**ITC balance**	**Discharge of liability**	**ITC balance**
IGST	400	800	IGST - 400 Cash - NIL	NIL	IGST - 400 Cash - NIL	NIL	IGST - 400 Cash - NIL	NIL
CGST	800	500	CGST – 500 IGST – 300 Cash - NIL	NIL	IGST - 400 CGST – 400 Cash - NIL	100	IGST – 300 CGST – 500 Cash - NIL	NIL
SGST	800	200	SGST – 200 IGST – 100 Cash – 500	NIL	IGST – NIL SGST – 200 Cash – 600	NIL	IGST – 100 SGST – 200 Cash – 500	NIL

Section 18 Credit in Special Circumstances

Section 18(1):

(a) Person who has applied for registration within 30 days from the date on which he becomes liable for registration and has been granted registration, shall be entitled to take ITC in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date from which he becomes liable to pay tax.

(b) Person who takes registration under Sec. 25 (3) [voluntarily registration], shall be entitled to take ITC in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date of grant of registration.

(c) where any registered person ceases to pay tax under section 10 (composition dealer), shall be entitled to take ITC in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock and on capital goods (credit on capital goods shall be reduced by such percentage points as prescribed) on the day immediately preceding the date from which he becomes liable to pay tax under Section 9.

(d) where an exempt supply of goods or services or both by a registered person becomes a taxable supply, such person shall be entitled to take ITC in inputs held in stock and inputs contained in semi-finished or finished goods held in stock and on capital goods exclusively used for such exempt supply (credit on capital goods shall be reduced by such percentage points as prescribed) on the day immediately preceding the date from which he becomes liable to pay tax under Sec. 9.

Example 38: Mr. A whose liability arises, say, on 1st April, may have paid GST on his purchases, say from 1st January, is required to take registration within 30 days form 1st April i.e. upto 30th April. Supposedly, the dealer applies for registration for 29th April, ITC shall be allowed in respect of inputs held in stock, inputs contained in semi-finished goods or finished goods held in stock as on 31st March.

Example 39: Suppose in the above example, if the supplier whose liability arises, say, on 1st April, applies for registration on 6th May, when he was required to take registration within 30 days i.e. upto 30th April. Now, supposedly, registration is granted on 9th May. In such case, ITC would be allowed only from 9th May. It would lead to loss of ITC for the period prior to 9th May.

Section 18(2): A registered person shall not be entitled to take ITC U/s 18 (1) in respect of any supply of goods or services or both to him after 1 year from the date of issue of tax invoice relating to such supply.

Section 18(3): There is a change in the constitution of a registered person on account of sale, merger, demerger, amalgamation, lease or transfer of the business with the specific provisions for transfer of liabilities, the said registered person shall be allowed to transfer the ITC which remains unutilized in his electronic credit ledger to such sold, merged, demerged, amalgamated, leased or transferred business.

Clarification in respect of transfer of ITC in case of death of sole proprietor

Issue: Whether section 18(3) of the CGST Act provides for transfer of ITC which remains unutilized to the transferee in case of death of the sole proprietor?

Clarification: For the purpose of section 18(3) of the CGST Act and rule 41(1) of the CGST Rules, transfer or change in the ownership of business will include transfer or change in the ownership of business due to death of the sole proprietor. [Circular No. 96/15/2019 GST Dated 28.03.2019]

Section 18(4): Where any registered person who has availed of ITC opts to pay tax under section 10 or, where the goods or services or both supplied by him become wholly exempt, he shall pay an amount by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock and on capital goods, reduced by such percentage as may be prescribed, on the day immediately preceding the date of exercising of such option or, as the case be, the date of such exemption.

Provided that after payment of such amount, the balance of input tax credit, if any, lying in his electronic credit ledger shall lapse.

This section will be also applicable to registered person who is opting for Notification No. 02/2019- Central Tax (Rate) Dated 7th March 2019.

Section 18(5): The amount of credit under sub-section (1) & the amount payable under sub-section (4) shall be calculated in such manner as may be prescribed.

Section 18(6): In case of supply of capital goods or plant and machinery, on which ITC has been taken, the registered person shall pay an amount equal to the ITC taken on the said capital goods or plant and machinery reduced by such percentage points as may be prescribed or the tax on the transactions value of such capital goods or plant and machinery determined U/S 15, whichever is higher.

The amount of credit shall be calculated by reducing the ITC @ 5% for every quarter or part thereof, from the date of issue of invoice for the capital goods – Rule 40 (2) of CGST & SGST Rules, 2017.

Provided that where refractory bricks, moulds and dies, jigs and fixtures are supplied as scrap, the taxable person may pay tax on the transaction value of such goods determined U/s 15.

Rule 40 Manner of claiming ITC in special circumstances

(1) The input tax credit claimed in accordance with the provisions of sub-section (1) of section 18 on the inputs held in stock or inputs contained in semi-finished or finished goods held in stock, or the credit claimed on capital goods in accordance with the provisions of clauses (c) and (d) of the said sub-section, shall be subject to the following conditions, namely,-

(a) the input tax credit on capital goods, in terms of clauses (c) and (d) of sub-section (1) of section 18, shall be claimed after reducing the tax paid on such capital goods by five percentage points per quarter of a year or part thereof from the date of the 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 thirty days from the date of becoming eligible to avail the input tax credit under sub-section (1) of section 18, 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:

Provided that any extension of the time limit notified by the Commissioner of State tax or the Commissioner of Union territory tax shall be deemed to be notified by the Commissioner.

(c) the declaration under clause (b) 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 clause (a) of sub-section (1) of section 18;
  (ii) on the day immediately preceding the date of the grant of registration, in the case of a claim under clause (b) of sub-section (1) of section 18;
  (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 clause (c) of sub-section (1) of section 18;
  (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 clause (d) of sub-section (1) of section 18;

(d) the details furnished in the declaration under clause (b) shall be duly certified by a practicing chartered accountant or a cost accountant if the aggregate value of the claim on account of central tax, State tax, Union territory tax and integrated tax exceeds two lakh rupees;

(e) the input tax credit claimed in accordance with the provisions of clauses (c) and (d) of sub-section (1) of section 18 shall be verified with the corresponding details furnished by the corresponding supplier in FORM GSTR-1 or as the case may be, in FORM GSTR- 4, on the common portal.

(2) The amount of credit in the case of supply of capital goods or plant and machinery, for the purposes of sub-section (6) of section 18, shall be calculated by reducing the input tax on the said goods at the rate of five percentage points for every quarter or part thereof from the date of the issue of the invoice for such goods.

Rule 41 Transfer of credit on sale, merger, amalgamation, lease or transfer of business

(1) A registered person shall, in the event of sale, merger, de-merger, amalgamation, lease or transfer or change in the ownership of business for any reason, 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:
Provided that in the case of demerger, the input tax credit shall be apportioned in the ratio of the value of assets of the new units as specified in the demerger scheme.
Explanation:- For the purpose 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 transferor shall also submit a copy of a certificate issued by a practicing chartered accountant or cost accountant certifying that the sale, merger, de-merger, amalgamation, lease or transfer of business has been done with a specific provision for the transfer of liabilities.

(3) The transferee shall, on the common portal, accept the details so furnished by the transferor and, upon such acceptance, the un-utilized credit specified in FORM GST ITC- 02 shall be credited to his electronic credit ledger.

(4) The inputs and capital goods so transferred shall be duly accounted for by the transferee in his books of account.

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.

Rule 44 Manner of reversal of credit under Special Circumstances

(1) The amount of input tax credit relating to inputs held in stock, inputs contained in semi-finished and finished goods held in stock, and capital goods held in stock shall, for the purposes of sub-section (4) of section 18 or sub-section (5) of section 29, be determined in the following manner, namely,-

(a) for inputs held in stock and inputs contained in semi-finished and finished goods held in stock, the input tax credit shall be calculated proportionately on the basis of the corresponding invoices on which credit had been availed by the registered taxable person on such inputs;

(b) for capital goods held in stock, the input tax credit involved in the remaining useful life in months shall be computed on pro-rata basis, taking the useful life as five years.

(2) The amount, as specified in sub-rule (1) shall be determined separately for input tax credit of central tax, State tax, Union territory tax and integrated tax.

(3) Where the tax invoices related to the inputs held in stock are not available, the registered person shall estimate the amount under sub-rule (1) based on the prevailing market price of the goods on the effective date of the occurrence of any of the events specified in sub-section (4) of section 18 or, as the case may be, sub-section (5) of section 29.

(4) The amount determined under sub-rule (1) shall form part of the output tax liability of the registered person and the details of the amount shall be furnished in FORM GST ITC-03, where such amount relates to any event specified in sub-section (4) of section 18 and in FORM GSTR-10, where such amount relates to the cancellation of registration.

(5) The details furnished in accordance with sub-rule (3) shall be duly certified by a practicing chartered accountant or cost accountant.

(6) The amount of input tax credit for the purposes of sub-section (6) of section 18 relating to capital goods shall be determined in the same manner as specified in clause (b) of sub rule (1) and the amount shall be determined separately for input tax credit of central tax, State tax, Union territory tax and integrated tax: *{please refer to rule 40 (2). Look like that is more relevant for Section 18 (6)}*

Provided that where the amount so determined is more than the tax determined on the transaction value of the capital goods, the amount determined shall form part of the output tax liability and the same shall be furnished in FORM GSTR-1.

Circular No. 96/15/2019-GST Dated 28th March 2019

- Section 18(3) of the CGST Act provides for transfer of ITC under specified circumstances like sale, merger, demerger, transfer of business.
- Section 29(1) of CGST Act deals with cancellation of registration and as per sub-clause (a), reason for transfer of business includes "death of the proprietor".
- Doubts have been raised whether section 18(3) provides for transfer of ITC which remains unutilized, to the transferee in case of death of the sole proprietor.
- The circular clarifies that transfer or change in the ownership of business will include transfer or change in the ownership of business due to death of the sole proprietor.
- Thus, in case of death of sole proprietor if the business is continued by any person being transferee or successor, the ITC which remains unutilized in the electronic credit ledger is allowed to be transferred to the transferee as per the provisions of CGST Act and in the manner prescribed in the circular.

Example 40: Mr. Z becomes liable to pay tax on 1st August and has obtained registration on 15th August. Mr. Z is eligible for ITC on inputs held in stock and as part of semi-finished goods or finished goods held in stock as on 31st July 2017. Mr. Z cannot take ITC on capital goods.

Example 41: Mr. A applies for voluntarily registration on 5th June and obtain registration on 22nd June. Mr. A is eligible for ITC on inputs held in stock and as part of semi-finished goods or finished goods held in stock as on 21st June. Mr. A cannot take ITC on capital goods.

Example 42: Mr. B, a registered taxable person, was paying tax at composition rate upto 30th July. However, w.e.f. 31st July, Mr. B becomes liable to pay tax under regular scheme. Mr. B will be eligible for ITC on inputs held in stock and inputs contained in semi-finished or finished goods held in stock and on capital goods as on 30th July. ITC on capital goods will be reduced by 5% per quarter from the date of the invoice.

Example 43: Capital goods have been in use for 4 years, 6 month and 15 days.
The useful remaining life in months = 5 months ignoring a part of the month.
ITC taken on such capital goods = C
ITC attributable to remaining useful life = C * 5/60

Section 19 ITC in respect of goods & capital goods sent to job worker

Principal is entitled to take ITC of inputs sent for job worker. If it is directly sent to job worker from supplier premises then principal can avail ITC when these inputs received by job worker. Same rule apply in case of capital goods.

The most important condition is that 'inputs' must be received within 1 year (from the date of dispatch by principal or if it is directly sent through supplier then from the date when job worker receive) or supplied from the place of business of job worker & 'capital goods' must be received back in 3 years. No time period in case of moulds & dies, jogs, fixtures or tools.

In case inputs/capital goods are not received back within a period of 1/3 years, it shall be a deemed supply from the principal to job worker on the date of inputs/capital goods sent for job work & interest need to be paid.

Rule 45 Conditions and restrictions in respect of inputs and capital goods sent to the job worker

(1) The inputs, semi-finished goods or capital goods shall be sent to the job worker under the cover of a challan issued by the principal, including where such goods are sent directly to a job-worker, and where the goods are sent from one job worker to another job worker, the challan may be issued either by the principal or the job worker sending the goods to another job worker:
Provided that the challan issued by the principal may be endorsed by the job worker, indicating therein the quantity and description of goods where the goods are sent by one job worker to another or are returned to the principal: Provided further that the challan endorsed by the job worker may be further endorsed by another job worker, indicating therein the quantity and description of goods where the goods are sent by one job worker to another or are returned to the principal.

(2) The challan issued by the principal to the job worker shall contain the details specified in rule 55.

(3) The 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 included in FORM GST ITC-04 furnished for that period on or before the twenty-fifth 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:
Provided that any extension of the time limit notified by the Commissioner of State tax or the Commissioner of Union territory tax shall be deemed to be notified by the Commissioner.

(4) Where the inputs or capital goods are not returned to the principal within the time stipulated in section 143, 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 and the principal shall be liable to pay the tax along with applicable interest.

Explanation.- For the purposes of this Chapter {Chapter means rules related to ITC i.e. Chapter V of CGST Rules. It means this rules applicable to entire Input Tax Credit Chapter},-
(1) the expressions —"capital goods" shall include — "plant and machinery" as defined in the Explanation to section 17;
(2) for determining the value of an exempt supply as referred to in sub-section (3) of section 17-
(a) the value of land and building shall be taken as the same as adopted for the purpose of paying stamp duty; and
(b)the value of security shall be taken as one per cent of the sale value of such security.

Example 44: A supplier of notebooks for schools sends the paper of required dimensions and GSM to a job worker for making the notebooks as per the design given by him.
However, the Government changes the specifications of notebooks for supply to its schools. The supplier sends a fresh stock of paper with fresh instructions to the job worker and instructs him to hold the earlier consignment in stock till a buyer is found. The new notebooks are easily sold, but the paper and semi-finished notebooks of the old design lie in the godown of the job worker for over a year. Here, sending of paper by the notebook supplier to the job worker in the first lot will be deemed as a supply and thus, tax would be payable on the same.

Section 20 Manner of distribution of credit by input service distributor

Section 20(1): The Input Service Distributor shall distribute the credit of central tax as central tax or integrated tax and integrated tax as integrated tax or central tax, by way of issue of a document containing the amount of input tax credit being distributed in such manner as may be prescribed.

Section 20(2): The Input Service Distributor may distribute the credit subject to the following conditions, namely:–

(a) the credit can be distributed to the recipients of credit against a document containing such details as may be prescribed;

(b) the amount of the credit distributed shall not exceed the amount of credit available for distribution;

(c) the credit of tax paid on input services attributable to a recipient of credit shall be distributed only to that recipient;

(d) the credit of tax paid on input services attributable to more than one recipient of credit shall be distributed amongst such recipients to whom the input service is attributable and such distribution shall be pro rata on the basis of the turnover in a State or turnover in a Union territory of such recipient, during the relevant period, to the aggregate of the turnover of all such recipients to whom such input service is attributable and which are operational in the current year, during the said relevant period;

(e) the credit of tax paid on input services attributable to all recipients of credit shall be distributed amongst such recipients and such distribution shall be pro rata on the basis of the turnover in a State or turnover in a Union territory of such recipient, during the relevant period, to the aggregate of the turnover of all recipients and which are operational in the current year, during the said relevant period.

Explanation. – For the purposes of this section,–

(a) the "relevant period" shall be–

(i) if the recipients of credit have turnover in their States or Union territories in the financial year preceding the year during which credit is to be distributed, the said financial year; or

(ii) if some or all recipients of the credit do not have any turnover in their States or Union territories in the financial year preceding the year during which the credit is to be distributed, the last quarter for which details of such turnover of all the recipients are available, previous to the month during which credit is to be distributed;

(b) the expression "recipient of credit" means the supplier of goods or services or both having the same Permanent Account Number as that of the Input Service Distributor;

(c) the term "turnover", in relation to any registered person engaged in the supply of taxable goods as well as goods not taxable under this Act, means the value of turnover, reduced by the amount of any duty or tax levied under ~~entry~~ entries 84 and 92A of List I of the Seventh Schedule to the Constitution and entries 51 and 54 of List II of the said Schedule.

Section 21 Manner of recovery of credit distributed in excess

Where the Input Service Distributor distributes the credit in contravention of the provisions contained in section 20 resulting in excess distribution of credit to one or more recipients of credit, the excess credit so distributed shall be recovered from such recipients along with 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.

Rule 39 Procedure for distribution of ITC by Input Service Distributor

(1) An Input Service Distributor shall distribute input tax credit in the manner and subject to the following conditions, namely,-

(a) the input tax credit available for distribution in a month shall be distributed in the same month and the details thereof shall be furnished in **FORM GSTR- 6** in accordance with the provisions of Chapter VIII of these rules;

(b) the Input Service Distributor shall, in accordance with the provisions of clause (d), separately distribute the amount of ineligible input tax credit (ineligible under the provisions of sub-section (5) of section 17 or otherwise) and the amount of eligible input tax credit;

(c) the input tax credit on account of central tax, State tax, Union territory tax and integrated tax shall be distributed separately in accordance with the provisions of clause (d);

(d) the input tax credit that is required to be distributed in accordance with the provisions of clause (d) and (e) of sub-section (2) of section 20 to one of the recipients '**R1**', whether registered or not, from amongst the total of all the recipients to whom input tax credit is attributable, including the recipient(s) who are engaged in making exempt supply, or are otherwise not registered for any reason, shall be the amount, "**C1**", to be calculated by applying the following formula –

$$C1 = (t1 \div T) \times C$$

where,

"**C**" is the amount of credit to be distributed,

"**t1**" is the turnover, as referred to in section 20, of person R1 during the relevant period, and

"**T**" is the aggregate of the turnover, during the relevant period, of all recipients to whom the input service is attributable in accordance with the provisions of section 20;

(e) the input tax credit on account of integrated tax shall be distributed as input tax credit of integrated tax to every recipient;

(f) the input tax credit on account of central tax and State tax or Union territory tax shall-

(i) in respect of a recipient located in the same State or Union territory in which the Input Service Distributor is located, be distributed as input tax credit of central tax and State tax or Union territory tax respectively;

(ii) in respect of a recipient located in a State or Union territory other than that of the Input Service Distributor, be distributed as integrated tax and the amount to be so distributed shall be equal to the aggregate of the amount of input tax credit of central tax and State tax or Union territory tax that qualifies for distribution to such recipient in accordance with clause (d);

(g) the Input Service Distributor shall issue an Input Service Distributor invoice, as prescribed in sub-rule (1) of rule 54, clearly indicating in such invoice that it is issued only for distribution of input tax credit;

(h) the Input Service Distributor shall issue an Input Service Distributor credit note, as prescribed in sub-rule (1) of rule 54, for reduction of credit in case the input tax credit already distributed gets reduced for any reason;

(i) any additional amount of input tax credit on account of issuance of a debit note to an Input Service Distributor by the supplier shall be distributed in the manner and subject to the conditions specified in clauses (a) to (f) and the amount attributable to any recipient shall be calculated in the manner provided in clause (d) and such credit shall be distributed in the month in which the debit note is included in the return in **FORM GSTR-6**;

(j) any input tax credit required to be reduced on account of issuance of a credit note to the Input Service Distributor by the supplier shall be apportioned to each recipient in the same ratio in which the input tax credit contained in the original invoice was distributed in terms of clause (d), and the amount so apportioned shall be-

(i) reduced from the amount to be distributed in the month in which the credit note is included in the return in **FORM GSTR-6**; or

(ii) added to the output tax liability of the recipient where the amount so apportioned is in the negative by virtue of the amount of credit under distribution being less than the amount to be adjusted.

(2) If the amount of input tax credit distributed by an Input Service Distributor is reduced later on for any other reason for any of the recipients, including that it was distributed to a wrong recipient by the Input Service Distributor, the process specified in clause (j) of sub rule (1) shall apply, mutatis mutandis, for reduction of credit.

(3) Subject to sub-rule (2), the Input Service Distributor shall, on the basis of the Input Service Distributor credit note specified in clause (h) of sub-rule (1), issue an Input Service Distributor invoice to the recipient entitled to such credit and include the Input Service Distributor credit note and the Input Service Distributor invoice in the return in **FORM GSTR-6** for the month in which such credit note and invoice was issued.

Example 45: ABC Ltd. a confectionary manufacturer, has paid bills of an advertising company amounting to Rs. 24 Lacs for advertising campaigns for two varieties of cakes, which are manufactured at separate locations in Pune and Bangalore. The company had a total turnover of Rs. 112 crores in the previous financial year. The turnover of the Pune unit was Rs. 5 crores, and the turnover of the Bangalore unit was Rs. 10 crores. The aggregate turnover here is taken as Rs. 15 crores, as advertising was for cakes, which are manufactured at these two units only.
The ITC is to be distributed Pune and Bangalore units in the ratio 1:2. Therefore, Pune unit will be given ITC of Rs. 8 Lacs, and the Bangalore unit will be given ITC of Rs. 16 Lacs for the advertising bills.

Example 46: XYZ Ltd., having its head office at Mumbai, is registered as ISD. It has three units in different cities situated in different States namely Mumbai, Jabalpur and Delhi which are operational in the current year.
M/s XYZ Ltd. furnishes the following information for the month of July 20XX
(i) CGST paid on services used only for Mumbai Unit Rs. 3,00,000
(ii) IGST, CGST & SGST paid on services used for all units Rs. 12,00,000

Total Turnover of the units for the previous financial year are as follows –
Total Turnover Rs. 10,00,00,000
Turnover Mumbai Rs. 5,00,00,000
Turnover Jabalpur Rs. 3,00,00,000
Determine the credit to be distributed by XYZ Ltd. to each of its three units.

Particulars	Total	Mumbai	Jabalpur	Delhi
CGST paid on services used only for Mumbai	3,00,000	3,00,000		
IGST, CGST & SGST paid on services used for all units Distribution on pro rata basis to all the units which are operational in the current year	12,00,000	6,00,000	3,60,000	2,40,000
	15,00,000	9,00,000	3,60,000	2,40,000

Note 1:Credit distributed pro rata on the basis of the turnover of all the units is as under :-
1. Unit Mumbai (5,00,00,000/10,00,00,000) * 12,00,000 = Rs. 6,00,000
2. Unit Jabalpur (3,00,00,000/10,00,00,000) * 12,00,000 = Rs. 3,60,000
3. Unit Delhi (2,00,00,000/10,00,00,000) * 12,00,000 = Rs. 2,40,000

Example 47: ABC Ltd., a registered supplier of goods having Head Office at Delhi, also registered as ISD, furnishes the following information for month of July 2018 and asks you to distribute the credit to various unites:

Input Service	Particulars	CGST	SGST	IGST	Total
Alfa	Used exclusively in Unit – III	27,000	27,000		54,000
Beta	Used in Unit – I, II and III			36,000	36,000
Cancer	Used in Unit – I, II, III and IV	12,600	12,600		25,200
Drama	Used in Unit – I (Input service "D" is availed for employee on vacation during the month to its Unit I)	1,080	1,080		2,160
Total		40,680	40,680	36,000	

Total Turnover for the units for the year ending 31st March, 2018 is Rs. 3,30,00,000 with details are as under :
Unit I Rs. 50,00,000
Unit II Rs. 30,00,000
Unit III (not registered as exclusively engaged in exempt goods) Rs. 1,50,00,000
Unit IV Rs. 1,00,00,000
All units are operational during the current year. Unit I is located in Delhi whereas Unit II is in Mumbai, Unit III is in Rajasthan and Unit IV is in Gujarat. Compute credit attributable to each of the units.

Particulars	Total Credit Available				Unit I			Unit II	Unit III	Unit IV
	CGST	SGST	IGST	Total	CGST	SGST	IGST	IGST	IGST	IGST
Alfa	27,000	27,000		54,000					54,000	
Beta			36,000	36,000			7,826	4,696	23,478	
Cancer	12,600	12,600		25,200	1,909	1,909		2,291	11,455	7,636
Drama	1,080	1,080		2,160	1,080	1,080				
					2,989	2,989	7,826	6,987	88,933	7,636

Working Notes:-

1. The credit of input tax attributable as input service to a particular unit shall be distributed only to that unit. Since Unit III is exclusively engaged in supply of exempted goods, the total credit of Rs. 54,000 is distributable to it. Further as per rule 39 (1)(d), no differentiation is to be made whether the unit is registered or not, and therefore, credit attributable to Unit III is distributed to that unit although it is not registered, which implies, it is a loss of credit.
2. As per section 20 (2)(b), the credit of tax attributable as input service to more than one unit but not at all the units shall be distributed only amongst such units to which the input service is attributable and such distribution shall be pro rata on the basis of the turnover of such units, to the total turnover of all such units during the relevant period. Hence, the credit of input service "Beta" is distributed to Unit – I, II & III.
3. Given that the service availed for employee on vacation during the month would not be eligible input services under section 17 (5), the taxes relating to Invoice "Drama" should be distributed as ineligible input tax (Rs. 1080 + Rs. 1080), and the distribution must be done separately for CGST and SGST. Since the service is wholly attributable to Unit I, hence distributed to only to such unit.

Excess ITC distributed by an input service distributor (ISD) would be recovered from the recipients along with interest and penalty, if any. Further, the ISD would also be liable to a general penalty under section 122(1)(ix) of CGST Act, 2017 .
(Circular No. 71/45/2018-GST Dated 26-10-2018)

ITC on moulds and dies provided by the original equipment manufacturer (OEM) to component manufacturer on FOC basis

Moulds and dies owned by the original equipment manufacturer (OEM) which are provided to a component manufacturer (the two not being related persons or distinct persons) on free on cost (FOC) basis does not constitute a supply as there is no consideration involved. Further, since the moulds and dies are provided on FOC basis by the OEM to the component manufacturer in the course or furtherance of his business, there is no requirement for reversal of input tax credit availed on such moulds and dies by the OEM.
However, where the contract between OEM and component manufacturer is for supply of components made by using the moulds/dies belonging to the component manufacturer, but the same have been supplied by the OEM to the component manufacturer on FOC basis, the OEM will be required to reverse the credit availed on such moulds/ dies, as the same will not be considered to be provided by OEM to the component manufacturer in the course or furtherance of the former's business
[Circular No. 47/21/2018 GST Dated 08.06.2018].

Return of time expired medicines/drugs

Where the time expired medicines/drugs (goods) returned by the retailer/wholesaler as a fresh supply, are destroyed by the manufacturer, he/she is required to reverse the ITC availed on the return supply in terms of section 17(5)(h) of the CGST Act. It is pertinent to mention here that the ITC which is required to be reversed in such scenario is the ITC availed on the return supply and not the ITC that is attributable to the manufacture of such time expired goods. Illustration: Supposedly, manufacturer has availed ITC of Rs. 10/- at the time of manufacture of medicines valued at Rs. 100/-. At the time of return of such medicine on the account of expiry, the ITC available to the manufacturer on the basis of fresh invoice issued by wholesaler is Rs. 15/-. So, when the time expired goods are destroyed by the manufacturer, he would be required to reverse ITC of Rs. 15/- and not of Rs. 10/.
The clarification may also be applicable to return of goods for reasons other than being time expired. [Circular No. 72/46/2018 GST Dated 26.10.2018].

Question & Answer

Q1. ABC Co. Ltd. is engaged in the manufacture of heavy machinery. It procured the following items during the month of July.

S. No.	Items	GST paid
(i)	Electrical transformers to be used in the manufacturing process	5,20,000
(ii)	Trucks used for the transport of raw material	1,00,000
(iii)	Raw material	2,00,000
(iv)	Confectionery items for consumption of employees working in the factory	25,000

Determine the amount of ITC available with ABC Co. Ltd., for the month of July by giving necessary explanations for treatment of various items.

Note: All the conditions necessary for availing the ITC have been fulfilled.

A. Computation of ITC available with ABC Co. Ltd. for the month of July:-

S. No.	Items	ITC
(i)	Electrical transformers [Being goods used in the course or furtherance of business, ITC thereon is available in terms of section 16(1)]	5,20,000
(ii)	Trucks used for the transport of raw material [After amendment in Section 17 (5) (a), the blockage is only for the motor vehicle for transportation of passengers. Motor vehicles for transportation of goods are not in the list of blockage. No condition is required to be fulfilled to avail the ITC for vehicles meant for carriage of goods.]	1,00,000
(iii)	Raw material [Being goods used in the course or furtherance of business, ITC thereon is available in terms of section 16(1)]	2,00,000
(iv)	Confectionery items for consumption of employees working in the factory [ITC on food or beverages is specifically disallowed unless the same is used for making outward taxable supply of the same category or as an element of the taxable composite or mixed supply-Section 17(5)(b)(i)]	Nil
	Total ITC	8,20,000

Q2. XYZ Ltd., is engaged in manufacture of taxable goods. Compute the ITC available with XYZ Ltd. for the month of October, 2018 from the following particulars: -

S. No.	Inward supplies	GST	Remarks
(i)	Inputs 'A'	1,00,000	One invoice on which GST payable was Rs. 10,000 is missing
(ii)	Inputs 'B'	50,000	Inputs are to be received in two installments. First instalment has been received in October, 2018.
(iii)	Capital goods	1,20,000	XYZ Ltd. has capitalized the capital goods at full invoice value inclusive of GST as it will avail depreciation on the full invoice value.
(iv)	Input services	2,25,000	One invoice Dated 20.01.2018 on which GST payable was 50,000 has been received in October, 2018.

Note:

(i) All the conditions necessary for availing the ITC have been fulfilled.

(ii) ABC Co. Ltd. is not eligible for any threshold exemption.

The annual return for the financial year 2017-18 was filed on 15th September, 2018.

A.

S. No.	Inward supplies	ITC
(i)	Inputs 'A' [ITC cannot be taken on missing invoice. The registered person should have the invoice in its possession to claim ITC-Section 16(2)(a)]	90,000
(ii)	Inputs 'B' [When inputs are received in installments, ITC can be availed only on receipt of last installment-First proviso to section 16(2)]	Nil
(iii)	Capital goods [Input tax paid on capital goods cannot be availed as ITC, if depreciation has been claimed on such tax component – Section 16(3)]	Nil
(iv)	Input services [As per section 16(4), ITC on an invoice cannot be availed after the due date of furnishing of the return for the month of September following the end of financial year to which such invoice pertains or the date of filing annual return, whichever is earlier. Since the annual return for the FY 2017-18 has been filed on 15th September, 2018 (prior to due date of filing the return for September, 2018 i.e., 20th October, 2018), ITC on the invoice pertaining to FY 2017-18 cannot be availed after 15th September, 2018.	1,75,000
	Total	2,65,000

Q3. ABC Ltd. supplied goods Rs. 11,500. ABC Ltd. received goods valued at Rs. 10,000. The supplier has charged GST in his invoice. SGST and CGST rate of supply of goods is 9% each. Calculate the tax payable.

A.

Details	SGST	CGST
Tax payable on supply of goods by ABC Ltd. on Rs. 11,500 @ 9%	1,035	1,035
ITC of taxes paid by supplier available in Electronic credit ledger	900	900
Net Tax Payable	135	135

Q4. ABC Ltd. supplied goods Rs. 15,000. ABC Ltd. received goods valued at Rs. 20,000. The supplier has charged GST in his invoice. They sold 60% of inputs procured and balance 40% were in stock. State Tax (SGST) and Central Tax (CGST) rate on supply and purchase of goods is 9% each. Calculate the tax payable.

A.

Details	SGST	CGST
Tax payable on supply of goods by ABC Ltd. on Rs. 15,000 @ 9%	1,350	1,350
ITC of taxes paid by supplier available in Electronic credit ledger	1,800	1,800
Net Tax Payable	NIL	NIL
Credit carried forward in Electronic Credit Ledger	450	450

Q5. ABC Ltd. are manufacture of drugs. SGST and CGST rate on supply of goods is 2.5% each. They sold the goods at Rs. 20,000. They purchased inputs at Rs. 13,000. The SGST and CGST on inputs is 6% each. All these inputs were used in Manufacture of final products. There was no opening or closing stock of inputs or final products. Calculate the tax payable.

A.

Details	SGST	CGST
Tax payable on supply of goods by ABC Ltd. on Rs. 20,000 @ 2.5%	500	500
ITC of taxes paid by supplier available in Electronic credit ledger	780	780
Net Tax Payable	NIL	NIL

Credit carried forward in Electronic Credit Ledger	280	280

This excess credit is due to inverted tax structure i.e. tax on inputs is more than tax payable on outputs. In that case, Deepak Manufacturers can claim refund of this excess ITC.

Q6. ABC Ltd. procures input goods and services within State Rs. 1,000. SGST and CGST rate on receipt is 9% each. He manufactured 2 products out of inputs. One product of value of Rs. 800 was subject to SGST and CGST @ 9% each. Other product of value of Rs. 800 was exempt from SGST & SGST. Calculate the tax payable.

A.

Details	**SGST**	**CGST**
Tax payable on supply of goods and services	72	72
ITC of taxes paid on input goods and services available	90	90
Reversal of 50% ITC is ineligible (to be reversed in Electronic Credit Ledger)	45	45
Eligible ITC	45	45
Net tax payable by cash through Electronic cash ledger	27	27

Q7. When the ISD is one State say at Delhi and the Recipients of credits (Suppliers or Locations) are in different States say in Chennai, Tamil Nadu and Bangalore, Karnataka. Assume the turnovers for the relevant period (previous financial year) of Chennai unit are Rs. 10 crores and that of Bangalore unit is at Rs. 30 crores.

Credit Available with ISD at Delhi	**SGST**	**CGST**	**IGST**
	Amount in Lacs		
Credit directly attributable to			
Chennai	5	5	10
Bangalore	3	2	5
Common Credits	5	7	8
Total	13	14	23

A.

Credit Available with ISD at Delhi	**Chennai**	**Bangalore**
	Amount in Lacs	
Directly Attributable		
SGST as IGST	5	3
CGST as IGST	5	2
IGST as IGST	10	5
Total (a)	20	10
Common Credit		
SGST as IGST (5*10/40) or (5*30/40)	1.25	3.75
CGST as IGST (7*10/40) or (7*30/40)	1,75	5.25
IGST as IGST (8*10/40) or (8*30/40)	2	6
Total (b)	5	15
Total (a+b)	25	25

Q8. ABC Ltd. a registered person supplying taxable goods in Jaipur has opted to pay tax on composition scheme under Section 10 with effect from 28-02-2018. It provides following information relating to balance of ITC lying as on 27th Feb 2018:

1. Inputs lying in stock as valued at Rs. 3,36,000 (inclusive of CGST & SGST @12%)

2. Inputs contained in finished goods where tax invoice is not available relating to such inputs but it is known that market price of such inputs (inclusive of CGST & SGST @ 12%) on 28th February 2018 is Rs. 1,79,200
3. ITC on capital goods purchased on 25th October 2017 is Rs. 1,44,000
4. Balance in Electronic credit ledger is Rs. 2,20,000.

Decide whether ABC Ltd. is eligible for ITC lying on 27th February 2018,

A. As per Section 18 (4), where any registered taxable person who has availed of ITC opts to pay tax under section 10 i.e. composition scheme, he shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock and on capital goods, taking useful life of capital goods 5 years, on the day immediately preceding the date of exercising such option. Therefore in given case ABC Ltd. is required to pay following amounts: -

Particulars	Amount
Inputs lying in stock (Rs. 3,36,000*12/112)	36,000
Inputs contained in finished goods lying in stock (Rs. 1,79,200*12/112)	19,200
Input Tax on Capital goods used for 4 months and 2 days, taking residual life as 5 years (1,44,000*55/60) (55 months being remaining residual life of capital goods)	1,32,000
Amount to be paid by ABC Ltd. (CGST+SGST)	1,87,200

Working Note: As per Rule 44(3) of CGST Rules, 2017, where the tax invoices related to the inputs lying in stock are not available, the registered person shall estimate the amount under Rule 44 (1) based on the prevailing market price of goods on the date of opting for composition scheme.

The aforesaid amount can be paid by utilizing the balance in Electronic Credit Ledger. The balance credit in Electronic Credit Ledger = Rs. 2,20,000 – Rs. 1,87,200 = Rs. 32,800 lapse.

Q9. ABC Ltd. a supplier of goods has purchased capital goods invoice Dated 1st October 2017 for Rs. 4,13,000 (inclusive of CGST and SGST @ 9%). After taking it for business use, the said capital goods were supplied for Rs. 2,85,000 on 26th April 2018.

A.

Particulars	Amount
Date of Invoice of purchase of capital goods	1st Oct'17
Date of supply of capital goods after taking into use	26th Apr'18
No. of Quarter for which it is used	3
CGST & SGST paid on purchase of capital goods [4,13,000 * (18/118)]	63,000
Reduced by Rs. 63,000*5%*3	9,450
Amount of CGST and SGST	53,550
Transaction value on supply of capital goods u/s 15	2,85,000
CGST & SGST payable on supply of Capital Goods @ 18%	51,300
Amount to be payable higher of	53,550

Q10. What would be your answer if capital goods being Refractory Bricks are removed as scrap at a transaction value of Rs. 25000 on 29th March 2018?

A. As per section 18 (6), where refractory bricks, moulds and dies, jigs and fixtures are supplied as scrap, there shall be no requirement for reversal of ITC, taxable person may pay tax on the transaction value i.e. if tax rate is 9% each then CGST Rs. 2,250 & SGST Rs. 2,250.

Q11. ABC Ltd. a registered manufacturer demerged its entity into AB cement Ltd. and BC Steel Ltd. the total value of assets of ABC Ltd. is Rs. 25,00,000 and unutilized credit on account of CGST, SGST and IGST amounted to Rs. 60,000, Rs. 45,000 and Rs. 84,600 respectively. The value of assets of AB cement Ltd. and BC Steel Ltd. is Rs. 12,00,000 and Rs. 13,00,000 respectively obtained as per the scheme. Discuss the eligibility of credit transferred to new units on account of Demerger?

A. As per Rule 41 of CGST Rules, 2017, in case of Demerger, input tax credit shall be apportioned in the ratio of Value of assets of new unit as specified in Demerger scheme. In the given case, credit transferred to both the new units would be –

Particulars	ABC Ltd.	AB Cement Ltd.	BC Steel Ltd.
Value of Assets	25,00,000	12,00,000	13,00,000
Unutilized credit relating to CGST (to be apportioned in ratio of value of assets of AB Cement and BC Steel Ltd.)	60,000	28,800	31,200
SGST	45,000	21,600	23,400
IGST	84,600	40,608	43,992
Total Apportioned Credit	1,89,600	91,008	98,592

Q12. What would be scenario of Input Tax Credit in respect of Immovable Property?

A. Law divides claim of Input Credit in respect of construction of Immovable Property in two parts:

(a) Works contract services when supplied for construction of immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service;

Example: Mr. A wants to start a Hotel. He engages Mr. B as contractor for construction of the hotel building and allots him the contract with entire material and labour to be procured by C.

CGST Act, 2017 provides that any person who has paid taxes under a contract which has resulted in construction of immovable property, he would not be able to claim Input Tax Credit of such taxes paid unless such services are used as Input Services for further supply of Work contract service.

Thus, in the given scenario, Mr. A would not be eligible to claim input tax credit of taxes paid to Mr. B, as work contract services of Mr. B have not been used by Mr. A for further supply of works contract service.

(b) Goods or services or both received by a taxable person for construction of an immovable property (other than plant and machinery) on his own account including when such goods or services or both are used in the course or furtherance of business

Example: Mr. A wants to start a Hotel land he engages Mr. B as contractor for construction of Hotel Building. He allots him the contract with part of the material being provided by Mr. A and balance material and labour to be procured by Mr. B.

In the above cases, Mr. A has provided part of the material to Mr. B, ownership of the material to the extent provided by Mr. A remains with Mr. A and Mr. B uses the material for the construction of building for Mr. A only. Mr. A would not be entitled to credit of any taxes paid on purchase of such material for construction of Immovable property.

Impact of the two provisions: With the insertion of the two provisions, both the scenarios wherein:

(a) A person awards contract of construction of the immovable property to a contractor or

(b) Constructs the immovable property himself by purchasing material and hiring labour,

he would not be able to claim credit of the taxes paid for the construction of the immovable property.

Q13. Mr. Amit, a supplier of goods, pays GST under regular scheme. He is not eligible for any threshold exemption. He has made the following outward taxable supplies in the month of August, 2019 – Intra-State supplier of goods 6,00,000, Inter-State supplies of goods 2,00,000. He has also furnished following information in respect of purchases made by him from registered dealers during August, 2019 – Intra-State purchase of goods 4,00,000, Inter-State purchase of goods 50,000. Balance of ITC available at the beginning of the August

2019 – CGST 15,000, SGST 35,000, IGST 20,000. Compute the net GST payable by Mr. Amit for the month of August, 2019.

Note : (i) Rate of CGST, SGST and IGST to be 9%, 9% and 18% respectively, on both inward and outward supplies (ii) Both inward and outward supplies given above are exclusive of taxes, wherever applicable (iii) All the conditions necessary for availing the ITC has been fulfilled.

A. (A) Tax payable

Description	CGST (Rs.)	SGST (Rs.)	IGST (Rs.)
Inter-State taxable supply of goods – Rs. 2,00,000 – IGST @ 18%			36,000
Intra-State taxable supply of goods – Rs. 6,00,000 – CGST @ 9% and SGST @ 9%	54,000	54,000	
Total Tax Payable	54,000	54,000	36,000

(B) ITC Available

Description	CGST (Rs.)	SGST (Rs.)	IGST (Rs.)
Opening Balance	15,000	35,000	20,000
Intra-State Purchases {Rs. 4,00,000 - CGST 9% & SGST @ 9%}	36,000	36,000	
Inter-State Purchases {Rs. 50,000 – IGST @ 18%}			9,000
Total ITC available	51,000	71,000	29,000

(B) Net Tax Payable

Description	CGST (Rs.)	SGST (Rs.)	IGST (Rs.)
Total Tax Payable	54,000	54,000	36,000
Less ITC available	51,000	71,000	29,000
Net Payable	3,000	NIL	7,000
Less Cross Utilization	NIL	NIL	-7,000
Net Tax Payable	3,000	NIL	NIL
Excess ITC carried forward	NIL	10,000	NIL

Q14. M Ltd. Mumbai procured goods 10,000 Kgs @ Rs. 100 per Kg. from K Ltd. of Kolkata. These goods came to M Ltd. of Mumbai in the following manner:

Date of Dispatch	No. of Kgs dispatched	Date of receipt	Transit Losses	No. Kgs received
10th October 2017	3,000	15th November 2017	NIL	3,000
2nd November 2017	4,000	20th November 2017	NIL	4,000
3rd December 2017	3,000	1st January 2018	20	2,980

Invoice shows 10,000 Kgs and IGST @ 18%.

You are required to answer:

(a) M Ltd. can avail the proportionate credit on 15th Nov 2017 and 20th Nov 2017.

(b) When can M Ltd. is eligible for input tax credit?

(c) How much credit is allowed to M Ltd.

A. (a) M Ltd. cannot take proportionate credit on the quantity received on 15th November 2017 and 20th November 2017.

(b) M Ltd. is eligible to avail the input tax credit on 1st January 2018.

(c) Input tax credit allowed = Rs. 1,79,640/- (10,000 Kgs x Rs. 100) x 18% x 9980 kgs/10,000 kgs.

Note:
(i) Goods received in lots ITC available only on receipt of last lot/installment [1st proviso to Sec 16(2)]
(ii) ITC is admissible only upon receipt of goods. Thus, ITC not admissible in respect of goods not received.

Q15. M/s X Ltd. has establishment in Chennai, and establishment in Hyderabad. Supply of goods (open market value of Rs. 5,00,000) made by M/s X Ltd. Chennai to M/s X Ltd. Hyderabad. M/s X Ltd. Chennai paid IGST of Rs. 60,000. Accordingly M/s X Ltd. Hyderabad availed the input tax credit of Rs. 60,000. 2nd Proviso to Section 16(2) of CGST Act, 2017 is applicable in the given case (i.e. to reverse the credit where payment is not made within 180 days from the date of invoice). Discuss.
A. As per proviso to rule 37(1) of the CGST Rules, 2017, the value of supplies made without consideration as specified in Schedule I of the said Act shall be deemed to have been paid for the purposes of the second proviso to sub- section (2) of section 16. In the given case M/s X Ltd. Hyderabad is not required to reverse the input tax credit. Since, as per Section 25(4) of the CGST Act, 2017 two establishments are considered as establishment of distinct person and accordingly, supply made by one establishment to another establishment will be covered under Schedule I without consideration.

Q16. XYZ Ltd. is engaged in supply of passenger transportation services. In the month of September, 2017, it has purchased two motor vehicles for Rs. 18,00,000 plus GST @28%. You are required to advice XYZ Ltd. if it can avail Input tax credit of the GST paid by it on motor vehicles.
A. As per Section 17(5) (a), input tax credit shall not be available in respect of motor vehicles having approved seating capacity of not more than thirteen person (including the driver). However, credit will be available when they are used for making the supplies of transportation of passengers. In this case XYZ Ltd. is engaged in transportation of passengers it will be entitled to take credit of GST amounting Rs. 5,04,000 i.e. [Rs. 18,00,000 × 28%].

Q17. ABC Bank has purchased a van for transportation of cash (money). Whether ITC of such motor van is admissible?
A. The blockage is only for the motor vehicle for transportation of passengers. Motor vehicles for transportation of goods are not in the list of blockage. No condition is required to be fulfilled to avail the ITC for vehicles meant for carriage of goods.. Under GST law, Cash/money is neither goods nor services (Sec 2(52) and Sec 2(102) of CGST Act). Since cash/money cannot be considered as ‘goods’, ABC Bank is not eligible for ITC of motor vans purchased by it for transportation of cash.

Q18. ABC Ltd. is engaged in supply of transport of passengers by air services. The company avails outdoor catering services of XYZ Caterers in order to provide food and beverages to the passengers. XYZ Caterers raises an invoice on ABC Ltd charging GST. ABC Ltd. wants to avail the ITC on outdoor catering services supplied by XYZ Caterers. Advise.
A. ITC shall be available where an inward supply of goods or services or both of a particular category is used by a registered person as an element of a taxable composite or mixed supply.
In the given case, ABC Ltd will be entitled to avail the ITC of the GST paid to XYZ Caterers since outdoor catering services forms part of taxable composite supply of passengers by air services.

Q19. ABC Ltd is a BPO which works on night shift basis. As per the Government Guidelines for BPO Sector, it has to provide rent a cab facilities to its employees who work on night shifts. Whether, ABC Ltd. is eligible to avail ITC on rent a cab services.

A. No, ABC Ltd cannot claim ITC on the GST paid on such rent-a-cab services. The reason being that such credit is not admissible unless it is obligatory for an employer to provide the same to its employees under any law for time being in force.

Q20. Mr. A of USA being technician came to India to assemble parts of machinery. He also imported goods worth Rs. 10,00,000 and paid following customs duties:
(i) Basic customs duty is Rs. 1,00,000.
(ii) Integrated Goods and Services Tax (IGST) of Rs. 1,98,540.
In India Mr. A wants to register as non-resident taxable person and his estimated liability is Rs. 2,50,000. How much Mr. A is liable to pay as advance tax?
A. Mr A is Non-resident taxable person. NRTP needs to pay tax in advance before he is granted registration certificate. NRTP is entitled to book credit of goods imported by him. However, only IGST paid on imported goods is eligible 'input tax'. Thus, ITC admissible to him is Rs 1,98,540.
Considering the admissible amount of ITC, Mr. A of USA is liable to pay advance tax of Rs. 51,460. (i.e. Rs. 2,50,000 – 1,98,540)

Q21. ABC Bank, having a branch in Jaipur engaged in supply of services by way of accepting deposits and extending loans opted for Section 17(4). Its head office is in Mumbai and branch in Jaipur. ITC (CGST & SGST) available for the month August, 2017 is Rs 90,000. Determine the amount of admissible ITC for ABC Bank, Jaipur Branch. Total ITC of 90,000 includes credit relating to :

Particulars	Input Tax (CGST & SGST)
1. Services availed from from Mumbai Head Office (deemed distinct person under GST law)	18,000
2. Outdoor catering services received for its employees	16,900
3. Auditing Services	22,500
4. Goods which are used for personal use of employees	6,500

A.
Statement showing ITC eligibility for ABC Bank (Jaipur Branch) which has opted for Section 17 (4)

Particulars	Input Tax (CGST & SGST)
Services availed from from Mumbai Head Office (deemed distinct person under GST law) – Deemed supply between distinct person - Full ITC available	18,000
Outdoor catering services received for its employees {Blocked Credit U/s 17 (5)}	Not Allowed
Auditing Services	(Allowed @ 50%)
Goods which are used for personal use of employees {Blocked Credit U/s 17 (5)}	Not Allowed
ITC available (90,000 – 16,900 – 6,500 – 18,000) = 48,600 @ 50%	24,300
Total Admissible ITC (available for utilization for August Month GST liability)	42,300

Q22. X is a chartered accountant by profession. He gives the following information pertaining to October 20XX

1. Consultancy given to different clients during October 20XX (but not including the transactions given below) (invoice value : Rs. 35,70,000).
2. Consultancy given to A Ltd. (invoice value : Rs. 8,000, market value of supply : Rs. 50,000, X holds 40 percent shares in A Ltd.)
3. Consultancy given to B (invoice value : nil, market value of supply : Rs. 48,000, B is not a relative of X).
4. Consultancy given to Mrs. X (invoice value : nil, market value of supply : Rs. 75,000, Mrs. X is not dependent upon X).

5. Consultancy given to C, younger brother of X (invoice value : nil, market value of supply : Rs. 60,000, C is not dependent upon X).
6. Consultancy given to D, elder brother of X (invoice value : nil, market value of supply : Rs. 70,000, D is dependent upon X).
7. Consultancy given to E, an employee of X (invoice value : nil, market value of supply : Rs. 80,000).

Above figures are exclusive of GST. GST is 18%. Calculate the amount of GST payable by X for October 20XX. He want to avail input tax credit —

− Balance available in electronic credit ledger on October 1, 20XX : Rs. 22,000
− Fees paid to a chartered accountant pertaining to tax audit of X (taxable value : Rs. 20,000, GST : Rs. 3,600).
− GST paid on food and beverages for employees / clients (amount of GST being Rs. 8,000).
− Motor car purchased for official use of employees (amount of GST being Rs. 2,80,000).
− Motor car purchased for private use of X and his family (amount of GST being Rs. 7,00,000).
− Membership of a club taken by X for entertaining official guests (amount of GST being Rs. 18,000).
− Fees paid to a consultant pertaining to transfer pricing matter of a client (amount of GST being Rs. 20,000).

A.

Particulars		Amount (Rs.)
Consultancy given to different clients		35,70,000
Consultancy given to A Ltd. (A Ltd. is related to X, price is not sole consideration, market value to be considered)		50,000
Consultancy given to B (B is not a relative of X, price is sole consideration, transaction value to be considered)		Nil
Consultancy given to Mrs. X (Mrs. X is “related person”, open market value to be considered)		75,000
Consultancy given to C, younger brother not dependent upon X (C does not come in the list of “related persons”, GST applicable on transaction value on the assumption that price is sole consideration)		Nil
Consultancy given to D, elder brother dependent upon X (related person, GST on open market value)		70,000
Consultancy given to E, an employee of X (employer and employee are related persons, gift to employees which is not covered by employment agreement is chargeable to GST on the basis of market value. Exemption of Rs. 50,000 is available) invoice value : nil, market value of supply : Rs. 80,000).		80,000
Total Outward Supply		38,45,000
GST @ 18%		6,92,100
Less:- Input Tax Credit		45,600
Balance available in electronic credit ledger on October 1, 20XX	22,000	
Fees paid to a chartered accountant pertaining to tax audit of X	3,600	
GST paid on food and beverages for employees / clients (not eligible)	Nil	
Motor car purchased for official use of employees (not eligible)	Nil	
Motor car purchased for private use of X and his family (not eligible)	Nil	
Membership of a club taken by X for entertaining official guests (not eligible)	Nil	
Fees paid to a consultant	20,000	
Balance to be paid through electronic cash ledger		6,46,500

Q23. X Ltd. provides services pertaining to retail packing of goods. This service is provided in Punjab to manufacturing units and plantation units. It gives the following information pertaining to January 2018 —

1. Service by bay of waxing, retail packing, labelling of apples provided to A Plantation (P.) Ltd., Ludhiana(invoice value : Rs. 17,10,000).

2. Service by way of packing and labelling of chemical goods provided to B Ltd. (invoice value : Rs. 28,00,000).
3. Service by way of packing of leather goods provided to C Ltd. (invoice value : Rs. 3,00,000, market value of similar service to unrelated persons : Rs. 6,50,000).
4. Service by way of waxing and packing of wooden toys provided to D Ltd. (invoice value : Rs. 5,00,000).

X owns 60 per cent shares in X Ltd. and Mrs. X owns 40 per cent shares in C Ltd.

Above figures are exclusive of GST. GST rate is 18 per cent. The above invoices are issued during January 2018. Payment is received from A Plantation (P.) Ltd. on January 27, 2018. Payment from B Ltd. and C Ltd. is received on February 12, 2018. Nothing is received from D Ltd. so far. On January 31, 2018, X Ltd. gets an advance payment of Rs. 50,000 from E Ltd. for packing of goods which will be manufactured during 2018-19 (GST rate is 18 per cent, Rs. 50,000 is for providing services in future, nothing is received on account of GST). Calculate the amount of GST payable by X Ltd. for January 2018. X Ltd. wants to avail input tax credit —

− Balance available in electronic credit ledger on January 1, 2018 : Rs. 61,000.

− Fees paid to an interior decorator for canteen of X Ltd. (taxable value : Rs. 10,000, GST : Rs. 1,800).

− Membership of health club for employees (amount of GST being Rs. 17,000).

A.

Particulars		Amount (Rs.)
Service by way of waxing, retail packing, labelling of apples provided to A Plantation (P.) Ltd. [it is exempt from GST vide Exemption Notification (Entry 57)]		Nil
Service by way of packing and labelling of chemical goods provided to B Ltd.		28,00,000
Service by way of packing of leather goods provided to C Ltd. (X Ltd. and C Ltd. are related, GST applicable on market value)		6,50,000
Service by way of waxing and packing of wooden toys provided to D Ltd.		5,00,000
Advance payment from E Ltd. (Rs. 50,000 × 100 ÷ 118)		42,373
Total Outward Supply		39,92,373
GST @ 18%		7,18,627
Less:- Input Tax Credit		62,800
Balance available in electronic credit ledger on January 1, 2018	61,000	
Fees paid to an interior decorator for canteen	1,800	
Membership of health club for employees (not eligible)	NIL	
Balance to be paid through electronic cash ledger		6,55,827

Q24. ABC Ltd. purchased goods valuing Rs. 10,00,000 (excluding CGST @ 2.5% & SGST @ 2.5%) under the cover of invoice Dated 25th December 2017. The company made the payment to the supplier as per due date. The company has not taken ITC at the time of receipt of input since there was a doubt regarding admissibility of tax credit. It legal consultant has opined that it can very much avail ITC on such inputs. The opinion was received on 5th May 2018. ABC Ltd. now would like to avail ITC. Can it do so? ABC Ltd. has filed its annual return for the year 2017-18 on 12th August 2018.

A. As per Section 16 (4), a registered person shall not be entitled to take ITC in respect of any invoice or debit note for supply of goods or services or both after

(a) The due date of furnishing of the return U/s 39 for the month of September following the end of financial year to which such invoice pertains; or

(b) Furnishing of the relevant annual return,

Whichever is earlier.

In this case the inputs were purchased by invoice Dated 25th December 2017, hence ITC in respect of such inputs can be taken on earlier of the following dates-

- 20th Oct'18 being due date of furnishing return of month of Sept'18;

- 12th Aug'18 being the date of furnishing of annual return.

ABC Ltd. can avail ITC till 12th Aug'18. Therefore, it can avail credit of CGST Rs. 25,000 & SGST Rs. 25,000.

Q25. A registered supplier of taxable goods supplied goods valued Rs. 1,12,000 (inclusive of CGST Rs. 6,000 and SGST Rs. 6,000) to ABC Ltd. under the forward charge on 12-11-2017 for which tax invoice was also issued on the same date. But ABC Ltd. did not make any payment towards such supply along with tax thereon to the supplier and availed input tax credit of CGST and SGST of Rs. 12,000 on 15-12-2017. Is ABC Ltd. eligible to avail input tax credit on such supply?

Discuss ITC implications if ABC Ltd. makes the payment of Rs. 1,12,000 to the supplier on 15-09-2018.

A. Yes, ABC Ltd. can avail input tax credit on receipt of taxable supply of goods. But it is required to pay the consideration along with tax within 180 days from the date of issue of invoice.

I. If ABC Ltd. does not make payment within 180 days from the date of invoice: As per Rule 37 of CGST Rules, 2017, a registered person, who has availed of input tax credit on any inward supply of goods or services or both, but fails to make payment to the supplier within 180 days from the date of issue of invoice shall furnish the details of such supply and the amount of input tax credit proportionate to such unpaid amount, availed of, in FORM GSTR-2 in succeeding month after expiry of 180 days (will be added to Output Tax Liability alongwith interest)

   In this case since ABC Ltd. does not make any payment within 180 days from the date of invoice i.e. upto 11th May 2018, therefore amount equal to input tax credit availed by ABC Ltd. shall be added towards its output tax liability along with interest for the month of June, 2018 in which details of such supplies are required to be furnished.

   Interest shall be calculated @18% [as given u/s 50(1) for the period starting from date of availing credit till the date when input tax credit added to the output tax liability is paid]

Particulars	Amount (Rs.)
Amount of Input tax	12,000
Date of availing credit (Date of taking credit shall be construed as date of taking credit in electronic credit ledger)	15-12-2017
Date of payment of ITC added to Output Tax Liability	15-06-2018
No. of Days for which interest needs to be paid	182
Interest @ 18% {12000*18%*182/365}	1,077

II. Re-credit of Input tax if payment made after 180 days: If ABC Ltd. makes payment on 15-09-2018 that is after 180 days from date of issue of invoice, then, it shall be entitled to avail the credit of input tax.

Q26. Determine the amount of ITC admissible to ABC Ltd. in respect of following items procured by them in the month of December 2017 (below amount is GST amount):-

1. Goods supplied for Captive consumption in a factory Rs. 10,000
2. Goods used in constructing an additional floor of office building Rs. 20,000
3. Packing material used in a factory Rs. 5,000
4. Goods destroyed due to natural calamities Rs. 20,000
5. Goods used for repairing the office building and cost of such repairs is debited to P & L Rs. 25,000
6. Paper for photocopying machine used in Administrative Office Rs. 1,000
7. Goods given as gifts Rs. 25,000
8. Inputs used for tests or quality control check Rs.15,000
9. Goods purchased for being used in repairing the factory shed and same has been Capitalized in books Rs.18,000
10. Cement used for making foundation and structural support to Plant & Machinery Rs.14,000
11. Inputs used in trial runs Rs.15,000

A. Statement showing ITC admissible to ABC Ltd. for the month of December 2017

Particulars	Amount (Rs.)
Goods supplied for Captive consumption in a factory (since, used in course of business, hence, ITC on same will be available)	10,000
Goods used in constructing an additional floor of office building {As per section 17 (5) (d), ITC shall not be available in respect of goods or services or both received by a taxable person for construction of an immovable property (other than plant & machinery) on his own account including when such goods or services or both are used in the course or furtherance of business. Hence, ITC shall not be available}	NIL
Packing material used in a factory (since, used in course of business, hence, ITC on same will be available)	5,000
Goods destroyed due to natural calamities {As per section 17 (5) (h), ITC shall not be available in respect of goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples. Hence, no ITC shall be available in respect of goods destroyed due to natural calamities}	NIL
Goods used for repairing the office building and cost of such repairs is debited to P & L {As per explanation, the expression "construction" includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalization, to the immovable property. Goods used for revenue repairs are considered as an eligible input and credit shall be allowed on the same}	25,000
Paper for photocopying machine used in Administrative Office (since, used in course of business, hence, ITC on same will be available)	1,000
Goods given as gifts {As per section 17 (5) (h), ITC shall not be available in respect of goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples. Hence, no ITC shall be available in respect of goods given as gift}	NIL
Inputs used for tests or quality control check (since, used in course of business, hence, ITC on same will be available)	15,000
Goods purchased for being used in repairing the factory shed and same has been Capitalized in books {As per section 17 (5) (d), ITC shall not be available in respect of goods or services or both received by a taxable person for construction of an immovable property (other than plant & machinery) on his own account including when such goods or services or both are used in the course or furtherance of business. Hence, ITC shall not be available}	NIL
Cement used for making foundation and structural support to Plant & Machinery {As per explanation to Section 17, "plant and machinery" means apparatus, equipment, and machinery fixed to earth by foundation or structural support that are used for marking outward supply of goods or services or both and includes such foundation and structural supports. ITC is admissible in respect of goods or services or both received by a taxable person for construction of plant and machinery}	14,000
Inputs used in trial runs (since, used in course of business, hence, ITC on same will be available)	15,000
Total Input Tax credit available	85,000

Q27. ABC Ltd. is engaged in supply of works contract services for construction of immovable property. It gives a part of the construction work to a sub-contractor. The sub-contractor charges GST in his invoice to ABC Ltd. Whether ABC Ltd. can avail ITC on this?

A. As per section 17 (5) (c), ITC shall not be available in respect of works contract services when supplied for construction of an immovable property. However, credit is allowed where it is an input service for further supply of works contract service. In given case, the services supplied by the sub-contractor have been used by the ABC Ltd. for supply of works contract service. Hence, ABC Ltd. can avail the ITC of the GST charged on the input service provided by the sub-contractor.

Q28. ABC Ltd., a manufacturer, which is engaged in supply of taxable goods has purchased 10,000 kg of Product 'A' for Rs.. 10,00,000 (exclusive of CGST @ 14% and SGST @ 14%) on which input tax credit has been taken. Due to changes in fashion process, the said product became obsolete and their value has been written off in the books of accounts. Explain Input tax credit treatment in above case.

A. As per Section 17 (5) (h) of the CGST Act, 2017, if the value of any goods is written off in the books of account, then no input tax credit shall be allowed in respect of the said input. Where input tax credit has been taken in respect of the said goods, the same has to be paid by recipient. Since in the given case, ABC Ltd. has availed input tax credit, thus it has to pay Rs. 1,40,000 (Rs. 10,00,000 @ 14%) towards CGST and Rs. 1,40,000 (Rs. 10,00,000 @ 14%) towards SGST liability.

Q29. ABC Ltd. paying tax under composition scheme becomes liable to pay tax under regular scheme from 01/04/2018. Can it avail Input tax credit and if so determine the amount of ITC available?

Break-up of credit available with ABC Ltd. as on 31/03/2018:

Particulars	CGST	SGST
Inputs lying in stock (Invoice Dated 11/03/2018)	4,500	4,500
Capital goods procured on 25/09/2017 Invoice Dated 27/09/2017	6,000	6,000
Inputs lying in semi-finished goods in stock (Invoice Dated 21/12/2017)	1,500	1,500

A. As per Section 18(1)(c), where any registered person ceases to pay tax under Section 10, he shall be entitled to take credit of input tax in respect of inputs held in stock, inputs contained in semi-finished or finished goods held in stock and on capital goods on the day immediately preceding the date from which he become liable to pay tax under Section 9.

Therefore, in given case, ABC Ltd. shall be entitled from 01/04/2018 to avail credit available as on 31/03/2018. The credit of capital goods is to be claimed after reducing the tax paid on such capital goods by 5% points per quarter of a year or part thereof from the date of invoice or such other documents on which the capital goods were received by the taxable person. (Rule 40 of CGST Rules)

Statement showing ITC available to ABC Ltd. in respect of inputs

Particulars	ITC (CGST + SGST)	Eligible Credit
Inputs lying in stock (4500+4500)	9,000	9,000
Inputs lying in semi-finished goods in stock (Invoice Dated 21/12/2017) (1500+1500)	3,000	3,000
Total Input tax credit available	12,000	12,000

Statement showing ITC available to ABC Ltd. in respect of capital goods

Particulars	Amount in Rs.
Date of invoice of capital goods	27/09/2017
Date from which ABC Ltd. are liable to pay tax under Section 9	01/04/2018
No. of quarters from date of invoice	3
CGST and SGST paid on capital goods procured on 27/09/2017	12,000
ITC to be reduced by Rs.. 12,000 x 5% × 3 quarters	1,800
Credit (CGST and SGST) available on capital goods	10,200

Note: As per Section 2(92), "quarter" shall mean a period comprising three consecutive calendar months, ending on the last day of March, June, September and December of a calendar year.

Q30. ABC Ltd. a registered dealer engaged in supplying exempted goods to its customers. On 12/09/2018, exemption notification was rescinded and goods were liable for tax. ABC Ltd. has to make e-payment of tax on the due date i.e., on 20/10/2018. Determine the eligible credit for the month of September, 2018 if the following information is provided:

Particulars	Value (exclusive of CGST/SGST /IGST) (Rs.)	CGST @ 9% (Rs.)	SGST @ 9% (Rs.)	IGST @ 5% (Rs.)
Value of Inputs lying in stock as on 11/09/2018.	1,25,000			6,250
Value of inputs contained in semi-finished goods lying in stock as on 11/09/2018 but only inputs worth 28,000 in semi-finished goods were procured after 11/09/2017	87,000	7,830	7,830	
Inputs received on 30/04/2018 lying in finished goods in stock on 11/09/2018	1,15,000	10,350	10,350	
Capital goods procured in 10/10/2017 which is exclusively used in supplying exempted goods	6,55,000			32,750

A. As per Section 18(1)(d), where an exempt supply of goods or services or both by a registered person become a taxable supply, such person shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock relatable to such exempt supply and on capital goods exclusively used for such exempt supply on the day immediately preceding the date from which such supply becomes taxable.

As per CGST Rules, 2017, the input tax credit on capital goods, shall be claimed after reducing the tax paid on such capital goods by 5% points per quarter of a year or part thereof from the date of invoice or such other documents on which the capital goods were received by the taxable person.

Computation of Input tax credit relating to CGST/SGST/IGST available to ABC Ltd. in respect of inputs and capital goods will be as follows:

Particulars	CGST (Rs.)	SGST (Rs.)	IGST (Rs.)	Total Eligible Credit (Rs.)
ITC on the value of inputs lying in stock. (In absence of any information, it is assumed that all stocks are purchased within one year and hence are eligible)	--	--	6,250	6,250
Input tax credit on the value of inputs contained in semi-finished goods [Working Notes 1]	2,520	2,520	--	5,040

Input tax credit on value of inputs lying in stock of finished goods stock [Inputs received on 30/04/2018 lying in finished goods in stock on 11/09/2018 as all inputs were acquired within 1 year prior to the effective date on which the goods become taxable, therefore, entire ITC would be allowed]	10,350	10,350	--	20,700
Capital goods [Working Notes 2]	--	--	26,200	26,200
Total Input tax credit available	12,870	12,870	32,450	58,190

Working Notes:

1. ITC on the value of inputs contained in semi-finished goods – Out of the total stock of Rs.. 87,000, inputs totaling to Rs.. 59,000 are ineligible as period of 1 year has elapsed form the effective date of purchase. ITC on inputs contained in stock of Rs.28,000 would be eligible. [Eligible Credit = Rs.. 7,830 x Rs.. 28,000 ÷ Rs.. 87,000 each in respect of CGST and SGST]

2. Credit available in respect of capital goods:

Particulars	Rs.
Date of invoice	10/10/2017
Date from which the goods become taxable	17/09/2018
No. of quarters or part thereof from date of invoice	4
Percentage points to be reduced (5% per quarter)	20%
IGST paid on the capital goods used exclusively in relation to goods exempted upto 11/09/2018	32,750
ITC to be reduced by 20%	6,550
Amount of Input tax credit available in respect of capital goods	26,200

Q31. ABC Ltd. a supplier of goods has purchased capital goods on 01/04/2018 for Rs. 11,20,000 (inclusive of CGST @ 6% and SGST @ 6%). After taking it for business use, the said capital goods were supplied for Rs. 9,50,000 on 01/12/2018. Explain Input tax credit treatment in this case.

A. As per Section 18(6) of the CGST Act read with Rule 40(2) of CGST Rule, 2017, in case of supply of capital goods, on which input tax credit has been taken, the registered person shall pay an amount – Equal to the input tax credit taken on the said capital goods reduced by an amount calculated @ 5% for every quarter or part thereof from the date of issue of invoice for such goods; or

The tax on the transaction value of such capital goods or plant and machinery determined under Section 15, whichever is higher.

Computation of amount of tax payable by ABC Ltd.

Particulars		Rs.
Date of Invoice of purchase of capital goods		01/04/2018
Date of Supply of capital goods after taking into use		01/12/2018
No. of Quarters from the date of issue of invoice for such goods		3
CGST and SGST paid on purchase of Capital Goods [Rs. 11,20,000 x 12 ÷ 112]		1,20,000
Reduced by Rs. 1,20,000 x 5% × 3 quarters		(18,000)
Amount of CGST and SGST	(A)	1,02,000
Transaction Value on supply of Capital Goods u/s 15		9,50,000
CGST and SGST payable on supply of Capital Goods @ 12%	(B)	1,14,000
Amount to be payable (higher of A or B)		1,14,000

Q32. What would be your answer if capital goods being Jig are removed as scrap at a transaction value of Rs.. 1,25,000 on 01/12/2018?

A. As per proviso to Section 18(6), where refractory bricks, moulds and dies, jigs and fixtures are supplied as scrap, there shall be no requirement for reversal of Input tax credit, taxable person may tax on the transaction value determined under Section 15.

In the given case, since, jig are cleared as scrap, the manufacturer shall pay an amount equal to the tax leviable on transaction value i.e. CGST Rs. 1,25,000 x 6% = Rs. 7,500 and SGST Rs. 1,25,000 x 6% = Rs. 7,500.

Q33. A garment factory received a government order for making uniforms for a defense personnel. This supply is exempt from tax under a special notification. The fabrics is separately procured for the supply, but thread, buttons and lining material for the collars are the once which are used for other taxable products of the factory. The turnover of the other garments of the factory and exempted uniforms in July 2018 is Rs. 8 crore and Rs. 2 crore respectively, the ITC on thread, button and lining material procured in July 2018 is Rs. 5,000; Rs. 25,000 and Rs. 15,000 respectively. Calculate the eligible ITC on thread and lining material.

A. Thread, buttons and lining material are inputs which are used for making taxable as well as exempt supplies. Therefore, credit on such items will be apportioned and credit attributable to exempt supplies will be added to the output tax liability in items of rule 43 of the CGST rules, 2017.

Credit attributable to exempt supplies = Common credit x (Exempt turnover / Total turnover)

Common credit = Rs. 5,000 + Rs. 25,000 + Rs. 15,000 = Rs. 45,000

Exempt turnover = Rs. 2 Crore

Total turnover = Rs. 10 Crore [Rs. 2 Crore + Rs. 8 Crore]

Credit attributable to exempt supply = (Rs. 2 crore / 10 Crore) x Rs. 45,000 = Rs. 9,000

Ineligible credit of Rs. 9,000 will be added to the output tax liability for the month of July. Credit of Rs. 36,000 will be eligible credit for the month of July.

Q34. Total Credit Available to ISD is Rs. 20,00,000/- & the credit distributed to all the units is Rs. 24,00,000/- (i.e. Delhi Rs. 10,00,000, unit Jaipur Rs. 6,00,000 & unit Ahmedabad Rs. 8,00,000). What will be the consequences?

A. The excess credit of Rs. 4,00,000 (Rs. 24,00,000- Rs. 15,00,000) distributed would be recovered from the recipient along with interest and the provisions of section 73 or 74 shall apply mutatis mutandis for effecting such recovery.

Q35. Total Credit Available to ISD is Rs. 15,00,000/- & the credit should have been distributed equal to all the units as all units had equal turnover, however credit distributed in violation of Section 21, as under:
Delhi Rs. 7,00,000, Jaipur Rs. 6,00,000, Ahmedabad Rs. 2,00,000. What will be the consequences?

A. The excess credit of Rs. 2,00,000 (Rs. 7,00,000- Rs. 5,00,000) shall be recovered from Delhi and Rs. 1,00,000 (Rs. 600,000 – Rs. 5,00,000) shall be recovered from Jaipur along with interest and the provisions of section 73 or 74 shall apply mutatis mutandis for effecting such recovery.

Q36. Whether benefit of input tax credit would be available if the company procures health insurance services for benefit of its employees. Please assume that the procurement of such services is mandatory under Factories Act?

A. Yes. Section 17(5)(b) of the CGST Act provides that tax paid w.r.t 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. If not notifies by the Government then it is not available.

Q37. Whether taxes paid on change of interiors of service apartment is eligible for input tax credit?

A. 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.

Q38. 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?

A. 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(1) of the CGST Rules provides for availability of the amount of input tax credit availed of proportionate to the amount paid to the supplier.

Chapter 9: - Registration

Section 22	**Persons liable for registration**
Section 24	**Compulsory Registration in Certain Cases**
Section 23	**Persons not liable for Registration**
Section 25	**Procedure for Registration**
Section 26	**Deemed Registration**
Section 27	**Special provisions relating to CTP and non-resident taxable person**
Section 28	**Amendment of Registration**
Section 29	**Cancellation of Registration**
Section 30	**Revocation of cancellation of registration**

Section 22 Persons liable for registration

Sec. 22 (1)

- **Every supplier shall be liable to be registered in the State or UT, other than special category States, from where he makes a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds, twenty lakh rupees;**
- **Provided that where such person belongs to special category States, then he shall be liable to registered if his turnover in a financial year exceeds ten lakh rupees.**
- **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.**

Sec. 22 (2)

- **Every person who, on the day immediately preceding the appointed day, is registered or holds a license under an existing law, shall be liable to be registered under this Act with effect from the appointed day.**

Sec. 22 (3)

- **When a business carried on by a taxable person registered under this Act is transferred on account of succession or otherwise, as a going concern, the transferee or successor, shall be liable to be registered with effect from the date of such transfer or succession.**

Sec. 22 (4)

- **Nothwithstanding anything contained in sub-sections (1) & (3), in a case of transfer pursuant to sanction of a scheme or an arrangment for amalgmation or, demerger of two or more companies pursuant to an order of a High Court, Tribunal or otherwise, the transferee shall be liable to be registered, with effect from the date on which the ROC issues a certification of incorporation giving effect to such order of High court or Tribunal.**

Explanation:-

- Aggregate turnover includes own supplies or made on behalf of all principals.
- The supply of goods by job worker to principal after completion of job work, shall not be included in the aggregate turnover of the registered job worker.
- Special category States (as specified in sub-clause (g) of clause (4) of Article 279A of the Constitution) for GST are ~~Jammu & Kashmir~~, ~~Arunachal Pradesh~~, ~~Assam~~, Manipur, ~~Meghalaya~~, Mizoram, Nagaland, ~~Sikkim~~, Tripura, ~~Himanchal Pradesh~~ & ~~Uttarakhand~~.
- If a person having place of business in different States across India and one branch is in Specified Category State then threshold limit for GST registration will be reduced to Rs. 10 Lakh.

Threshold Limit for Registration for Exclusive supply of goods

Aggregate turnover Rs. 10 lakhs	Rs. 20 Lacs	Rs. 40 Lacs
1. Manipur 2. Mizoram 3. Nagaland 4. Tripura	1. Arunachal Pradesh 2. Meghalaya 3. Puducherry 4. Sikkim 5. Telangana 6. Uttarakhand	All other states/union territories (not applicable if compulsory registration U/s 24 & persons exercising option under the provisions of sub-section (3) of section 25, or such registered persons who intend to continue with their registration under the said Act)

Threshold Limit for Registration for others including Suppliers of Ice cream and other edible ice, whether or not containing cocoa; Pan masala; Tobacco and manufactured tobacco substitutes

Rs. 10 Lacs	Rs. 20 Lacs
1. Manipur 2. Mizoram 3. Nagaland 4. Tripura	All other states/union territories

Threshold Limit for Registration under Composition

Rs. 75 Lacs	Rs. 1.5 crore
1. Arunachal Pradesh 2. Manipur 3. Meghalaya 4. Mizoram 5. Nagaland 6. Sikkim 7. Tripura 8. Uttarakhand	All other states/union territories

Section 24 Compulsory Registration in Certain cases

Section 24 is not subject to Section 23

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

Sec. 51: TDS in GST

Sec. 52: TCS by e-commerce operator

(i) persons making any inter-State taxable supply;
(ii) casual taxable persons making taxable supply;
(iii) persons who are required to pay tax under reverse charge;
(iv) person who are required to pay tax under sub-section (5) of section 9;
(v) non-resident taxable persons making taxable supply;
(vi) persons who are required to deduct tax under section 51, whether or not separately registered under this Act;

(vii) persons who make taxable supply of goods or services or both on behalf of other taxable persons whether as an agent or otherwise {now it has been clarified that such registration is required only by C & F agents who stock and sale goods on behalf of Principal and not by ordinarily commission agents who do not deal in goods or services themselves -CBIC circular No. 57/31/2018-GST Dated 4-9-2018}
(viii) Input Service Distributor, whether or not separately registered under this Act;
(ix) 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;
(x) every electronic commerce operator who is required to collect tax at source U/s 52
(xi) every person supplying online information and data base access or retrieval services from a place outside India to a person in India, other than a registered person; and
(xii) such other person or class of persons as may be notified by the Government on the recommendations of the Council.

- **In case a person already registered under GST is required to deduct tax under section 51, he is required to take separate registration for the purpose of deducting tax under section 51.**
- **An ISD is required to obtain a separate registration even though it may be separately registered.**

Section 23 Persons not liable for registration

Person engaged exclusively in supplying goods/services/both not liable to tax or wholly exempt from tax

Agriculturist to the extent of supply of produce out of cultivation of land

Specified category of persons notified by the Government

Notification No. 10/2017-IT Dated 13-10-2017 w.e.f. 13-10-2017	Government has specified the person making inter-State supplies of taxable services and having an aggregate turnover, to be computed on all India basis, not exceeding Rs. 20 Lakh in a financial year, is exempt from obtaining registration. If such person aggregate value of such supplies includes Special Category State (according to Section 22 explanation) where threshold is 10 Lacs, then should not exceed Rs. 10 Lakh.
Notification No. 05/2017-CT Dated 19-06-2017 w.e.f. 22-06-2017	Persons only engaged in making taxable supplies, total tax on which is liable to be paid on reverse charge basis – Exempt from obtaining registration. [(U/s 9 (3)].
Notification No. 7/2017-IT Dated 14-09-2017	Job worker engaged in making inter-state supply of services – exempt from obtaining registration except engaged in jewelers business. The limit of 20 Lakhs/10 Lakhs will be applicable.
Notification No. 65/2017-CT Dated 15-11-2017	Persons making supplies of services, other than supplies specified U/s 9(5) through an ECO who is required to collect TCS U/s 52, and having

	aggregate turnover, not exceeding an amount of Rs. 20 Lakhs in a financial year, as the category of persons exempted from obtaining registration under the said Act. If such person aggregate value of such supplies includes Special Category State (according to Section 22 explanation) where threshold is 10 Lacs, then should not exceed Rs. 10 Lakh.
Notification No. 56/2018 – CT Dated 23.10.2018 Casual Taxable Persons making inter-State taxable supplies of notified goods up to Rs. 20,00,000	As we have seen earlier that as per section 24, a CTP is liable to be registered compulsorily under GST irrespective of the threshold limit. However, following categories of CTPs have been exempted from obtaining registration: a. CTPs making inter-State taxable supplies of handicraft goods notified under Notification No. 21/2018 CT (R) Dated 26.07.2018. b. CTPs making inter-State taxable supplies of notified products, when made by the craftsmen predominantly by hand even though some machinery may also be used in the process. <u>Conditions to be fulfilled:</u> 1. CTPs are availing benefit of Notification No. 03/2018 IT Dated 22.10.2018 2. The aggregate value of such supplies, to be computed on all India basis, does not exceed an amount of Rs. 20 lakh [Rs. 10 lakh in case of Special Category States] in a FY. 3. Such persons have obtained a PAN and have generated an eway bill.
Notification No. 03/2018 – IT Dated 22.10.2018 Persons making inter-State taxable supplies of notified goods up to Rs. 20,00,000	As we have seen earlier that as per section 24 read with Notification No. 10/2017 IT Dated 13.10.2017, a person making inter-State supplies of goods is liable to be registered compulsorily under GST irrespective of the threshold limit. However, following categories of persons have been exempted from obtaining registration: a. Persons making inter-State taxable supplies of handicraft goods notified under Notification No. 21/2018 CT (R) Dated 26.07.2018. b. Persons making inter-State taxable supplies of notified products, when made by the craftsmen predominantly by hand even though some machinery may also be used in the process. Conditions to be fulfilled: 1. The aggregate value of such supplies, to be computed on all India basis, does not exceed an amount of Rs. 20 lakh [Rs. 10 lakh in case of Special Category States] in a FY. 2. Such persons have obtained a PAN and have generated an eway bill
Circular No. 71/45/2018 Dated 26th October 2018	• Amount of advance tax which a casual taxable person (CTP) is required to deposit while obtaining registration should be calculated as the net tax liability after considering the estimated input tax credit (ITC). • In cases of long running exhibitions (for a period more than 180 days), the taxable person cannot be treated as a CTP and would need to obtain registration as a normal taxable person. While applying for normal registration, the said person should upload a copy of the allotment letter granting him permission to use the premises for the exhibition and the allotment letter/consent letter shall be treated as the proper document as a proof for his place of business.

PIB press release Dated 28-5-2018	Support services to agriculture, forestry, fishing or animal husbandry are exempt from GST. Such exempted support services include renting or leasing of vacant land with or without a structure incidental to its use. Agriculturist are also exempt from taking GST registration.
Circular No. 57/31/2018 GST Dated 04.09.2018 Services provided by the commission agent for sale/ purchase of agricultural produce - Registration requirements	Generally, a commission agent under APMC Act makes supplies on behalf of an agriculturist. As per provisions of section 23(1)(b), an agriculturist who supplies produce out of cultivation of land is not liable for registration and therefore does not fall within the ambit of the term 'taxable person'. Thus, a commission agent who is making supplies on behalf of such an agriculturist - not a taxable person - is not liable for compulsory registration under section 24(vii). However, where a commission agent is liable to pay tax under reverse charge, such an agent will be required to get registered compulsorily under section 24(iii)of the CGST Act. (Please refer examples in Chapter 2)

Example 1: A dealer 'X' has two offices – one in Delhi and another in Haryana. 'X' supply goods & services both. In order to determine whether 'X' is liable to registration, turnover of both the offices would be taken into account and only if the same exceeds Rs. 20 Lakh, X is liable for registration.

Example 2: XYZ Oils, Punjab, is engaged in supplying machine oil. In order to determine whether, XYZ Oils is liable for registration, aggregate turnover shall be calculated and if the same exceeds Rs. 40 Lakh, XYZ Oils is liable to registration.

Example 3: Mohini Enterprises has appointed ABC as its agent. All the supplies of goods made by ABC as agent of Mohini Enterprises will also be included in the aggregate turnover of ABC (Recollect discussion of Chapter 2).

Example 4: Mr. A Nasik, has Intra State supply of agricultural produce (own effort) Rs. 15 Lacs, Intra State supply of exempt goods Rs. 10 Lacs & taxable supplies Rs. 25 Lacs. He is supposed to take registration since his aggregate turnover is Rs. 15 Lacs + Rs. 10 Lacs + Rs. 25 Lacs = Rs. 50 Lacs.

Example 5: Mr. A Nasik, has Intra State supply of services chargeable at 0% Rs. 20 Lacs, Intra State supply of exempt services Rs. 20 Lacs & taxable supplies Rs. 1 Lacs. He is supposed to take registration since his aggregate turnover is Rs. 20 Lacs + Rs. 20 Lacs +Rs. 1 Lacs = Rs. 21 Lacs.

Example 6: ABC is running an electronics shop in Mumbai. His turnover in a financial year is Rs. 9 Lakhs which includes an inter-State supply of some items to Ahmedabad worth Rs. 10,000. Even though aggregate turnover of ABC is only Rs. 9 Lakhs, but compulsory registration shall be required for making taxable inter-State supply of goods to Ahmedabad.

Example 7: ABC is running a toy shop in Delhi. His turnover in a financial year is Rs. 9 lakhs which includes a consignment for supply of children's picture & colouring books to Noida, UP worth Rs. 10,000. Here even though inter-State supply is involved but the items involved are exempt from GST. Thus, provisions of compulsory registration shall not apply and accordingly no registration shall be required as aggregate turnover of ABC is only Rs. 9 lakhs.

Example 8: Mr. A is a professional in Gurgaon, Haryana giving consultancy services to various clients in Gurgaon, Noida & Delhi. His turnover in a financial year is Rs. 19 lakhs. Even though inter-State supply is involved but same is exempted vide notification no. 10/2017 – integrated tax Dated 13.10.2017 from application of Section 24. Accordingly, no registration shall be required as aggregate turnover of Mr. A is only Rs. 19 lakhs.

Example 9: Mr. A has business in 3 States i.e. Maharashtra, Gujarat, MP. Total turnover of supplies of goods in different state taken together is below threshold. But from Maharashtra, Mr. A has supplied goods to its units in MP. In GST, different registrations of a person are considered as distinct persons and stock transfers are taxable. Further, compulsory registration is required in case of inter-State taxable supply. Thus, benefit of threshold limit shall not be available in this case. Further when liability to register has arisen in one State then registration shall be required for all other place of businesses as well.

Example 10 (ICAI):

Supplier	Engaged	Aggregate turnover	Applicable threshold limit for registration	Whether liable to obtain registration?
Prithiviraj of Assam	exclusively in supply of shoes	Rs. 22 lakh	Rs. 40 lakh	✗
	exclusively in supply of pan masala	Rs. 22 lakh	Rs. 20 lakh	✓
	exclusively in supply of taxable services	Rs. 22 lakh	Rs. 20 lakh	✓
	in supply of both taxable goods and services	Rs. 22 lakh	Rs. 20 lakh	✓
Shivaji of Telangana	exclusively in supply of toys	Rs. 22 lakh	Rs. 20 lakh	✓
	exclusively in supply of ice cream	Rs. 22 lakh	Rs. 20 lakh	✓
	exclusively in supply of taxable services	Rs. 22 lakh	Rs. 20 lakh	✓
	in supply of both taxable goods and services	Rs. 22 lakh	Rs. 20 lakh	✓
Ashoka of Manipur	exclusively in supply of paper	Rs. 12 lakh	Rs. 10 lakh	✓
	exclusively in supply of tobacco	Rs. 12 lakh	Rs. 10 lakh	✓
	exclusively in supply of taxable services	Rs. 12 lakh	Rs. 10 lakh	✓
	in supply of both taxable goods and services	Rs. 12 lakh	Rs. 10 lakh	✓

Section 25 Procedure for Registrations

(1) Every person who is liable to be registered under section 22 or section 24 shall apply for registration in every such State or Union territory in which he is so liable within thirty days from the date on which he becomes liable to registration, in such manner and subject to such conditions as may be prescribed:
Provided that 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 SEZ or being a SEZ 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.
Explanation.—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.

(2) A person seeking registration under this Act shall be granted a single registration in a State or Union territory:

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

(3) 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 person, shall apply to such person.

(4) A person who has obtained or is required to obtain more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as distinct persons for the purposes of this Act.

(5) Where a person who has obtained or is required to obtain registration in a State or Union territory in respect of an establishment, has an establishment in another State or Union territory, then such establishments shall be treated as establishments of distinct persons for the purposes of this Act.

(6) Every person shall have a Permanent Account Number issued under the Income- tax Act, 1961 in order to be eligible for grant of registration: Provided that a person required to deduct tax under section 51 may have, in lieu of a Permanent Account Number, a Tax Deduction and Collection Account Number issued under the said Act in order to be eligible for grant of registration.
(7) Notwithstanding anything contained in sub-section (6), a non-resident taxable person may be granted registration under sub-section (1) on the basis of such other documents as may be prescribed.

(8) Where a person who is liable to be registered under this Act fails to obtain registration, the proper officer may, without prejudice to any action which may be taken under this Act or under any other law for the time being in force, proceed to register such person in such manner as may be prescribed.

(9) Notwithstanding anything contained in sub-section (1),—
(a) 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
(b) any other person or class of persons, as may be notified by the Commissioner,
shall be granted a Unique Identity Number in such manner and for such purposes, including refund of taxes on the notified supplies of goods or services or both received by them, as may be prescribed.

(10) The registration or the Unique Identity Number shall be granted or rejected after due verification in such manner and within such period as may be prescribed.

(11) A certificate of registration shall be issued in such form and with effect from such date as may be prescribed.

(12) A registration or a Unique Identity Number shall be deemed to have been granted after the expiry of the period prescribed under sub-section (10), if no deficiency has been communicated to the applicant within that period.

Section 26 Deemed Registration

As per Sec. 26 (1), the grant of registration or the Unique Identity Number under SGST/UTGST shall be deemed to be granted under CGST Act if it is not rejected as per Sec. 25 (10)

As per Sec. 26 (2), Any rejection of application for registration or the Unique Identity Number under the SGST/UTGST shall be deemed to be a rejection of application for registration under CGST.

Section 27 Special provisions relating to casual taxable person and non-resident taxable person

As per Sec. 27 (1), Certificate of Registration issued to a casual taxable person or a non-resident taxable person shall be valid for the period specified in application for registration or 90 days from the effective date of registration, whichever is earlier. Commissioner can further extend this period by maximum 90 days. Any supply can be done only after the issuance of certificate of registration (Rule 15).

As per Sec. 27 (2), 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. In case of extension, additional amount need to be deposited.

As per Sec. 27 (3), Amount deposited shall be credited to electronic cash ledger of such person.

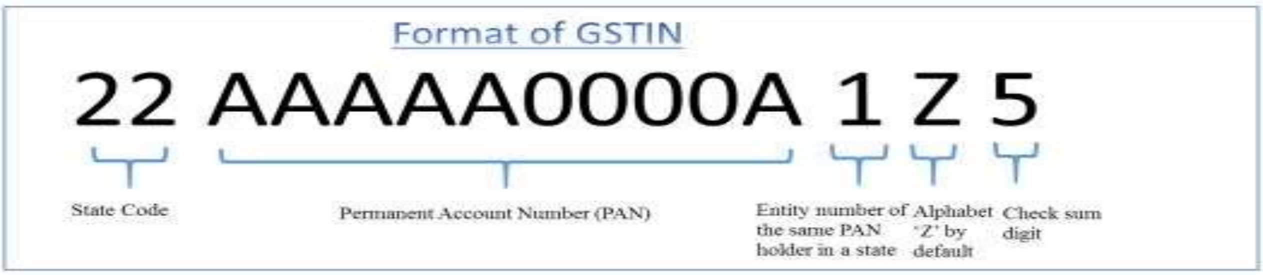
Key Rules related to registration:

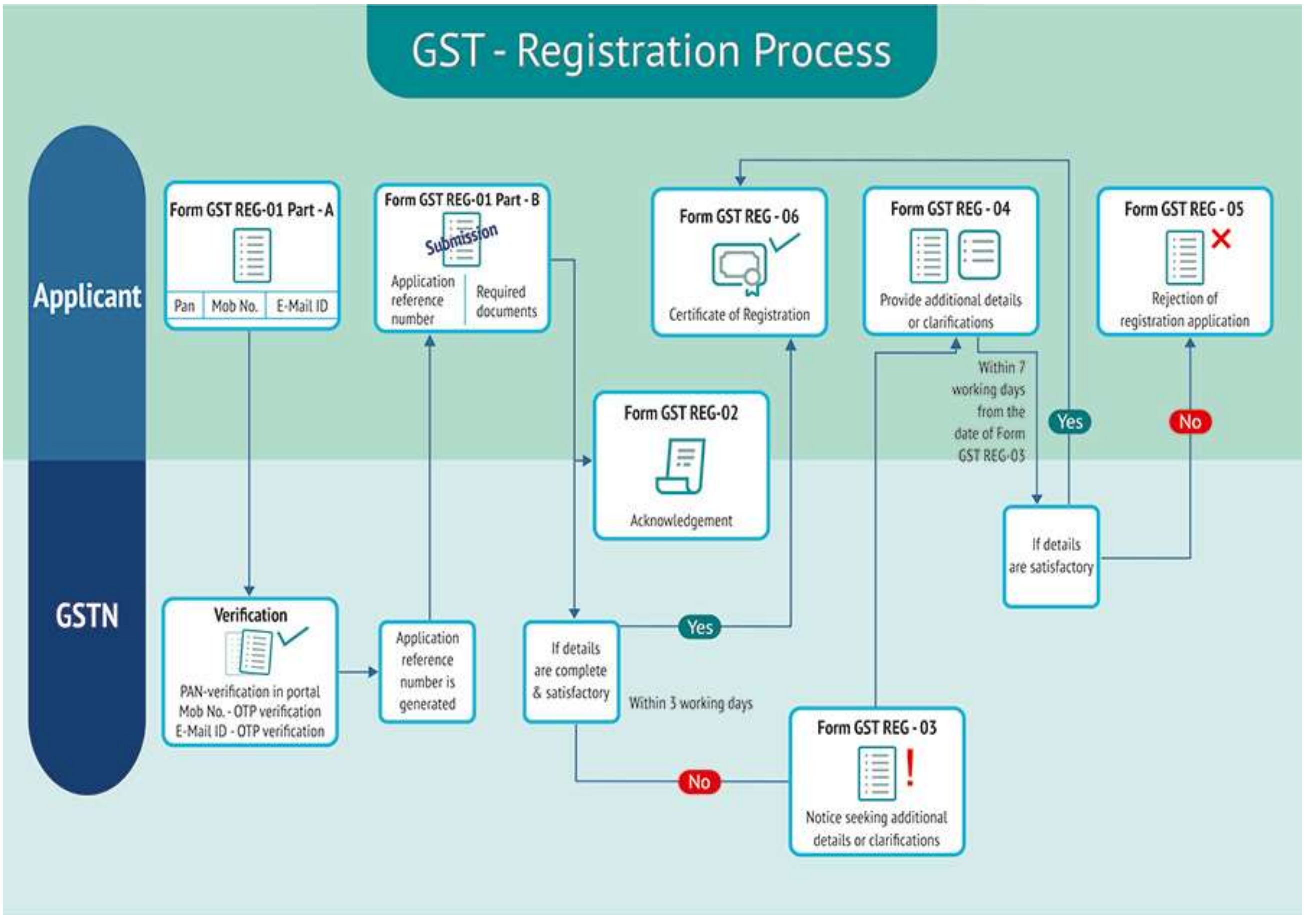
Around 30 forms/formats have been prescribed in the CGST Rules, 2017. For every process in the registration chain such as application for registration, acknowledgement, query, rejection, registration certificate, show cause notice for cancellation, reply, cancellation, amendment, field visit report etc., there are standard formats. This makes the process uniform across country. The decision-making process will also be fast. Strict time lines have been stipulated for completion of different stages of registration process.

Rule 8 (Application for Registration except TDS U/s 51 TCS U/s 52, non-resident taxable person or OIDAR)	Every person seeking registration shall, before applying for registration, declare his PAN, mobile number, email address, State or UT in Part A of Form GST REG-01. After proper validation reference number will be generated, the applicant shall use this reference number and file application of registration in Part B of Form GST REG-01. ISD shall make a separate application for registration. A casual taxable person shall be given a temporary reference number by the common portal for making advance deposit of tax.

Rule 9 Verification of the application and approval	Proper office need to verify within 3 working days of application. If he needs clarification, will issue notice within a period of 3 working days and person needs to reply within a period of 7 working days. If proper officer is satisfied with reply then he will issue registration within 7 working days or reject the application. If proper officer fails to take any action within a period of 3 working days from the date of submission of the application or within 7 working days from the date of receipt of reply, the application of registration shall be deemed to have been approve. For the purposes of this sub-rule, the expression 'clarification' includes modification or correction of particulars declared in the application for registration, other than Permanent Account Number, State, mobile number and e-mail address declared in Part A of FORM GST REG-01.
Rule 10 Issue of Registration Certificate	A certificate of registration in Form GST REG-06 shall be issued. The registration shall be effective from the date on which the person becomes liable to registration where the application for registration has been submitted within a period of 30 days from such date. Otherwise, effective date of registration shall be the date of the grant of registration. It will include principal place of business and additional place of business. Example 11: Sugam Services Ltd. is engaged in taxable supply of services in MP. The turnover of Sugam Services Ltd. exceeded Rs. 20 Lakh on 1st November. It is liable to get registered by 1st December [30 days] in MP. It applies to registration on 28th November and is granted registration certificate on 5th December. The effective date of registration is 1st November. If it applies on 3rd December and granted registration on 10th December then effective registration is 10th December.
Rule 11 Separate registration for multiple places of business within a State or a Union territory	(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.
Rule 12 Grant of Registration to persons required to deduct or collect tax at source	A person required to deduct tax as per Sec. 51 or required to collect tax as per Sec. 52, shall apply in Form GST REG-07. Registration shall be granted in Form GST REG-06. A person applying for registration to collect tax in accordance with the provisions of section 52, in a State or Union territory where he does not have a physical

	presence, shall mention the name of the State or Union territory in PART A of the application in FORM GST REG-07 and mention the name of the State or Union territory in PART B thereof in which the principal place of business is located which may be different from the State or Union territory mentioned in PART A.
Rule 13 Grant of Registration to non-resident taxable person	A non-resident taxable person shall file application in Form GST REG-09 along with a self-attested copy of his valid passport, at least 5 days prior to commencement of business. If business entity incorporated or established outside India, the application or registration shall be submitted along with its tax identification number or unique number on the basis of which the entity is identified by the Government of that country or its PAN. A non-resident taxable person shall be given a temporary reference number by the common portal for making advance deposit of tax.
Rule 14 Registration for a OIDAR	OIDAR supplying services to non-taxable person, shall file application in Form GST REG-10 and registration shall be granted in GST REG-06.
Rule 15 Extension in period of operation by CTP/NRTP	(1) Where a registered casual taxable person or a non-resident taxable person intends to extend the period of registration indicated in his application of registration, an application in FORM GST REG-11 shall be submitted electronically through the common portal, either directly or through a Facilitation Centre notified by the Commissioner, by such person before the end of the validity of registration granted to him. (2) The application under sub-rule (1) shall be acknowledged only on payment of the amount specified in sub-section (2) of section 27.
Rule 16 Suo motu Registration	The proper officer finds that a person liable to registration under the Act, has failed to apply for such registration, such officer may register the said person on temporary basis and issue and order in Form GST REG-12. Such person, shall apply for the registration within 90 days. He has right to appeal against such temporary registration. Once appeal is finalized then he needs to submit the application within 30 days.
Rule 17 Assignment of Unique Identity Number to certain Special entities	The proper officer may, upon submission of an application in Form GST REG-13, assign a UIN to the eligible entities. The Unique Identity Number granted under sub-rule (1) to a person under clause (a) of sub-section (9) of section 25 shall be applicable to the territory of India.
Rule 18 Display of registration certificate and GST Identification Number on the name board	Every registered person shall display his certificate of registration in a prominent location at his principal place of business and at every additional place of business. He also needs to display his GSTIN on the name board exhibited at the entry of his principal place of business and at every additional place or places of business.
Rule 25 Physical verification of business premises in certain cases	Where the proper office is satisfied that the physical verification of the place of business of a registered person is required after the grant of registration, he may get such verification done and the verification report along with the other documents, including photographs, shall be uploaded in Form GST REG-30.





GST Registration Process

Application

- Form **GST Reg-01**
- Part A (PAN, e-Mail, Mobile Verification)
- Part B (Other details)
- Ack. Form **GSTReg-02**
- Submit the relevant docs

Verification

- Initial verification within 3 working days
- Clarifications/info required –Form **GST Reg-03**
- Applicant furnish clarifications in Form **GST Reg-04** within next 7 working day

Approval /Rejection

- Approval within 3 working days
- If satisfactory clarifications received– approval shall be given in next 7 days
- If clarifications not satisfactory- intimate the rejection in Form GST REG-05
- Deemed registration--No action taken within 3/7 working days

Said process applicable to Inter-state, Voluntary, Casual, Reverse Charge, ISD, Agents, E-com

Registration Certificate is Issued in Form **GST Reg-06**

17 days Process

Section 28 Amendment of Registration (Read with Rule 19)

- Every registered person and a person to whom a UIN has been assigned shall inform the proper officer of any changes in the information furnished at the time of registration or subsequent thereto. Such person shall submit an application in prescribed manner, within 15 days of such change.
- In case of amendment of core fields of information (Rule 19)
  (i) legal name of business,
  (ii) address of the principal place of business or any additional place(s) of business,
  (iii) addition, deletion or retirement of partners or directors, Karta, Managing Committee, Board of Trustees, CEO or equivalent, responsible for the day to day affairs of the business,
  The proper officer may, on the basis of information furnished or ascertained by him, approve or reject amendments in the registration particulars in the prescribed manner.
- If it is non-core filed of information registration certificate shall stand amended upon submission of the application.
- If there is change in PAN of registration person, then said person shall apply for fresh registration.
- If proper office fails to take any action, within a period of 15 working days from the date of submission of application or within 7 working days from the date of the receipt of the reply to show cause notice, the certificate of registration shall stand amended.
- Any particular of the application for registration shall not stand amended with effect from a date earlier than date of submission of application for amendment on common portal except with order of Commissioner for reasons to be recorded in writing and subject to conditions specified by Commissioner in the said order.

Section 29 Cancellation or Suspension of Registration

Section 29 (1)

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 such person, cancel the registration: -

(a) the business has been discontinued, transferred fully for any reason including death of the proprietor, amalgamated with other entity, demerged or otherwise disposed of;
(b) there is any change in the constitution of business;
(c) the taxable person, other than the person registered U/s 25 (3), is no longer liable to be registered U/s 22 or 24.

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.

Section 29 (2)

The proper officer may cancel the registration of a person from such date, including any retrospective date, as he may deem fit, where –

(a) A registered person contravened Act or rules;
(b) A person paying tax U/s 10 (composition dealer) not furnished returns for 3 consecutive tax periods;
(c) Any registered person other than composition dealer has not furnished return for a continuous 6 months;

Provided that where the person instead of replying to the notice served under sub rule (1) of Rule 22 for contravention of the provisions contained in clause (b) or clause (c) of sub-section (2) of section 29, furnishes

all the pending returns and makes full payment of the tax dues along with applicable interest and late fee, the proper officer shall drop the proceedings and pass an order in FORM GST-REG 20.
{Proviso inserted vide Notification No. 39/2018-CT Dated 04.09.2018}

(d) Any person who has taken voluntarily registration but has not commenced business within 6 months from the date of registration;
(e) registration has been obtained by means of fraud, willful misstatement or suppression of facts.
Provided that the Proper officer shall not cancel the registration without giving the person an opportunity being heard.
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.

Section 29 (3): The cancellation of registration under this section shall not affect the liability of the person to pay tax and other dues for any period prior to the date of cancellation.

Section 29 (4): the cancellation of registration under the SGST or UTGST, shall be deemed to be a cancellation of registration under this Act.

Section 29 (5): Every registered person shall pay an amount by way of debit in the electronic credit ledger or cash ledger, equivalent to the ITC in respects of inputs held in stock and inputs contained in semi-finished or finished goods or capital goods or plant the machinery on the day immediately preceding the date of such cancellation or the output tax payable on such goods, whichever is higher. In case of capital goods or plant and machinery, the taxable person shall pay an amount equal to the ITC taken, which shall be reduced by such percentage points as may be prescribed or the tax on the transaction value of such capital goods or plant and machinery U/s 15, whichever is higher.

A registered person, other than tax deductor or tax collector to whom a registration has been granted or a person to whom a UIN has been granted, seeking cancellation of registration, shall apply electronically in prescribed form.

Further in terms of rule 21 of CGST Rules, the registration granted to a person is liable to be cancelled, if the said person,-
(a) does not conduct any business from the declared place of business; or
(b) issues invoice or bill without supply of goods or services in violation of the provisions of this Act, or the rules made thereunder; or
(c) violates the provisions of section 171 of the Act or the rules made thereunder.

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.

Section 30 Revocation of cancellation of registration

Any registered person, whose registration is cancelled by the proper officer on his own motion, may apply to such officer for revocation of cancellation of the registration within 30 days from the date of service of the cancellation order. However, in case registration was cancelled for failure of registered person to furnish returns, before applying for revocation the person has to make good the defaults (by filing all pending returns, making payment of all dues in terms of such returns alongwith interest, penalty, late fee, etc.) for which the registration was cancelled by the officer. The proper officer may either revoke cancellation of the registration or reject the application, after giving proper opportunity of being heard.

The revocation of cancellation of registration under SGST or UTGST, shall be deemed to be a revocation of cancellation of registration under this Act.

Amendment in Rule 23 - Pending returns to be filed before revocation of cancellation of registration

Provided further that all returns due for the period from the date of the order of cancellation of registration till the date of the order of revocation of cancellation of registration shall be furnished by the said person within a period of thirty days from the date of order of revocation of cancellation of registration:

Provided also that where the registration has been cancelled with retrospective effect, the registered person shall furnish all returns relating to period from the effective date of cancellation of registration till the date of order of revocation of cancellation of registration within a period of thirty days from the date of order of revocation of cancellation of registration

From the combined reading of aforesaid provisions, it can be inferred that where the registration has been cancelled with effect from the date of order of cancellation of registration, (i) all returns due till the date of such cancellation are required to be furnished before the application for revocation can be filed and (ii) all returns required to be furnished in respect of the period from the date of order of cancellation till the date of order of revocation of cancellation of registration have to be furnished within a period of 30 days from the date of the order of revocation.

However, where the registration has been cancelled with retrospective effect, the application for revocation of cancellation of registration can be filed, subject to the condition that all returns relating to the period from the effective date of cancellation of registration till the date of order of revocation of cancellation of registration shall be filed within a period of 30 days from the date of order of such revocation of cancellation of registration.

Circular No. 95/13/2019 Central Tax Dated 28th Mar 2019

Subject: Verification of applications for grant of new registration

Issue:

Recently, the departmental officers has cancelled many registrations due to their non-compliance
Such persons should discharge all the pending liabilities and apply for the revocation of registration.
It is observed that many such tax payers are applying for fresh registration, instead of applying for revocation.

Clarification:

This circular has been issued to guide the departmental officers to cross check the registration applications properly, to ensure that no such tax payers are provided with a new GSTIN.

Circular No. 96/14/2019-Central Tax Dated 28th March 2019

Subject: Clarification in respect of transfer of input tax credit in case of death of sole proprietor – Reg

Issue:

Clarifications have been sought w.r.t.

- Eligibility to transfer the credit and
- The procedure in case of death of a sole proprietor

Clarification:

The credit transfer shall be eligible. The transferee / successor shall be liable to pay any tax, interest or any penalty due from the transferor in cases of transfer of business due to death of sole proprietor.
Transfer/change in ownership referred in Sec 18(3), 22(3), 29(1)(a) and 85(1) of the CGST act, includes the transfer or change in the ownership of business due to death of the sole proprietor.

Process:

- New registration – Transferee / successor should get registered w.e.f. date of transfer
- Cancellation of old registration – Legal heirs should apply for the cancellation in Form Reg-16
- In both the cases, mention the reason as "death of sole proprietor".
- File ITC-02 in the registration required to be cancelled, before cancellation
- Accept the ITC-02 in the new GSTIN.

Question & Answer

Q1. There is an assessee located in New Delhi and registered under GST at Delhi. He wishes to participate in a 15 days trade exhibition in the State of Tamil Nadu where he does not have a permanent place of business. Would such assessee be liable for registration in the state of Tamil Nadu? In case yes, what would be the procedure for his registration?

A. A person who occasionally undertakes business transactions in goods and/or services in the State where he doesn't have a fixed place of business is considered as a casual taxable person. In the given example, such person would be considered as a casual taxable person for the State of Tamil Nadu.

The casual taxable person is required to make an application for registration in the state where he doesn't have a permanent place of business. Such person is required to deposit a sum called advance deposit which is equal to the estimated liability of tax for the period he wishes to operate in the respective state. For making advance deposit of money, such casual taxable person will be allotted a temporary identification number by GSTN.

Q2. In case a person liable for registration on 1st July makes an application for registration on 10th August, what substantive benefits will not be available to the assessee for making late application of registration?

A. Since the application for registration is required to be made within 30 days period of being liable for it and late applications of registration would result in registration to be effective from the date of grant of registration i.e. 10th August in case of our example. For the period of non-registration 1st July to 10th August, the assessee will not be able to claim ITC. The customers of the supplier would not be able to claim ITC of material supplied to them during the period of non-registration.

Q3. Whether the UN bodies, Consulate and Foreign embassies will be liable for registration under the GST Law?

A. Under the GST Law, tax is required to be charged on taxable supplies made to UN bodies, Consulates or foreign embassies, At the same time, these bodies have been made entitled to seek refund of any tax paid under GST Law. To enable them to seek such refund, they are required to seek registration under the GST Law.

Q4. Can there be multiple ISD of a single registered person?

A. Yes, a business entity can have multiple ISD in different States or even in one state. No such restriction has been provided under the GST Act.

Q5. Gaurav is having a rental income from residential house given on rent of Rs.12 Lakhs and he is also having a kirana shop which has a turnover of Rs. 10 Lakhs. Is he required to be registered under GST.

A. In the given case the aggregate turnover of Gaurav would consist of Rs. 12 Lakhs from exempt supply of rent from residential property and Rs. 10 Lakh from taxable supply of Kirana Store. Therefore, Gaurav would be liable to be registered in GST as his aggregate turnover is more than Rs. 20 Lakhs.

Q6. Kuldeep is a trader and he is trading 100% in alcohol for human consumption. His turnover from supply of alcohol for human is Rs. 2 Crore. Whether he is liable to be registered under GST?

A. As per section 2(47) of the CGST Act, 2017, exempt supply includes non – taxable supply. Alcohol for human consumption is a non – taxable supply as it is not leviable to tax under the law. Further, as per Section 23 of the CGST Act, 2017, any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax under this Act would not be required to be registered.

Therefore, as Kuldeep is exclusively supplying Alcohol for human consumption, which is not liable to tax, he would not be liable to be registered under CGST Act, 2017.

Q7. In the above question, supposedly Kuldeep has also made supply of Soft Drinks of Rs. 10 Lakh. Whether he would be liable to be registered under CGST Act, 2017?

A. If Kuldeep has also made supply of soft drinks of Rs. 10 Lakh along with turnover of Alcohol for human consumption of Rs. 2 crores then in such case, exemption given from registration under section 23 of the CGST Act, 2017 would not be applicable as he is not engaged exclusively in supplying goods not liable to tax under the Law.

Threshold limit for registration would be counted by taking aggregate of both taxable and non – taxable and non – taxable supply and as his aggregate turnover would be more than Rs. 40 Lakh (dealing exclusively in goods), therefore he would be liable for registration under the law.

Q8. Mr. A is a salaried employee (salary income being Rs. 1 crore). Besides, he owns a residential property which is let out for residential purposes for annual rent being Rs. 30 lakh.

A. In this case, aggregate turnover is Rs. 30 lakh, rent received from residential property renting. Since service of renting of residential property for residential purpose is exempt supply, Mr. A shall be exempt from registration requirement as Sec 23 of CGST Act provides for exemption from registration where a person is exclusively engaged in making exempt supplies.

Since Mr. A is not making supply of any taxable services, he is not liable for registration.

Q9. Pure Oils, Delhi has started the supply of machine oils and high speed diesel in the month of April, 20XX. The following details have been furnished by it for the said month: -

Particulars	Amount*
Supply of machine oils in Delhi	2,00,000
Supply of high speed diesel in Delhi	4,00,000
Supply made through Fortis Lubricants - an agent of Pure Oils in Delhi	3,75,000
Supply made by Pure Oils from its branch located in Punjab	1,80,000

*excluding GST

Determine whether Pure Oils is liable for registration.

Will your answer change, if Pure Oils has a branch in Nagaland from where he supplies machine oils amounting to Rs. 2,50,000?

A. Computation of Aggregate turnover

Particulars	Amount
Supply of machine oils in Delhi {Supply of machine oil in Delhi is intra-state supply of goods which is taxable under GST law. It shall be includible in 'aggregate turnover'}	2,00,000
Supply of high speed diesel in Delhi {Supply of HSD in Delhi is intra-state supply of goods which is non-taxable under GST law. Though non-taxable, it shall be includible in 'aggregate turnover'}	4,00,000
Supply made through Fortis Lubricants - an agent of Pure Oils in Delhi {Transfer of goods to agent for further supply (sale) is also treated as 'supply' though such transfer does not include any consideration. Sec 7(1)(c) read with Schedule I (Entry 3) covers transfer of goods to agent. Further, since goods have been transferred to Agent in Delhi, such transfer is an intra-state supply of goods which is taxable under GST. It shall be includible in 'aggregate turnover'}	3,75,000
Supply made by Pure Oils from its branch located in Punjab {Supply is made from branch office in Punjab. Under GST law, such branch office is treated as establishment of a different person. Thus, Head Office (Delhi) and Branch Office (Punjab) are treated as 'deemed distinct persons (establishment of different persons)' under GST law. In absence of specific information, it is presumed that Punjab branch is also making 'intra-state'	1,80,000

supply. Since ATO is computed on all India basis (establishments operating with same PAN), it shall be includible in 'aggregate turnover'}	
Aggregate Turnover	11,55,000

Registration Requirement of Pure Oils, Delhi

All the supplies made by Pure Oils are intra-state supplies and thus, his liability for registration shall be governed by Sec 22 of the CGST Act which provides that every supplier is liable to be registered in the State/UT from where he makes a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds Rs. 20 lakh (Rs. 40 Lacs for exclusive supplier of goods).

Since the aggregate turnover is not exceeding threshold limit, Pure Oils is not liable to be registered.

In case where Pure Oils has a branch in Nagaland from where he supplies machine oils amounting to Rs. 2,50,000, then aggregate turnover in that case will be 14,05,000 (11,55,000 + 2,50,000). Further, in this situation, the applicable threshold for registration will be Rs. 10 lakh as Nagaland is one of the specified Special Category States. Thus, in such situation Pure Oils, Delhi shall be liable to be registered.

Q10. Mr. A, a dealer (situated in Mumbai) dealing with Intra State supply of goods and services has place of business in India furnished the following information in the financial year 20XX-X1:

1. Sale of taxable goods by Head Office located in Chennai for Rs. 2,00,000
2. Supply of taxable services by Branch office at Delhi for Rs. 1,00,000
3. Supply of goods exempted from GST Rs. 10,000
4. Export of goods for Rs. 2,00,000

A. Computation of Aggregate turnover

Particulars	Amount
Sale of taxable goods by Head Office located in Chennai	2,00,000
Supply of taxable services by Branch office at Delhi	1,00,000
Supply of goods exempted from GST	10,000
Export of goods and services	2,00,000
Aggregate Turnover	5,10,000

Though aggregate turnover is not exceeding Rs. 20 lakhs, but since he is engaged in exports which are inter-state supplies, his registration falls under section 24 which provides for compulsory registration (i.e., no threshold limit of 20 Lakhs).

Note: Export (inter-state supplies), Export supplies are zero-rated in terms of Sec 16 of IGST Act.

For availing benefit of zero-rating provided by Sec 16, registration is mandatory. [Sec 16(3) of IGST Act gives benefit to 'registered person']

Q11. Mr. A has aggregate turnover of Rs 15 lakhs in a FY from the State of Maharashtra, through its sole proprietorship firm. He has a property located in Chennai, which is currently in dispute and has engaged lawyer for representing his case in dispute. Will Mr. A be required to register himself U/s 24 of the CGST Act, considering persons required to pay under RCM?

A. Mr. A is a business entity making intra-state supplies in State of Maharashtra only. It is unregistered, as his aggregate turnover is not exceeding Rs 20 lakhs in a FY. Now, it has received services legal services which attracts reverse charge and thus, making recipient liable to pay GST. Presuming that legal services have been sought in relation to business, such service is exempt from payment of GST as Mr. A is a business entity with aggregate turnover not exceeding Rs 20 lakhs. Such service being exempt, the recipient, Mr. A, is actually not required to pay GST. Thus, he is not required to take compulsory registration U/s 24 of CGST Act.

Q12. Whether the Department through the proper officer, can suo-moto proceed with registration of a person under the Act?

A. 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.

Q13. Whether the proper Officer can reject an Application for Registration?

A. 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.

Q14. What will be the effective date of registration?

A. 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 suo moto 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.

Q15. 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.

Q16. 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.

Q17. 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.

Q18. 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.

Q19. When a person engaged in the provision of services having registration in the Maharashtra goes to Kolkata to provide services to its client and stays therefore a period of 3 months and also take a residence in that State is required to take separate registration in that State.

Ans. No, mere residence is not a business establishment, and therefore he need not take a registration in the State of West Bengal.

Study Notes

Chapter 10: - Tax Invoice, Credit & Debit Notes

Section 31	Tax Invoice
Section 34	Credit & Debit Note
Section 32	Prohibition of Unauthorized collection of tax
Section 33	Amount of tax to be indicated in tax invoice and other documents

Types of invoices/Other Documents: A snapshot

Document Type	When to Issue
Tax invoice – for supply of taxable goods and services	Section 31 (1), (2), (4), (5), (6), and (7) read with rule 46 & rule 48
Revised tax invoice – in case of grant of registration w.e.f. a date earlier than the date of issuance of certificate of registration	Section 31 (3) (a) read with rule 53
Bill of Supply – for supply of exempted goods or services or by composition dealer or Supplier under Notification 02/2019 Dated 07.03.2019	Section 31 (3) (c) read with rule 49
Invoice cum Bill of Supply – for supplying taxable as well as exempted goods or services	Rule 46A
Delivery Challan – to be issued in cases other than supply	Rule 55
Receipt Voucher – for receipt of advance money	Section 31 (3) (d) read with rule 50
Refund Voucher – for refund of advance money	Section 31 (3) (e) read with rule 51
Self-invoice for reverse charge from unregistered suppliers	Section 31 (3) (f)
Payment voucher – for payment of supplies under reverse charge	Section 31 (3) (g) read with rule 52
Credit note – for reduction of taxable value and/or tax amount, sales return etc.	Section 34 (1) & (2) read with rule 53
Debit note- for increase in taxable value and/or tax amount	Section 34 (3) & (4) read with rule 53
Consolidated tax invoice in specified B2C supplies	Section 31 (3) (b) read with rule 46

Section 31 Tax Invoice

Goods	Services
Section 31 (1) A registered taxable person shall issue a tax invoice showing descriptions, quantity and value of goods, tax charged thereon and other prescribed particulars, before or at the time of a. Removal of goods for supply to the recipient, where supply involves movement of goods or b. Delivery of goods or making available thereof to the recipient in other cases.	**Section 31 (2)** A registered person supplying taxable services shall, before or after the provision of service but within a prescribed period, issue a tax invoice, showing the description, value, tax charged thereon and such other particulars as may be prescribed. Note: As per Rule 47 of CGST Rules, Invoice should be issued within 30 days from the date of provision of Services. In case of Insurance, Banks or Financial Institution & NBFC's the above limit is extended to 45 days. An insurer or a banking company or a financial institution, including a NBFC, or a telecom operator, making taxable supplies of services between distinct persons as specified in section 25, may issue the invoice before or at the time such supplier records the same in his books of account or before the expiry of the quarter during which the supply was made.

Example 1: Amit Manufacturers, Delhi supplies goods to Kavita Electronics Mumbai. The goods were removed from its factory in Delhi on 30th September. Amit Manufacturers needs to issue a tax invoice on or before 30th September.

Example 2: Gagan Ltd. provides security services to ABC Ltd. for exhibition to be organized on 5th November 2017. Gagan Ltd. needs to issue a tax invoice within 30 days of supply of services i.e. 5th December 2017.

Example 3: ABC Ltd. entered into an AMC contract for pest control with XYZ Ltd. for one financial year. As per the contract for AMC contract payment had to be made by 7th April. However XYZ Ltd. paid payment by 15th April 2017. ABC Ltd. has to issue invoice by 7th April.

Example 4: ABC Bank rendered banking services to XYZ Ltd. a company registered in GST for their office in Mumbai on 10.11.2018. ABC bank can raise the invoice anytime before or after the provision of services, but within 45 days from the date of supply of services i.e. till 25.12.2018.

Example 5: Mumbai branch of ABC bank rendered banking services to its Chennai branch on 10.11.2018. The transaction was recorded in books of account of Mumbai branch of ABC bank on 12.11.2018. Mumbai branch of ABC bank can raise invoice either:

- On or before 12.11.2018 i.e. when entry was made in books of account; or
- Before 31.12.2018 i.e. before the close of quarter during which the supply was made.

Section 31 (3)

Notwithstanding anything contained in sub-sections (1) and (2)–

(a) a registered person may, within one month from the date of issuance of certificate of registration and in such manner as may be prescribed, issue a revised invoice against the invoice already issued during the period beginning with the effective date of registration till the date of issuance of certificate of registration to him;

(b) a registered person may not issue a tax invoice if the value of the goods or services or both supplied is less than two hundred rupees subject to such conditions and in such manner as may be prescribed;

(c) a registered person supplying exempted goods or services or both or paying tax under the provisions of section 10 shall issue, instead of a tax invoice, a bill of supply

<table>
<tr><td colspan="2">containing such particulars and, in such manner, as may be prescribed:
It is hereby clarified that provisions of clause (c) of subsection (3) of section 31 of the said Act shall apply to a person paying tax under Notification No. 2/2019- Central Tax (Rate) Dated 07.03.2019 {Removal of Difficulty Order No. 3/2019-Central Tax Dated 8th March, 2019}
(d) 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;
(e) where, on receipt of advance payment with respect to any supply of goods or services or both the registered person issues a receipt voucher, but subsequently no supply is made and no tax invoice is issued in pursuance thereof, the said registered person may issue to the person who had made the payment, a refund voucher against such payment;
(f) a registered person who is liable to pay tax under sub-section (3) or sub-section (4) of section 9 (reverse charge) 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;
(g) a registered person who is liable to pay tax under sub-section (3) or sub-section (4) of section 9 shall issue a payment voucher at the time of making payment to the supplier.</td></tr>
<tr><td colspan="2">Example 6: XYZ is running a consumer durables shop in Pune. He takes services of an advocate for Rs. 50,000 to litigate a department’s notice. Such advocate is not registered under GST. Here XYZ will issue a self-invoice for advocate services and accordingly discharge GST liability under reverse charge and take ITC of the same.</td></tr>
<tr><td>Section 31 (4)
In case of continuous supply of goods, where successive statements of accounts or successive payment are involved, the invoice shall be issued before or at the time each such statement is issued or, as the case may be, each such payment is received.</td><td>Section 31 (5)
In case of continuous supply of services
(a) if due date is ascertainable from the contract, invoice shall be issued on or before such due date of payment;
(b) where the due date is not ascertainable, the invoice shall be issued before or at the time of receiving 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.</td></tr>
<tr><td>Section 31 (7)
The goods being sent or taken on approval for sale or return are removed before the supply takes place, the invoice shall be issued before or at the time of supply or six months from the date of removal, whichever is earlier.</td><td>Section 31 (6)
In a case where the supply of services ceases under a contract before the completion of the supply, the invoice shall be issued at the time when the supply ceases and such invoice shall be issued to the extent of the supply made before such cessation.</td></tr>
</table>

Key Points for Tax Invoice U/s 31 & Rule 46

- There is no format prescribed for Tax Invoice. Invoices may be issued manually or electronically.
- The signature or digital signature of the supplier or his authorised representative shall not be required in the case of issuance of an electronic invoice in accordance with the provisions of the Information Technology Act, 2000

  This is also applicable to Bill of supply (Rule 49), consolidated tax invoice in case of Insurance/Banking companies, financial institutions including NBFCs {Rule 54 (2)}, ticket issued for passenger transportation service {Rule 54 (4)}.

- A Tax invoice shall be issued by:
  - Supplying Taxable goods or services
  - Receiving Taxable goods or services from unregistered supplier
- Export of Invoice shall carry an endorsement "SUPPLY MEANT FOR EXPORT/SUPPLY TO SEZ UNIT/SEZ DEVELOPER FOR AUTHORIZED OPERATIONS ON PAYMENT OF INTEGRATED TAX" or "SUPPLY MEANT FOR EXPORT/SUPPLY TO SEZ UNIT/SEZ DEVELOPER FOR AUTHORIZED OPEATIONS UNDER BOND OR LETTER OF UNDERTAKING WITHOUT PAYMENT OF INTEGRATED TAX".
- 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 symbolized as "-" and "/" respectively, and any combination thereof, unique for financial year; {This is same in case of:- Bill of Supply, Receipt Voucher, Refund Voucher, Payment Voucher, Revised tax invoice and credit and debit notes etc.}
- Invoice and Payment Vouchers to be issued by recipient of supply liable to pay tax under reverse change [Section 31 (3) (f) & (g) read with second proviso to rule 46 & rule 52].
- CBIC has issued Circular No. 90/09/2019-GST Dated 18th February, 2019, instructing that all registered persons making supply of goods or services or both in the course of inter-State trade or commerce shall specify the place of supply along with the name of the State in the tax invoice. The provisions of sections 10 and 12 of the Integrated Goods and Services Tax Act, 2017 may be referred to in order to determine the place of supply in case of supply of goods and services respectively. Contravention of any of the provisions of the Act or the rules made there under attracts penal action under the provisions of sections 122 or 125 of the CGST Act.
- As per Rule 46A, 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.
- Important content of Tax Invoice

GSTIN of supplier	Consecutive Serial Number & date of issue	GSTIN of recipient, if registered	Name & address of recipient, if not registered	HSN
Description of goods or services	Quantity in case of goods	Total Value of supply	Taxable Value of supply	Tax rate – Central tax & State tax or Integrated tax, cess
Amount of tax charged	Place of supply	Address of delivery where different than place of supply	Tax payable on reverse charge basis	Signature of authorised signatory

If recipient is unregistered and value of supply is more than Rs. 50,000 then name and address of the recipient and the address of delivery, along with the name of State & its code. Please recollect discussion of POS.

Disclosure of HSN/SAC	Digit
AT is equal or less than 1.5 crores	NIL
AT is more than 1.5 & Upto 5 cores crores	2
AT is more than 5 crores	4

Need to mention on each copy of invoice that this is pertaining to Recipient/Transporter/Supplier

Supply of Goods	Supply of services
Triplicate	Duplicate
Original copy for recipient Duplicate copy for transporter; and Triplicate copy for supplier	Original copy for recipient; and Duplicate copy for supplier
The serial number of invoices issued during a month / quarter shall be furnished electronically in FORM GSTR-1.	

Revised Tax Invoice [Sec. 31 (3) (a) read with rule 53]

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. Such invoices shall be issued against the invoices already issued during said period. Revised Tax Invoice shall be issued within 1 month from the date of issuance of certificate of registration. For supplies made by such person during this intervening period, the law enables the issuance of a revised invoice, so that ITC can be availed by the recipient on such supplies.

A registered person may issue a consolidated Revised Tax Invoice in respect of all taxable supplies made to an unregistered recipient (B2C) during such period. In the case of inter-State supplies, where the value of a supply does not exceed two lakh and fifty thousand rupees, a consolidated revised invoice may be issued separately in respect of all the recipients located in a State, who are not registered under the Act. Particulars of Debit & Credit Notes are also same as revised tax invoices.

Consolidated Revised Tax Invoice – B2C supply (Intra-State) :- No limit prescribed
Consolidated Revised Tax Invoice – B2C supply (Inter-State) :- State wise consolidated revised tax invoice. In case of inter-State supplies, where the value of a supply doesn't exceed INR 2,50,000, a consolidated revised invoice may be issued separately in respect of all the recipients located in a State, who are not registered under GST.

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 in amendment. {Notification No. 03/2019-Central Tax Dated 29.01.2019}

Any invoice or debit note issued in pursuance of any tax payable in accordance with the provisions of Section 74 (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 suppressions of facts), Section 129 (Detention, seizure and release of goods and conveyances in transit), Section 130 (Confiscation of goods or conveyances and levy of penalty), shall prominently contain the words, 'INPUT TAX CREDIT NOT ADMISSIBLE".

Consolidated Tax Invoice [Section 31 (3) (b) read with rule 46]

A registered person may not issue a tax invoice if the value of goods or services or both supplied is less than INR 200 and in lieu thereof, shall issue a consolidated tax invoice for such supplies at the close of each day in respect of all such supplies, but subject to the following conditions, namely,-

(a) the recipient is not a registered person; and

(b) the recipient does not require such invoice, and

Bill Of Supply [Section 31 (3) (c) read with rule 49]

A registered person supplying exempted goods or services or both or paying tax under composition levy shall issue a bill of supply instead of a tax invoice.

As per second proviso to Rule 49 of the CGST Rules, 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 GST Act.

Receipt Voucher [Section 31 (3) (d) read with rule 50]

A registered person shall, on receipt of advance payment with respect to any supply of goods or services or both, issue a receipt voucher evidencing receipt of such payment.

If rate of tax is not determinable, tax shall be paid at the rate of 18%. If nature of supply is not determinable then same shall be paid as inter-State supply.

Refund Voucher [Section 31 (3) (e) read with rule 51]

Where, on receipt of advance payment with respect to any supply of goods or services or both the registered person issues a Receipt Voucher, but subsequently no supply is made and no tax invoice is issued in pursuance thereof, the said registered person may issue to the person who made the payment, a Refund Voucher against such payment.

Supplier permitted to issue any document other than tax invoices [Section 31 (2) and proviso to section 31(1) read with rules 54 and 55]

<table>
<tr><th rowspan="2">Supplier of taxable service</th><th colspan="2">Document in lieu of the tax invoice</th></tr>
<tr><th>Optional information</th><th>Mandatory information</th></tr>
<tr><td rowspan="2">Insurer/Banking company/Financial institution/NBFC</td><td rowspan="2">• Serial Number
• Address of the recipient of taxable service</td><td>Other information as prescribed for a Tax invoice, under rule 46</td></tr>
<tr><td>Such document may be issued/made available, physically/electronically</td></tr>
</table>

Where the supplier of taxable service is an insurer or a banking company or a financial institution, including a non-banking financial company, the said supplier 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.		
Goods Transport Agency (GTA) supplying services in relation to transportation of goods by road in a goods carriage		• Gross weight of the consignment • Name of the consignor and the consignee • Registration number of goods carriage in which the goods are transported • Details of goods transported • Details of place of origin and destination • GSTIN of the person liable for paying tax whether as consignor, consignee or GTA • Other information as prescribed for a tax invoice
Supplier of passenger transportation service	• Serial number • Address of the recipient of taxable service	Other information as prescribed for a tax invoice, under rule 46 Tax invoice shall include ticket in any form, by whatever name called
It is important to note here that keeping in view the large number of transactions in banking, insurance and passenger transportation sector, taxpayers need not mention the address of the customer and the serial number in their invoices.		

Delivery Challan (Rule 55)

(1) For the purposes of-

(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, the consignor may issue a delivery challan, serially numbered not exceeding sixteen characters, in one or multiple series, in lieu of invoice at the time of removal of goods for transportation, containing the following details, namely: -

(i) date and number of the delivery challan;

(ii) name, address and Goods and Services Tax Identification Number of the consignor, if registered;

(iii) name, address and Goods and Services Tax Identification Number or Unique Identity number of the consignee, if registered;

(iv) Harmonized System of Nomenclature code and description of goods;
(v) quantity (provisional, where the exact quantity being supplied is not known);
(vi) taxable value;
(vii) tax rate and tax amount – central tax, State tax, integrated tax, Union territory tax or cess, where the transportation is for supply to the consignee;
(viii) place of supply, in case of inter-State movement; and
(ix) signature.

(2) The delivery challan shall be prepared in triplicate, in case of supply of goods, in the following manner, namely: –
(a) the original copy being marked as ORIGINAL FOR CONSIGNEE;
(b) the duplicate copy being marked as DUPLICATE FOR TRANSPORTER; and
(c) the triplicate copy being marked as TRIPLICATE FOR CONSIGNOR.

(3) Where goods are being transported on a delivery challan in lieu of invoice, the same shall be declared as specified in rule 138 (E-way Bill).

(4) Where the goods being transported are for the purpose of supply to the recipient but the tax invoice could not be issued at the time of removal of goods for the purpose of supply, the supplier shall issue a tax invoice after delivery of goods.

(5) Where the goods are being transported in a semi knocked down or completely knocked down condition or in batches or lots {Inserted vide Notification No. 39/2018-CT, Dated 04.09.2018} –
(a) the supplier shall issue the complete invoice before dispatch of the first consignment;
(b) the supplier shall issue a delivery challan for each of the subsequent consignments, giving reference of the invoice;
(c) each consignment shall be accompanied by copies of the corresponding delivery challan along with a duly certified copy of the invoice; and
(d) the original copy of the invoice shall be sent along with the last consignment.

Really, this procedure is possible and practical when machinery is dispatched in span of few day. In case of large machinery, if supply is likely to be spread over months or even years, separate invoice for each consignment is the only practical solution.

Tax Invoice or Bill of Supply to accompany transport of goods (Rule 55A)

The person-in-charge of the conveyance shall carry a copy of the tax invoice or the bill of supply issued in accordance with the provisions of rule 46 (tax invoice), 46A (invoice cum Bill of supply) or 49 (Bill of supply) in a case where such person is not required to carry an e-way bill under these rules.

Tax Invoice by ISD [Rule 54 (1) & 54 (1A)

This Rule 54 (1) is applicable when ISD has to distribute the ITC to the various units.

(1) An Input Service Distributor invoice or, as the case may be, an Input Service Distributor credit note issued by an Input Service Distributor shall contain the following details:-
(a) name, address and Goods and Services Tax Identification Number of the Input Service Distributor;
(b) 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 symbolized as- "-", "/" respectively, and any combination thereof, unique for a financial year;
(c) date of its issue;
(d) name, address and Goods and Services Tax Identification Number of the recipient to whom the credit is distributed;
(e) amount of the credit distributed; and
(f) signature or digital signature of the Input Service Distributor or his authorized representative:

Provided that where the Input Service Distributor is an office of a banking company or a financial institution, including a non-banking financial company, a tax invoice shall include any document in lieu thereof, by whatever name called, whether or not serially numbered but containing the information as mentioned above.

This Rule 54 (1A) is applicable when registered person in its own GSTIN gets the invoice from supplier (i.e. If supplier doesn't raise the invoice on GSTIN of ISD), then registered person may issue this document to ISD so as to further allocate the ITC to the units.

(1A) (a) A registered person, having the same PAN and State code as an Input Service Distributor, may issue an invoice or, as the case may be, a credit or debit note to transfer the credit of common input services to the Input Service Distributor, which shall contain the following details:-

i. name, address and Goods and Services Tax Identification Number of the registered person having the same PAN and same State code as the Input Service Distributor;

ii. 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;

iii. date of its issue;

iv. Goods and Services Tax Identification Number of supplier of common service and original invoice number whose credit is sought to be transferred to the Input Service Distributor;

v. name, address and Goods and Services Tax Identification Number of the Input Service Distributor;

vi. taxable value, rate and amount of the credit to be transferred; and

vii. signature or digital signature of the registered person or his authorised representative.

(b) The taxable value in the invoice issued under clause (a) shall be the same as the value of the common services.

Section 34 Credit & Debit Notes

(1) 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 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~~ one or more credit notes for supplies made in a financial year containing such particulars as may be prescribed.

(2) Any registered person who issues a credit note 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 where~~ 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.

(4) Any registered person who issues a debit note in relation to a supply of goods or services or both shall declare the details of such debit note in the return for the month during which such debit note has been issued and the tax liability shall be adjusted in such manner as may be prescribed.

Explanation.—For the purposes of this Act, the expression "debit note" shall include a supplementary invoice.

It has to be strictly borne in mind that a credit or a debit note, for the purpose of the GST Law, can be issued by the registered person who has issued a tax invoice, i.e. the supplier.

One need to bear in mind that mechanism of credit note must not be used to offset the liability of GST on account of bad debts, which is not permissible under specified purposes of credit note U/s 34 (1).

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.

Rule 53 sub-Rule (1A) is inserted to provide the mandatory requirements for the issue of credit note or debit note. The content remain more or less same. In debit or credit note, "serial number(s) and date(s) of the corresponding tax invoice(s) or, as the case may be, bill(s) of supply", need to be mentioned.

Example 7: ABC supplied 10 televisions to XYZ for Rs. 6,00,000 on 25.02.2018. Accordingly, GST on the same was discharged in the month of February, paid on 20.03.2018. Later it was realized that out of 10 sets of television, one television was of lower grade model and hence Rs. 10,000 has been billed extra to XYZ. But such credit note can be issued till 30.09.2018 so as to adjust the tax liability paid extra on Rs. 10,000. Based on the credit note of ABC, XYZ will reduce the amount of ITC availed on Rs. 10,000.

Circular No. 72/46/2018 Dated 26th October 2018

The circular provides two options which can be followed for return of expired drugs or medicine:

- The retailer or the wholesaler can issue tax invoice/bill of supply/commercial invoice, as the case may be, by treating return of expired goods as fresh supply, or
- The manufacturer/wholesaler can issue a credit note against the supply made earlier to the wholesaler/ retailer.

Return of time expired goods to be treated as fresh supply

- If the wholesaler/retailer is a registered person, it can return the goods by treating it as a fresh supply and thereby issuing an invoice for the same. The value of the said goods as shown in the invoice on the basis of which the goods were supplied earlier may be taken as the value of such return supply. The recipient i.e. the manufacturer or wholesaler as the case may be, will be eligible to take credit of tax paid.
- Further, if the person returning the goods, is a composition taxpayer, then he may return goods by issuing a bill of supply and pay applicable tax. In such case, credit will not be available to the person to whom goods are returned.
- If the expired goods are returned by an unregistered person, then he may return the goods under the cover of any commercial document.
- Where the returned expired goods are destroyed by the manufacturer, it is required to reverse the credit availed in respect of such returned goods in view of provisions of section 17(5)(h) of the Central Goods and Services Tax Act and not the credit attributable to the manufacture of such time expired goods. Illustration: Supposedly, manufacturer has availed ITC of Rs. 10/- at the time of manufacture of medicines valued at Rs. 100/-. At the time of return of such medicine on the account of expiry, the ITC available to

the manufacturer on the basis of fresh invoice issued by wholesaler is Rs. 15/-. So, when the time expired goods are destroyed by the manufacturer he would be required to reverse ITC of Rs. 15/- & not of Rs. 10/-.

Return of time expired goods by issuing the credit note

- As an alternative to the above procedure, the supplier can issue a credit note to the person returning the goods. The person returning such expired medicines can return it by issuing a delivery challan.
- If the credit note is issued within the time limit specified in section 34(2) of the CGST Act, the supplier can adjust his tax liability, if the person returning the medicine has either not availed ITC or reversed the ITC, if availed.
- A credit note can still be issued if the time limit specified in section 34(2) of the CGST Act has lapsed. However, the supplier cannot adjust the tax liability. It is also clarified that in such cases, there is no requirement to declare such credit note on GSTN by the supplier.
- The manufacturer will be required to reverse the ITC attributable to the manufacture of such goods at the time of destruction of such time expired medicines

Further, this circular is applicable to such other scenarios where the goods are returned on account of other reasons.

Section 32 Prohibition of Unauthorized collection of Tax

A person who is not a registered person shall not collect in respect of any supply of goods or services or both any amount by way of tax under this Act.

No registered person shall collect tax except in accordance with the provisions of this Act or the rules made thereunder.

Section 33 Amount of tax to be indicated in tax invoice and other documents

Notwithstanding anything contained in this Act or any other law for the time being in force, where any supply is made for a consideration, every person who is liable to pay tax for such supply shall prominently indicate in all documents relating to assessment, tax invoice and other like documents, the amount of tax which shall form part of the price at which such supply is made.

Goods moved within the State or from the State of registration to another State for supply on approval basis and art works sent by artists to galleries for exhibition

Suppliers of jewellery etc. who are registered in one State may have to visit other States (other than their State of registration) and need to carry the goods (such as jewellery) along for approval. In such cases if jewellery etc. is approved by the buyer, then the supplier issues a tax invoice only at the time of supply. Since the suppliers are not able to ascertain their actual supplies beforehand and while ascertainment of tax liability in advance is a mandatory requirement for registration as a casual taxable person, the supplier is not able to register as a casual taxable person. Such goods are also carried within the same State for the purposes of supply.

In view of relevant provisions of rule 55, it is clarified that 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. [Circular No. 10/10/2017 GST Dated 18.10.2017].

Likewise, in case where artists supply art works in different States - other than the State in which they are registered as a taxable person and if the art work is selected by the buyer, then the supplier issues a tax invoice only at the time of supply, it is clarified that the art work for supply on approval basis can be moved from the place of business of the registered person (artist) to another place within the same State or to a place outside the State on a delivery challan along with the eway bill wherever applicable and the invoice may be issued at the time of actual supply of art work.
[Circular No. 22/22/2017 GST Dated 21.12.2017].

Study Notes

Question & Answer

Q1. ABC Ltd. entered into a contract with XYZ Ltd., for supply of goods on 15th August 2017. The goods were to be delivered on 30th August 2017. ABC Ltd. removed goods on 28th August 2017. When should ABC Ltd. issue the tax invoice?

A. 28th August 2017 according to section 31.

Q2. The aggregate turnover of ABC Ltd. exceeded Rs. 20 Lacs on 15th August 2017. It applied for registration on 5th September 2017 and was granted registration on 7th September 2017. Please give your commentary for this.

A. As per Section 25 of CGST Act, ABC Ltd. has applied within 30 days of becoming liable for registration. So, effective date of registration is date on which it becomes liable to registration i.e. 15th August 2017.

As per Section 31, ABC Ltd. has to issue the revised tax invoices in respect of taxable supplies effected during the period starting from the effective date of registration i.e. 15th August 2017, till date of issuance certificate of registration i.e. 7th September 2017 within 1 month from the date of issuance of certificate of registration i.e. on or before 7th October 2017.

Q3. ABC Ltd. is a trader dealing in provisions items. It is registered under GST and has undertaken following sales during the day:

Sr. No.	Recipient of Supply	Amount
1	A – a registered retail dealer under composition levy	190
2	B – an unregistered dealer	500
3	C – an unregistered buyer	900
4	D Charitable Trust – an unregistered entity	175
5	E – a senior citizen – an unregistered	150

None of the recipients require a tax invoice.

A. In the given question, ABC Ltd. can issue a consolidated tax invoices to supplies made to D Charitable trust & E as the value of goods supplied to these recipients is less than Rs. 200 (unregistered & don't require a tax invoice).

Although A sales is less than Rs. 200 but A is registered retail dealer. So consolidated invoice cannot be issued. Other sales are anyway more than Rs. 200, so consolidated invoice cannot be issued.

Q4. When can a taxable person not issue credit note?

A. According to proviso to Sec 34 (2) of the CGST Act, 2017, no credit note shall be issued by the taxable person if the incidence of tax and interest on such supply has been passed by the supplier to the recipient. 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.

Q5. What is the time limit for issuance of credit note?

A. A supplier cannot issue a credit note pertaining to a supply of goods or services or both of a particular financial year later than the

(i) Month of September following the end of the financial year in which such supply was made, or

(ii) Date of furnishing of the relevant annual return.

Whichever is earlier.

Example: Suppose, Mr. A has supplied goods to Mr. B in the month of Sept'17. Mr. B sends a complaint to Mr. A about deficient quality of goods. Mr. A can issue a credit note to Mr. B in respect of such supply of goods and declare details of such credit note in the return till the month of Sept'18 or till the date of furnishing of annual return of 2017-18, whichever is earlier.

Q6. When can a debit note be issued? Is there any time limit for issue of debit note?

A. Debit note can be issued by the supplier of the goods or services or both, to the recipient, when subsequent to the issue of tax invoice he comes to know that taxable value or tax charged in that tax invoice is less than the taxable value or tax payable with respect to such supply

Example: Mr. A has provided services of dry cleaning to Mr. B and charges Rs. 500 and tax at the rate of 12% i.e. Rs. 60. Afterwards, Mr. A comes to know that he has undercharged Mr. B by Rs. 200. He communicates to Mr. B that he has charged Mr. B less by Rs. 200 and issues debit note and charges additional tax of Rs. 24. In such a case, tax liability of Mr. A would be on Rs. 700 only and he would have to pay tax of Rs. 84.

There is no time limit for issuance of debit note.

Q7. 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.

Q8. I had a contract for supplying manpower for 28 days for Rs. 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).

Q9. ABC Ltd., located in Pune (Maharashtra), received the advance to supply the training. As per the agreement, the supplier may have to impart the training to Jaipur branch or Mumbai branch (both are registered place of recipient) as per the need. What should be the treatment?

Ans. At the time of receiving the advance, supplier is known that where he has impart the training. Nevertheless, he has to issue the receipt voucher at the time of receipt of advance. As far as, nature of supply is concerned, he will have to treat it as inter-State supply and will have to pay IGST on it. If later on it is supplied that it was imparted in Mumbai Branch (intra-State supply), then as per Section 19 of IGST Act, it says that person will pay correct tax (here, it is CGST+SGST, being found as intra-State supply) without interest and claim the refund of IGST paid.

Q10. 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, or in case where there is an on-site installation of machinery, or in case of sale and lease back transactions, etc.

Chapter 11: - Accounts & Records; E-way Bill

Section 35	**Accounts & Records**
Section 36	**Period of retention of accounts**
Section 68	**Inspection of goods in movement**
Rule 138	**E-way Bill**

Section 35 Accounts & Records & Section 36 Period of retention of accounts

Applicability [Sec. 35 (1)]	Every Registered person
Location [Sec. 35 (1)]	At the principal place of business, as mentioned in the certificate of registration. In case of more than one place of business, the accounts relating to each place of business shall be kept at such places of business.
Records to be kept [Sec. 35 (1)]	Registered Person shall keep and maintain, a true and correct account of – a) Production or Manufacture of goods; b) Inward & outward supply of goods or services or both; c) Stock of goods; d) Input Tax credit availed; e) Output tax payable and paid; and f) Such other prescribed particulars.
Electronic Form	The registered person may keep and maintain such accounts and other particulars in electronic form stored on any electronic device and record so maintained shall be authenticated by means of a digital signature. Back up of records shall be maintained. Whenever demanded, provide authenticated hard copy or in any electronically readable format, relevant passwords, codes etc. No entry to be erased/overwritten.
Persons covered for mandatory Maintenance of records [Sec. 35 (2) read with rule 58]	1. Following persons shall mandatorily maintain records of the Consignor, Consignee and other prescribed details: - a) Every owner or operator of warehouse or godown or any other place used for storage of goods and b) Every transporter 2. If such persons are not already registered, they shall obtain a unique enrollment number by applying electronically at the GST common portal. 3. Records to be maintained: - a) **Persons engaged in the business of Transporting Goods**: Records of goods transported, delivered and goods stored in transit by him along with GSTIN of the registered consignor and consignee for each of his branches. b) **Owner or Operator of warehouse or Godown**: Books of Accounts, with respect to the period for which particular goods remain in the warehouse, including the particulars relating to dispatch, movement, receipt, and disposal of such goods. For the purposes of Chapter XVI of these rules, a transporter who is registered in more than one State or Union Territory having the same Permanent Account Number, he may apply for a unique common enrolment number by submitting the details in FORM GST ENR-02 using any one of his Goods and Services Tax Identification Numbers, and upon validation of the details furnished, a unique

	common enrolment number shall be generated and communicated to the said transporter: Provided that where the said transporter has obtained a unique common enrolment number, he shall not be eligible to use any of the Goods and Services Tax Identification Numbers for the purposes of the said Chapter XVI. Rule 58 (1A) - Inserted vide notification No. 28/2018-CT, Dated 19.06.2018 Chapter XVI is related to e-way rules. Transporter may apply for a unique common enrollment number for all his registration under GST. After obtaining unique common enrolment number, he shall not be eligible to use any of GSTIN for the purpose of e-way rules.
Power of Commissioner [Sec. 35 (3) & 35 (4)]	a) May also notify a person to maintain additional accounts or documents b) May permit to maintain in prescribed manner.
Requirement for Audit [Sec. 35 (5)]	Every registered person whose turnover during a financial year exceeds the Rs. 2 crores, must get his accounts audited by a Chartered Accountant or Cost Accountant. He shall submit a copy of the • Audited Annual accounts, and • A reconciliation statement u/s 44 (2) [to reconcile the value of supplies declared in the returns with the audited annual financial statements] & • Such other documents 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.
Failure to Account for Goods or Services [Sec. 35 (6)]	Proper officer shall determine the of tax payable on the goods or services or both that are not accounted for. Also, provisions regarding determination of tax not paid or short paid due to Fraud or other reasons shall be equally apply for determination of such tax.
Records prescribes by rules [Rule 56 (1), (3), (5) & (6)]	Every registered person shall keep and maintain a True and Correct Account of the following – a) The goods/services imported/exported b) Supplies attracting payment of tax on reverse charge along with relevant documents, including invoices, bills of supply, delivery challans, credit notes, debit notes, receipt vouchers, payment vouchers and refund vouchers c) Separate account of advances received, paid and adjustments made thereto Registered person also required to keep complete address of suppliers from he has received goods or services, to whom he has supplies goods or services. He is also required to keep the particulars of the complete address of premises where goods are stored by him. If any taxable goods found to be stored at any place other than those so declared without proper documents then proper officer shall determine the amount of tax payable on such goods.
Records which are not to be maintained by a supplier opting for composition levy [Rule 56 (2) & (4)]	a) <u>Stock of goods:</u> No need to keep records of goods received, supplied, opening balance, goods lost, stolen, destroyed, written off or disposed of by way of gift or free sample and balance stock. b) <u>Details of Tax:</u> Account, containing the details of tax payable (including tax payable under reverse charge), tax collected and paid, input tax, ITC claimed, together with a register of tax invoice, credit notes, debit notes, delivery challan issued or received during any tax period.
Records to be maintained by Agent [Rule 56 (11)]	a) Particulars of authorization received by him from each principal to receive or supply goods or services on behalf of such principal separately;

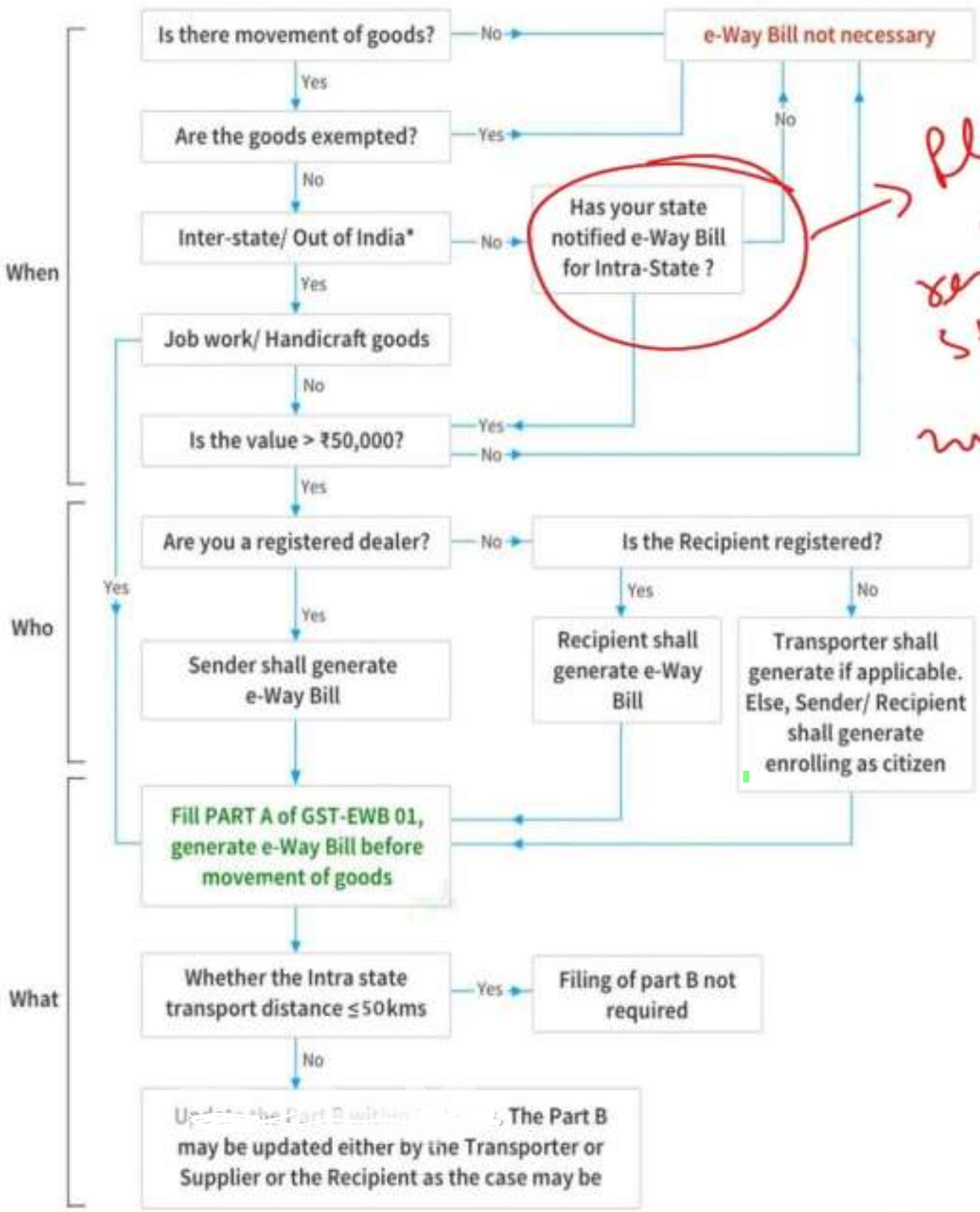
	b) Particulars including description, value and quantity (wherever applicable) of goods or services received on behalf of every principal; c) Particulars including description, value and quantity (wherever applicable) of goods or services supplied on behalf of every principal; d) Details of accounts furnished to every principal; and e) Tax paid on receipts or on supply of goods or services effected on behalf of every principal;
Records to be maintained by manufacturer [Rule 56 (12)]	Monthly production accounts showing quantitative details of raw materials or services used in the manufacture and quantitative details of the goods or manufactured including the waste and by products thereof.
Records to be maintained by a supplier of services [Rule 56 (13)]	Account showing quantitative details of goods used in the provision of services, details of input services utilized and the services supplied.
Separate Accounts to be maintained by a registered person executing works contracts [Rule 56 (14)]	a) The names and addresses of the person on whose behalf the works contract is executed b) Description, value and quantity of goods or services received for the execution of works contract c) Description, value and quantity of goods or services utilized in the execution of works contracts d) The details of payment received in respect of each works contract and e) The names and addresses of suppliers from whom he received goods or services
Records to be maintained by a custodian/clearing and forwarding agent [Rule 56 (17)]	Any person having custody over the goods in the capacity of a carrier or a clearing and forwarding agent for delivery or dispatch thereof to a recipient on behalf of any registered person shall maintain true and correct records in respect of such goods handled by him on behalf of such registered person and shall produce the details thereof as and when required by the proper officer
Period of Retention of Accounts [Section 36]	Till expiry of 72 months from the due date of furnishing of annual return
Extended time limit	If a registered person, is a party to a) An appeal or b) Revision or c) Any other proceedings before any Appellate Authority or Revisional Authority or Appellate Tribunal or Court, or d) Is under investigation for an offence shall retain the accounts & other records pertaining to the subject matter - for a period of 1 year after final disposal of such matter or for 72 months whichever is later
Requirement of maintaining the books of accounts in case of auction of tea, coffee, rubber etc. [Circular No. 47/21/2018 GST Dated 08.06.2018]	In case of auction of tea, coffee, rubber etc., the requirement of maintaining the books of accounts at the Principal Place of Business (PPoB) and Additional Place(s) of Business (APoB) is as below: a. For the purpose of auction of tea, coffee, rubber, etc, the principal and the auctioneer may declare the warehouses, where such goods are stored, as their APoB. The buyer is also required to disclose such warehouse as his APoB if he wants to store the goods purchased through auction in such warehouses. For the purpose of supply of tea through a private treaty, the principal and an auctioneer may also comply with the said provisions. b. The principal and the auctioneer for the purpose of auction of tea, coffee, rubber etc., or the principal and the auctioneer for the purpose of supply

	of tea through a private treaty, are required to maintain the books of accounts relating to each and every place of business in that place itself in terms of the first proviso to section 35(1) of the CGST Act [discussed earlier]. However, in case difficulties are faced in maintaining the books of accounts, it is clarified that they may maintain the books of accounts relating to the APoB at their PPoB instead of such additional place(s). c. The principal and the auctioneer for the purpose of auction of tea, coffee, rubber etc., or the principal and the auctioneer for the purpose of supply of tea through a private treaty, shall intimate their jurisdictional officer in writing about the maintenance of books of accounts relating to the APoB at their PPoB. ITC availment: It is further clarified that the principal and the auctioneer for the purpose of auction of tea, coffee, rubber etc., or the principal and the auctioneer for the purpose of supply of tea through a private treaty, shall be eligible to avail ITC subject to the fulfilment of other provisions of the CGST Act read with the rules made thereunder.

Section 68 Inspection of goods in movement

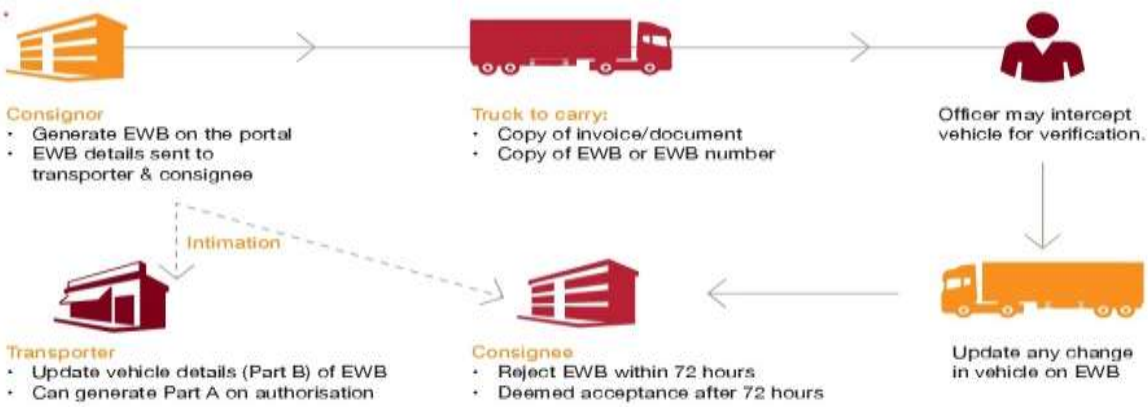
Sec. 68 (1) Carrying of documents
For the movement of goods, the person in charge of a conveyance may require to carry such documents as may be specified by the government and such devices as may be prescribed. The documents may be required to carry by the person in charge only in case if they are exceeding the value specified in this respect.
Sec. 68 (2) Validation of documents
The details of documents required to be carried under sub-section (1) shall be validated in such manner as may be prescribed.
Sec. 68 (3) Inspection of documents
Proper officer may intercept any person in charge carrying goods in conveyance to produce such documents and devices as prescribed in sub-section (1) to check the validity of the movement of goods, and such person in charge of goods will be required to produce the same for verification.

Study Notes



Please check respective state rules under SGST

Workflow of movement of goods:



Rule 138 Information to be furnished prior to commencement of movement of goods and generation of e-way bill

FORM GST EWB-01
(See rule 138)
E-Way Bill

PART-A		
A.1	GSTIN of Recipient	
A.2	Place of Delivery	
A.3	Invoice or Challan Number	
A.4	Invoice or Challan Date	
A.5	Value of Goods	
A.6	HSN Code	
A.7	Reason for Transportation	
A.8	Transport Document Number	
PART-B		
B.	Vehicle Number	

E-way bill is of three parts:
Part A is description of goods, which is normally expected to be filled by consignor, but can be filled by others also.

Part B is description of mode of transport, which is normally expected to be filled in by transporter but in many cases, by other also.

The third part is unique e-way bill number and date, which is generated on common portal once both parts get filled up.

(1) Every registered person who causes movement of goods of consignment value exceeding Rs. 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 as specified in Part A of Form GST EWB-01, electronically, on the common portal and a unique number will be generated on the said portal.

Transporter, may furnish such information on authorization from the registered person.

ECO or courier agency, may furnish such information on authorization from the consigner.

In case of job work, principal/job worker (if registered) can furnish information if it is inter-State, irrespective of value of consignment.

In case of interstate supply of handicraft goods, even if person has been exempted from the requirement of obtaining registration, e-way bill shall be generated irrespective of value of consignment.

Consignment value of goods would be value, determined in accordance with Section 15 and would be declared in an invoice, bill of supply or a delivery challan and include central tax, State or Union territory tax, integrated tax and cess charged, if any, in the document and shall exclude the value of exempt supply of goods where the invoice is issued in respect of both exempt and taxable supply of goods.

(2) Where the goods are transported by registered person as a consignor or the recipient of supply as the consignee, whether in his own conveyance or a hired one or a public conveyance, by road, the said person shall generate the e-way bill in Form GST EWB-01 on the common portal after furnishing information in Part B of Form GST EWB-01.

(2A)Where the goods are transported by railways or by air or vessel, the e-way bill shall be generated by registered supplier or registered recipient. He shall generate before or after the commencement of movement, the information in Part B of Form GST EWB-01. Where the goods are transported by railways, the railways shall not deliver the goods unless the e-way bill is produced for delivery.

(3) Where the e-way bill is not generated under sub-rule (2) and the goods are handed over to a transporter for transportation by road, the registered person shall furnish the information relating to the transporter 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:

Provided that the registered person or, the transporter may, at his option, generate and carry the e-way bill even if the value of the consignment is less than fifty thousand rupees:

Provided further that 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 in the manner specified in this rule:

Provided also that where the goods are transported for a distance of upto fifty kilometers 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 recipient, or as the case may be, the transporter may not furnish the details of conveyance in Part B of FORM GST EWB-01.

Explanation 1.– For the purposes of this sub-rule, where the goods are supplied by an unregistered supplier to a recipient who is registered, the movement shall be said to be caused by such recipient if the recipient is known at the time of commencement of the movement of goods.

Explanation 2.- The e-way bill shall not be valid for movement of goods by road unless the information in Part-B of FORM GST EWB-01 has been furnished except in the case of movements covered under the third proviso to sub-rule (3) and the proviso to sub rule (5).

(4) 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.

(5) Where the goods are transferred from one conveyance to another, the consignor or the recipient, who has provided information in Part A of the FORM GST EWB-01, or the transporter shall, before such transfer and further movement of goods, update the details of conveyance in the e-way bill on the common portal in Part B of FORM GST EWB-01:

Provided that where the goods are transported for a distance of upto fifty kilometers 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 the conveyance may not be updated in the e-way bill.

(5A)The consignor or the recipient, who has furnished the information in Part A of FORM GST EWB-01, or the transporter, may assign the e-way bill number to another registered or enrolled transporter for updating the information in Part B of FORM GST EWB-01 for further movement of the consignment:

Provided that after the details of the conveyance have been updated by the transporter in Part B of FORM GST EWB-01, the consignor or recipient, as the case may be, who has furnished the information in Part A of FORM GST EWB-01 shall not be allowed to assign the e-way bill number to another transporter.

(6) After e-way bill has been generated in accordance with the provisions of sub-rule (1), 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.

Example 1: ABC transport in Kashmir, has to transport 3 different type of goods to 3 different traders in New Delhi. All 3 consignments are being transported against 3 different invoices issued by 3 different traders but, will be transported in a single truck. ABC transport may generate a consolidated e-way bill.

(7) Where the consignor or the consignee has not generated the e-way bill in FORM GST EWB-01 and the aggregate of the consignment value of goods carried in the conveyance is more than fifty thousand rupees, the transporter, except in case of transportation of goods by railways, air and vessel, shall, in respect of inter-State supply, generate the e-way bill in 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:

Provided that where the goods to be transported are supplied through an e-commerce operator or a courier agency, the information in Part A of FORM GST EWB-01 may be furnished by such e-commerce operator or courier agency.

(8) The information furnished in Part A of FORM GST EWB-01 shall be made available to the registered supplier on the common portal who may utilize the same for furnishing the details in FORM GSTR-1:

Provided that when the information has been furnished by an unregistered supplier or an unregistered recipient in FORM GST EWB-01, he shall be informed electronically, if the mobile number or the e-mail is available.

(9) Where an e-way bill has been generated under this rule, but 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 within twenty four hours of generation of the e-way bill:

Provided that an e-way bill cannot be cancelled if it has been verified in transit in accordance with the provisions of rule 138B:

Provided further that the unique number generated under sub-rule (1) shall be valid for a period of fifteen days for updation of Part B of FORM GST EWB-01.

(10) An e-way bill or a consolidated e-way bill generated under this rule shall be valid for the period as mentioned in column (3) of the Table below from the relevant date, for the distance, within the country, the goods have to be transported, as mentioned in column (2) of the said Table:-

Sr. No.	Distance	Validity Period
1.	Upto 100 KM	One day
2.	For every 100 KM, or part thereof thereafter	One additional day
3.	Upto 20 KM	One day in case of over Dimensional Cargo
4.	For every 20 KM or part thereof thereafter	One additional day in case of over Dimensional cargo

Example 2: Suppose eway bill generated on April 1, 2018 at 5 p.m. for transport of cargo which will cover a distance of 90 kms. This eway bill will be valid for one day (till mid night of April 2, 2018);
Suppose eway bill generated on April 1, 2018 at 5 p.m. for transport of cargo which will cover a distance of 190 kms. This eway bill will be valid for two days (till mid night of April 3, 2018).

Provided that the Commissioner may, on the recommendations of the Council, by notification, extend the validity period of an e-way bill for certain categories of goods as may be specified therein:

Provided further that where, under circumstances of an exceptional nature, including trans-shipment, the goods cannot be transported within the validity period of the e-way bill, the transporter may extend the validity period after updating the details in Part B of FORM GST EWB-01, if required.

Explanation 1.—For the purposes of this rule, the —"relevant date" shall mean the date on which the e-way bill has been generated and 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 the period expiring at midnight of the day immediately following the date of generation of eway bill.

Explanation 2.— For the purposes of this rule, the expression —"Over Dimensional Cargo" shall mean a cargo carried as a single indivisible unit and which exceeds the dimensional limits prescribed in rule 93 of the Central Motor Vehicle Rules, 1989, made under the Motor Vehicles Act, 1988 (59 of 1988).

(11)The details of the e-way bill generated under this rule shall be made available to the-

(a) supplier, if registered, where the information in Part A of FORM GST EWB-01 has been furnished by the recipient or the transporter; or

(b) recipient, if registered, where the information in Part A of FORM GST EWB-01 has been furnished by the supplier or the transporter,

on the common portal, and the supplier or the recipient, as the case may be, shall communicate his acceptance or rejection of the consignment covered by the e-way bill.

(12)Where the person to whom the information specified in sub-rule (11) has been made available does not communicate his acceptance or rejection within seventy two hours of the details being made available to him on the common portal, or the time of delivery of goods whichever is earlier, it shall be deemed that he has accepted the said details.

(13)The e-way bill generated under this rule or under rule 138 of the Goods and Services Tax Rules of any State or Union territory shall be valid in every State and Union territory.

(14) Specific goods that are exempt from eway bill rules are:

1. Transportation of those goods laid down in the annexure to rules as specified below:
    - Liquefied petroleum gas for supply to household and non-domestic exempted category customers
    - Kerosene oil sold under PDS
    - Postal baggage transported by Department of Posts
    - Natural or cultured pearls and precious or semi-precious stones; precious metals and metals clad with precious metal
    - Jewellery, goldsmiths' and silversmiths' wares and other articles
    - Currency
    - Used personal and household effects
    - Unworked and worked coral
2. Goods being transported are alcoholic liquor for human consumption, petroleum crude, high-speed diesel, petrol, natural gas or aviation turbine fuel.
3. Goods being transported are not treated as supply under Schedule III of the Act (Schedule III consists of activities that would neither be supply of goods nor service like service of an employee to an employer in the course of his employment, functions performed by MP, MLA etc.)
4. Goods transported are empty cargo containers
5. Goods, other than de-oiled cake, being transported are specified in notification No. 2/2017– Central tax (Rate) Dated the 28th June, 2017. Few of the goods that are included in the above notification are as follows:
    - Curd, lassi, buttermilk
    - Fresh milk and pasteurized milk not containing added sugar or other sweetening matter
    - Vegetables
    - Fruits
    - Unprocessed tea leaves and unroasted coffee beans
    - Live animals, plants and trees
    - Meat
    - Cereals
    - Unbranded rice and wheat flour

- Salt
- Items of educational importance (books, maps, periodicals)

6. Goods exempted under notification No. 7/2017– Central Tax (Rate) Dated 28th June 2017 (supply by CSD to unit run canteens and authorized customers) and notification No. 26/2017– Central Tax (Rate) Dated 21st September 2017 (consists of heavy water and nuclear fuels)
7. Where empty cylinders for packing of liquefied petroleum gas are being moved for reasons other than supply.

Other transactional cases where eway bill is not required are:

1. Eway bill is optional for Goods of value less than Rs. 50,000 (except in cases of mandatory Eway bill provisions like the movement of Handicraft goods and movement of goods for Inter-state Job work)
2. If goods are being transported by a non- motorized conveyance (Ex. Horse carts or manual carts)
3. If goods are being transported:
   - From the port, airport, air cargo complex and land customs station to an inland container depot (ICD) or a container freight station (CFS) for clearance by Customs
   - From ICD or CFS to a customs port, airport, air cargo etc. under customs bond
   - From one customs port/station to another one under customs bond
   - Goods transported under the customs supervision or customs seal
4. Goods transported within the notified area
5. Goods transported are transit from/to Nepal/ Bhutan
6. If goods are transported to a weighbridge within 20kms and back to the place of business by being covered under a Delivery Challan
7. Where Government or local authorities transport goods by rail as a consignor
8. Goods transported are to/from the Ministry of Defense

Rule 138A Documents and devices to be carried by a person-in-charge of a conveyance

(1) The person-in-charge of conveyance shall carry-

(a) The invoice or bill of supply or delivery challan, and

(b) A copy of e-way bill in physical form or the e-way bill number in electronic form or mapped to a Radio Frequency Identification Device embedded on to the conveyance in such manner as may be notified by the Commissioner:

Provided the nothing contained in clause (b) of this sub-rule shall apply in case of movement of goods by rail or by air or vessel.

Provided further that in case of imported goods, the person in charge of a conveyance shall also carry a copy of the bill of entry filed by the importer of such goods and shall indicate the number and date of the bill of entry in Part A of FORM GST EWB-01

(2) A registered person may obtain an Invoice Reference Number from the common portal by uploading, on the said portal, a tax invoice issued by him in Form GST INV-1 and produce the same for verification by the proper officer in lieu of the tax invoice and such number shall be valid for a period of thirty days from the date of uploading.

Rule 138B Verification of documents and conveyances

(1) The Commissioner or an officer empowered by him in this behalf may authorize the proper officer to intercept any conveyance to verify the e-way bill in physical or electronic form for all inter-State and intra-State movement of goods.

(2) 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.

(3) The physical verification of conveyances shall be carried out by the proper officer as authorized by the Commissioner or an officer empowered by him in this behalf.
Provided that on receipt of specified information on evasion of tax, physical verification of a specific conveyance can also be carried out by any other officer after obtaining necessary approval of the Commissioner or an officer authorized by him in this behalf.

Rule 138C Inspection and verification of goods

(1) 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 24 hours of inspection and the final report in Part B of Form GST EWB-03 shall be recorded within 3 days of such inspection.
Provided that where the circumstances so warrant, the Commissioner, or any other officer authorised by him, may, on sufficient cause being shown, extend the time for recording of the final report in Part B of FORM EWB-03, for a further period not exceeding three days.
Explanation.- The period of twenty four hours or, as the case may be, three days shall be counted from the midnight of the date on which the vehicle was intercepted.

(2) Where the physical verification of goods being transported on any conveyance has been done during transit at one place within the State or UT or in any other State or UT, no further physical verification of the said conveyance shall be carried out again in the State or UT, unless a specific information relating to evasion of tax is made available subsequently.

Example 3: Where a conveyance carrying 25 consignments is intercepted and the person-in-charge of such conveyance produces valid e-way bills and/or other relevant documents in respect of 20 consignments, but is unable to produce the same with respect to the remaining 5 consignments, detention/ confiscation can be made only with respect to the 5 consignments and the conveyance in respect of which the violation of the Act or the rules made thereunder has been established by the proper officer.

Rule 138D Facility for uploading information regarding detention of vehicle

Where a vehicle has been intercepted and detained for a period exceeding 30 minutes, the transporter may upload the said information in Form GST EWB-04 on the common portal.

Explanation. - For the purposes of this Chapter (E-way Bill), the expressions ‘transported by railways‘, ‘transportation of goods by railways‘, ‘transport of goods by rail‘ and ‘movement of goods by rail‘ does not include cases where leasing of parcel space by Railways takes place.

Circular No. 64/38/2018-GST Dated 14.09.2018

It is clarified that in case a consignment of goods is accompanied by an invoice or any other specified document and not an e-way bill, proceedings under section 129 of the CGST Act may be initiated.

Further, in case a consignment of goods is accompanied with an invoice or any other specified document and also an e-way bill, proceedings under section 129 of the CGST Act may not be initiated, inter alia, in the following situations:

a. Spelling mistakes in the name of the consignor or the consignee but the GSTIN, wherever applicable, is correct;
b. Error in the pin-code but the address of the consignor and the consignee mentioned is correct, subject to the condition that the error in the PIN code should not have the effect of increasing the validity period of the e-way bill;
c. Error in the address of the consignee to the extent that the locality and other details of the consignee are correct;
d. Error in one or two digits of the document number mentioned in the e-way bill;
e. Error in 4 or 6 digit level of HSN where the first 2 digits of HSN are correct and the rate of tax mentioned is correct;
f. Error in one or two digits/characters of the vehicle number.

In case of the above situations, penalty to the tune of Rs. 500/- each under section 125 of the CGST Act and the respective State GST Act should be imposed (Rs.1000/- under the IGST Act) in FORM GST DRC-07 for every consignment. A record of all such consignments where proceedings under section 129 of the CGST Act have not been invoked in view of the situations listed in paragraph 5 above shall be sent by the proper officer to his controlling officer on a weekly basis.

Circular No. 61/35 /2018 GST Dated 04.09.2018 {Consignee/ recipient taxpayer storing goods in the transporter's godown}

Textile traders use transporters' godown for storage of their goods due to their weak financial conditions. The transporters providing such warehousing facility will have to get themselves registered under GST and maintain detailed records in cases where the transporter takes delivery of the goods and temporarily stores them in his warehouse for further transportation of the goods till the consignee/recipient taxpayer's premises.

In this regard, it is clarified that since e-way bill is a document which is required for the movement of goods from the supplier's place of business to the recipient taxpayer's place of business, the goods in movement including when they are stored in the transporter's godown (even if the godown is located in the recipient taxpayer's city/town) prior to delivery shall always be accompanied by a valid e-way bill.

Further, section 2(85) defines the "place of business" [see definitions] to include "a place from where the business is ordinarily carried out, and includes a warehouse, a godown or any other place where a taxable person stores his goods, supplies or receives goods or services or both". An additional place of business (APoB) is the place of business from where taxpayer carries out business related activities within the State, in addition to the principal place of business.

Declaring the transporter's godown as APoB

In case the consignee/ recipient taxpayer stores his goods in the godown of the transporter, the transporter's godown has to be declared as an APoB by the recipient taxpayer. Mere declaration by the recipient taxpayer to this effect with the concurrence of the transporter in the said declaration will suffice.

In such cases, the transportation under the e-way bill shall be deemed to be concluded once the goods have reached the transporter's godown (recipient taxpayer' APoB). Hence, e-way bill validity in such cases will not be required to be extended.

Whenever the goods move from the transporter's godown (recipient taxpayer's APoB) to the recipient taxpayer's any other place of business, relevant provisions of the e-way bill rules shall apply. Consequently, a valid e-way bill shall be required, as per the extant State-specific e-way bill rules.

Requirement of maintaining accounts and records

1. Transporter, being a warehouse keeper, has to maintain accounts and records as specified in section 35 read with rule 58 [discussed earlier in this chapter].
2. Recipient taxpayer shall also maintain accounts and records as required under rules 56 and 57 [discussed earlier]. Furthermore, as per rule 56(7), books of accounts in relation to goods stored at the transporter's godown (i.e., the recipient taxpayer's APoB) by the recipient taxpayer may be maintained by him at his principal place of business

Question & Answer

Q1. Who all can generate E-way bill (EWB)?

A. Every registered person who causes movement of goods of consignment value exceeding Rs. 50,000 or the threshold prescribed (in each State/Union Territory) in relation to supply; or reasons other than supply; or inward supply from unregistered person shall generate EWB.

It means, the consignor or consignee, as a registered person or a transporter of the goods can generate the EWB. The unregistered transporter can enroll on the common portal and generate the EWB for movement of goods for his clients.

Q2. Whether EWB may be generated if the consignment value is less than Rs. 50,000?

A. Yes, the registered person or the transporter, as the case may be, may generate EWB voluntarily, even if the value of consignment is less than Rs. 50,000.

However, Proviso 3 and 4 to Rule 138(1) of the CGST Rules 2017 mandatorily requires a registered person to generate an EWB irrespective of the value of consignment where:

- the goods are to be sent by the principal located in one State or Union Territory to a job worker in other State or Union Territory.
- handicraft goods are transported from one State or Union territory to another State or Union territory by a person who has been exempted from the requirement of obtaining registration under clauses (i) and (ii) of section 24 of the CGST Act.

Q3. Who has been casted with the ultimate responsibility of generating EWBs? Consignor, consignee or the transporter?

A. The primary responsibility to generate EWB shall be of the registered person who causes the movement of goods, i.e. the consignor or the consignee, as the case may be. However, if such consignor or consignee doesn't generate the EWB, it may be generated by transporter as well, if authorized by the registered person.

Also, in case of supply of goods by an unregistered person to registered person, the liability to generate EWB is on the recipient.

Q4. Whether EWB would be required, if transportation is done in one's own vehicle or through a public transport?

A. Yes, as per Rule 138 (2), it has been provided that EWB shall be required to be generated, in case the goods are transported by consignor or consignee in his own vehicle or in a hired one or a public conveyance, by road. In such case, the registered person causing the movement of goods may raise the EWB after furnishing the vehicle no. in Part B of FORM GST EWB – 01 if the value of goods being transported is more than Rs. 50,000.

Q5. How shall one calculate the distance and validity of goods in case of supply through multi-modal transport?

A. The distance and the validity of EWB shall remain the same even if the goods are supplied through a multi-modal transport. In order to calculate the validity of the EWB, the distance to be covered by all the modes combined together must be taken into consideration. The validity provided in the CGST Rules is as under:

Type Of Conveyance	*Distance*	*Validity Of EWB*
Normal Cargo 	*Upto 100 Kms*	*1 Day*
	For every additional 100 Kms or Part thereof	*1 Additional Day*
Over Dimensional Cargo 	*Upto 20 Kms*	*1 Day*
	For every additional 20 Kms or Part thereof	*1 Additional Day*

The "relevant date" shall mean the date on which the e-way bill has been generated and 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 the period expiring at midnight of the day immediately following the date of generation of e-way bill. For example:

- Suppose eway bill generated on April 1, 2018 at 5 p.m. for transport of cargo which will cover a distance of 90 kms. This eway bill will be valid for one day (till mid night of April 2, 2018);
- Suppose eway bill generated on April 1, 2018 at 5 p.m. for transport of cargo which will cover a distance of 190 kms. This eway bill will be valid for two days (till mid night of April 3, 2018).

Note:- Supplier handed over the goods to the transporter on April 1, 2018. Part A of the eway bill was submitted by the supplier on April 1, 2018 after updating the GSTIN of the transporter. Transporter loaded the goods on the truck on April 3, 2018 and completed Part B of the eway bill by updating the vehicle number. In this case, the validity of the eway bill commences from April 3, 2018.

Q6. What is the liability of generation of EWB in case of transportation of goods through e-commerce?

A. Generally, in case of an E-Commerce business model, the logistics is handled by an independent third party logistic service provider. So, in such a case 4 parties are involved in the transaction (seller, buyer, logistic service provider and E-Commerce operator). Therefore, in such cases where the goods are to be transported through an e-commerce operator, on an authorization from consignor, Part A of the EWB may be furnished by the E-Commerce operator and Part B of the EWB may be furnished either by the E-Commerce operator or by the third party logistic service provider.

Q7. Whether any other document needs to be provided to the transporter in addition to EWB, for movement of goods?

A. In accordance with Rule 55A read with Rule 138A of the CGST Rules, the person in-charge of conveyance shall carry

- Tax Invoice or Delivery Challan or Bill of Supply, as the case may be; and
- a copy of the EWB in physical form or the EWB number in electronic form or mapped to a Radio Frequency Identification Device embedded on to the conveyance in such manner as may be notified by the Commissioner:

EWB is an additional document and not a substitute for Tax Invoice, delivery challan or any other prescribed document for the said transaction.

Q8. Can the EWB be deleted?

A. The EWB once generated cannot be deleted. However, it can be cancelled by the generator within 24 hours of its generation. If it has been verified by any proper officer within 24 hours, then it cannot be cancelled. Further, EWB can be cancelled if, either goods are not transported or are not transported as per the details furnished in the EWB. A recipient has right to cancel/ reject the EWB within 72 hours of its generation or actual receipt of goods, whichever is earlier.

Q9. In case of High Sea Sale Transactions – Whether EWB is required?

A. EWB is required for movement of goods within the country. In case of High Sea Sales as the supply is affected before the goods cross the custom frontiers of India, EWB is not required to be generated. When the ultimate buyer files bill of entry, he is required to generate EWB for movement of goods from port to his place of business.

Q10. Whether EWB is required to be generated for the movement of goods between CFS /ICD to port in the course of importation and exportation of goods?

A. Rule 138(14) of the CGST Rules 2018, provides that no EWB is required to be generated in respect of:

- Movement of goods from the port, airport, air cargo complex and land customs station to an ICD or a CFS for clearance by Customs in the course of importation.
- where the goods are being transported—
  1. under customs bond from an ICD or a CFS to a customs port, airport, air cargo complex and land customs station, or from one customs station or customs port to another customs station or customs port, or
  2. under customs supervision or under customs seal

Therefore, EWB is not required for movement of goods between CFS/ICD to port or vice versa in the course of importation and exportation of goods.

Q11. How to handle “Bill to” - “Ship to” invoice in e-way bill system?

A. Sometimes, the tax payer raises the bill to somebody and sends the consignment to somebody else as per the business requirements. There is a provision in the e-way bill system to handle this situation, called as ‘Bill to’ and ‘Ship to’.

In the e-way bill form, there are two portions under ‘TO’ section. In the left hand side - ‘Billing To’ GSTIN and trade name is entered and in the right hand side - ‘Ship to’ address of the destination of the movement is entered. The other details are entered as per the invoice.

In case ship to state is different from Bill to State, the tax components are entered as per the billing state party. That is, if the Bill to location is inter-state for the supplier, IGST is entered and if the Bill to Party location is intra-state for the supplier, the SGST and CGST are entered irrespective of movement of goods whether movement happened within state or outside the state.

Q12. Whether multiple invoices can be clubbed in one E way bill? If yes, then to what extent?
A. The value of goods determined in the invoice shall be regarded as the value of consignment, on the basis of which it is decided whether the consignor or consignee is required to generate EWB or not. Therefore, a separate EWB is required to be generated for every individual invoice where value of corresponding consignment exceeds Rs.50,000.

Q13. If the goods are taken from one State to another for the purpose of display in exhibition, whether EWB is required to be generated?
A. EWB would be required to be generated, where the value of the consignment exceeds Rs. 50,000.

Q14. How to generate the EWB in case goods are to be moved to a weighbridge situated outside the factory and invoice cannot be issued unless goods are weighed?
A. EWB is not required to be generated where the goods are to be transported up to a distance of 20 kms for the purpose of weighment from the place of business of consignor to a weighbridge, or, from the weighbridge back to place of consignor. However, such movement should be along with delivery challan to be covered under relaxation of EWB generation.

Q15. What if the vehicle is stuck at a particular point in the journey due to calamity or traffic jam?
A. The goods are required to be transported within the validity period of the EWB. However, it is provided that under circumstances of exceptional nature, the transporter may generate another EWB after updating the details in Part-B of FORM GST EWB-01. These circumstances could be said to be in the nature of exceptional nature. However, in the absence of specific meaning of the term "exceptional nature", further clarification is required.

Q16. What if the same invoice contains both categories of goods i.e. ones exempted for the purpose of EWBs and taxable, then whether EWB needs to be generated?
A. It is to be noted that the explanation to the Rule 138(1) provides that consignment value for the purpose of EWB shall be the value, determined in accordance with the provisions of Section 15, declared in invoice or delivery challan or bill of supply as the case may be. However, it shall exclude the value of exempt supply where the invoice is issued in respect of both exempted and taxable supply of goods. Therefore, the value of taxable goods only shall be considered for the purpose of consignment value.

Q17. A registered person has purchased a new mobile phone for Rs. 75,000 and carrying with him on motorized vehicle. Whether EWB is required to be generated?
A. Yes. It appears that if the movement is caused by a registered person, EWB is required to be generated for goods exceeding value of Rs. 50,000.

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Q18. A person has been shifting his households from one State to another on account of job change. Whether EWB is required to be generated?
A. Used personal and household effects have been covered in the Annexure to the Rule 138 in respect of which EWB is not required to be generated. Hence, such person is not required to generate EWB in such cases.

Q19. How to consider consignment value in case goods is being moved for renting purpose. Do we need to take the value of goods or value of the rent charged on goods?

A. The consignment value is the value of goods to be determined under section 15 of the CGST Act including applicable tax thereon. The rent charged represents the value of service portion whereas EWB is to be generated for the value of goods for which movement is to be undertaken. Hence, in such cases, the value to be considered should be of the goods not the rental charges charged by the supplier of services. The movement could be based on delivery challan based on which EWB may be generated.

Q20. Supply of goods through pipeline, whether oil, petroleum, gases, water, electricity etc. whether EWB is required to be generated?

A. EWB is required to be generated when movement of goods is through motorized conveyance. Further, the EWB portal has 4 modes of transportation i.e. road, air, rail and ship. As the transportation of goods through pipeline may not involve movement of goods through motorized vehicle, there may not be need to generate EWB for such movement of goods.

Q21. An outdoor catering company is transporting utensils and other accessories for catering outside the kitchen, interstate or intra state. Whether EWB is necessary? If yes what are the documents to be attached with the EWB? If not under which document, it has to be dispatched?

A. The EWB is required for every movement of goods, even if it is for the purpose other than supply. When the goods are transported by caterer for use by him in the course of making supply of catering services, it could be said to be movement of goods by him for himself/ self-use. Though there is no supply of utensils and other materials to the customer, yet there is movement of goods and hence EWB is required to be generated. Such EWB may be generated against delivery challan, by providing “Outward” movement and “For own use” under the reason for transportation.

Q22. A farmer carries the goods from his farm to Mandi for the purpose of sale therein. Whether there is requirement to generate EWB?

A. Many of the agricultural produces have been exempted from the levy of GST. Wherever items to be transported is exempted from GST, there is no need to generate EWB. However, if the goods being transported by farmer are in the nature of taxable goods, EWB has to be generated.

Q23. Where goods are supplied on “as is-where is” basis, whether EWB is required to be generated?

A. EWB is not required to be generated for supply of goods unless it involves movement of goods through motorized conveyance. In case of sale of goods on “as is – where is” basis, there is no movement of goods. Hence, there is no need to generate EWB in case of such instances.

Q24. In many cases where manufacturer or wholesaler is supplying to retailers, or where a consolidated shipment is shipped out, and then distributed to multiple consignees, the recipient is unknown at the time the goods are dispatched from shipper’s premises. A very common example is when FMCG companies send a truck out to supply kirana stores in a particular area. What needs to be done in such cases?

A. In such cases, EWB shall be generated for outward movement of goods. No supply is being made, movement is caused on behalf of self. In such cases, delivery challan may be used for generation of EWBs. All the provisions for delivery challan need to be followed along with the rules for EWBs.

Q25. Where an invoice is in respect of both goods and services, whether the consignment value should be based on the invoice value (inclusive of value of services) or only on the value of goods. Further, whether HSN wise details of service is also required to be captured in Part A of the EWB in such case.

A. Consignment value and HSN needs to be determined for goods only not for services as only the goods are in movement and EWB needs to be generated accordingly.

Q26. 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?

A. 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.