CA final Indirect taxes- GST and Customs

Flow charts May 2020

(Old and New)

(Amended as per Finance Act 2019 for Customs included &

GST amendments of FA 2019 not effective up to 31.10.2019

hence not included here)

(Also useful for CWA/CS)

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Every attempt is made to avoid errors and omissions; if any error crept it is unintentional.

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Read and Understand the concept and work out problems in study material

/RTP/MCQ/Mock test papers

Study Guidelines for May 2020 examination

Final (New) Course Paper 8: Indirect Tax Laws

List of topic-wise exclusions from the syllabus

(1)	(2)	(3)
S. No. in the syllabus	**Topics of the syllabus**	**Exclusions** **(Provisions which are excluded from the corresponding topic of the syllabus)**
	Part-I: Goods and Services Tax	
1(ii)	Levy and collection of CGST and IGST – Application of CGST/IGST law; Concept of supply including composite and mixed supplies, inter-State supply, intra-State supply, supplies in territorial waters; Charge of tax including reverse charge; Exemption from tax; Composition levy	(i) Rate of tax prescribed for supply of **goods*** (ii) Rate of tax prescribed for supply of **services*** (iii) Exemptions for supply of goods (iv) Categories of supply of goods, tax on which is payable on reverse charge basis
1(iv)	Time and Value of supply	Value of supply in cases where Kerala Flood Cess is applicable.
1(v)	Input tax credit	(i) Manner of determination of input tax credit in respect of inputs, input services and capital goods and reversal thereof in respect of real estate projects (ii) Manner of reversal of credit of additional duty of customs in respect of Gold dore bar
1(vii)	Procedures under GST including registration, tax invoice, credit and debit notes, electronic way bill, accounts and records, returns, payment of tax including tax deduction at source and tax collection at source, refund, job work	(i) Furnishing of GSTR-2, GSTR-1A and GSTR-3 (ii) Matching, reversal & reclaim of input tax credit (iii) Matching, reversal & reclaim of reduction in output tax liability
1(xvi)	Other Provisions	Transitional Provisions
	Part-II: Customs & FTP	
1.(v)	Officers of Customs; Appointment of customs ports, airports etc.	Completely excluded
1.(vii)	Provisions relating to coastal goods and vessels carrying coastal goods	
1.(viii)	Warehousing	
1.(x)	Demand and Recovery	
1.(xi)	Provisions relating to prohibited goods, notified goods, specified goods, illegal	

	importation/exportation of goods	
1.(xii)	Searches, seizure and arrest; Offences; Penalties; Confiscation and Prosecution	
1.(xiii)	Appeals and Revision; Advance Rulings; Settlement Commission	
1.(xiv)	Other provisions	

***Rates specified for computing the tax payable under composition levy and special rate of tax prescribed under *Notification 2/2019 CT (R) dated 07.03.2019* [Effective rate 6% - CGST 3% & SGST 3%] are included in the syllabus.**

Notes:

(1) Applicability of the Finance (No. 2) Act, 2019

(i) **<u>Part I : GST</u>** - Except the amendment made in section 54 of the Central Goods and Services Tax Act, 2017 [hereinafter referred to as CGST Act, 2017] and the retrospective amendments made in rate *Notification Nos. 2/2017 CT (R) & 2/2017 IT (R) both dated 28.06.2017* (for goods), amendments made by the Finance (No. 2) Act, 2019 in the CGST Act, 2017 and Integrated Goods and Services Tax, 2017 [hereinafter referred to as IGST Act, 2017] have not become effective till 31.10.2019.

Therefore, only the amendment made in section 54 of the CGST Act, 2017 is applicable for May 2020 examinations; all the remaining amendments made by the Finance (No. 2) Act, 2019 in the CGST Act and the IGST Act, 2017 are not applicable for May 2020 examinations. It may be noted that since rate of tax on goods is specifically excluded from the syllabus, retrospective amendments made in the rate *Notification Nos. 2/2017 CT (R) & 2/2017 IT (R) both dated 28.06.2017* are also excluded from the syllabus.

(ii) **<u>Part II: Customs & FTP</u>** - The amendments made by the Finance (No. 2) Act, 2019 in the Customs Act, 1962 and the Customs Tariff Act, 1975 have become effective from 01.08.2019 and hence, the same are applicable for May 2020 examinations.

(iii) Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 introduced vide Chapter V of the Finance (No. 2) Act, 2019 is not applicable for May 2020 examinations.

(2) The former State of Jammu & Kashmir has been reorganized as the new Union Territory of Jammu and Kashmir and the new Union Territory of Ladakh on 31st October 2019. Such reorganisation, to the extent relevant in the context of GST law, shall not be applicable for May 2020 examination.

(3) In the above table, in respect of the topics of the syllabus specified in column (2) the related exclusion is given in column (3). Where an exclusion has been so specified in any topic of the syllabus, the provisions corresponding to such exclusions, covered in other topic(s) forming part of the syllabus, shall also be excluded.

(3) October 2019 edition of the Study Material is relevant for May 2020 and November 2020 examinations. The amendments in the GST law and in the customs law and FTP - made after the issuance of this Study Material - to the extent covered in the Statutory Update for May 2020 examination alone shall be relevant for the said examination. The Statutory Update will be hosted on the BoS Knowledge Portal.

(4) The entire content included in the October 2019 edition of the Study Material (except the exclusions mentioned herein) and the Statutory Update for May 2020 examination shall be relevant for the said examination.

GST Basics and Introduction

Concept of GST

- GST is a **value added tax** levied on manufacture, sale and consumption of goods and services
- GST Provides **comprehensive and continuous chain of tax credits** from the producer/Service provider up to retail level /Consumer level.
- Each person will get credit for the taxes paid at earlier stage. The consumer will bear the final tax.
- Since, only the value added at each stage is taxed under GST, there is no tax on tax or cascading of taxes under GST system
- GST does not differentiate between goods and services and thus, the two are taxed at a single rate.

Need for GST in India

- Concept of one nation, one tax, and one market.
- Compete with global market as many nations are following GST regime
- Deficiency in earlier indirect tax system:
- Cenvat credit of excise and service tax is not available to retailer and vat dealers
- Central excise is includible in value for vat calculation resulting double tax.
- CST credit is not vatable for dealers.
- Difficulty in distinguish between goods and services especially in case of intellectual properties, drawings and designs, Restaurant services, software and work contract

GSTCommonPortal

- Common GST Electronic Portal – **www.gst.gov.in** – a website managed by Goods and Services Network (GSTN) [
- GSTN is a company incorporated under the provisions of section 8 of the Companies Act, 2013. It has been set by the Government to establish a uniform interface for the tax payer and a common and shared IT infrastructure between the Centre and States.
- The GST portal is accessible over Internet (by taxpayers and their CAs/Tax Advocates etc.) and Intranet by Tax Officials etc.
- The portal is one single common portal for all GST related services.
- A common GST system provides linkage to all State/ UT Commercial Tax Departments, Central Tax authorities, Taxpayers, Banks and other stakeholders.
- The eco-system consists of all stakeholders starting from taxpayer to tax professional to tax officials to GST portal to Banks to accounting authorities.
- Primarily, GSTN provides three front end services to the taxpayers namely registration, payment and return through GST Common Portal.
- The functions of the GSTN include:
    - facilitating registration;
    - forwarding the returns to Central and State authorities;
    - computation and settlement of IGST;
    - Matching of tax payment details with banking network;
    - Providing various MIS reports to the Central and the State Governments based on the taxpayer return information;
    - Providing analysis of taxpayer’s profile; and running the matching engine for matching, reversal and reclaim of input tax credit

Taxes subsumed in GST

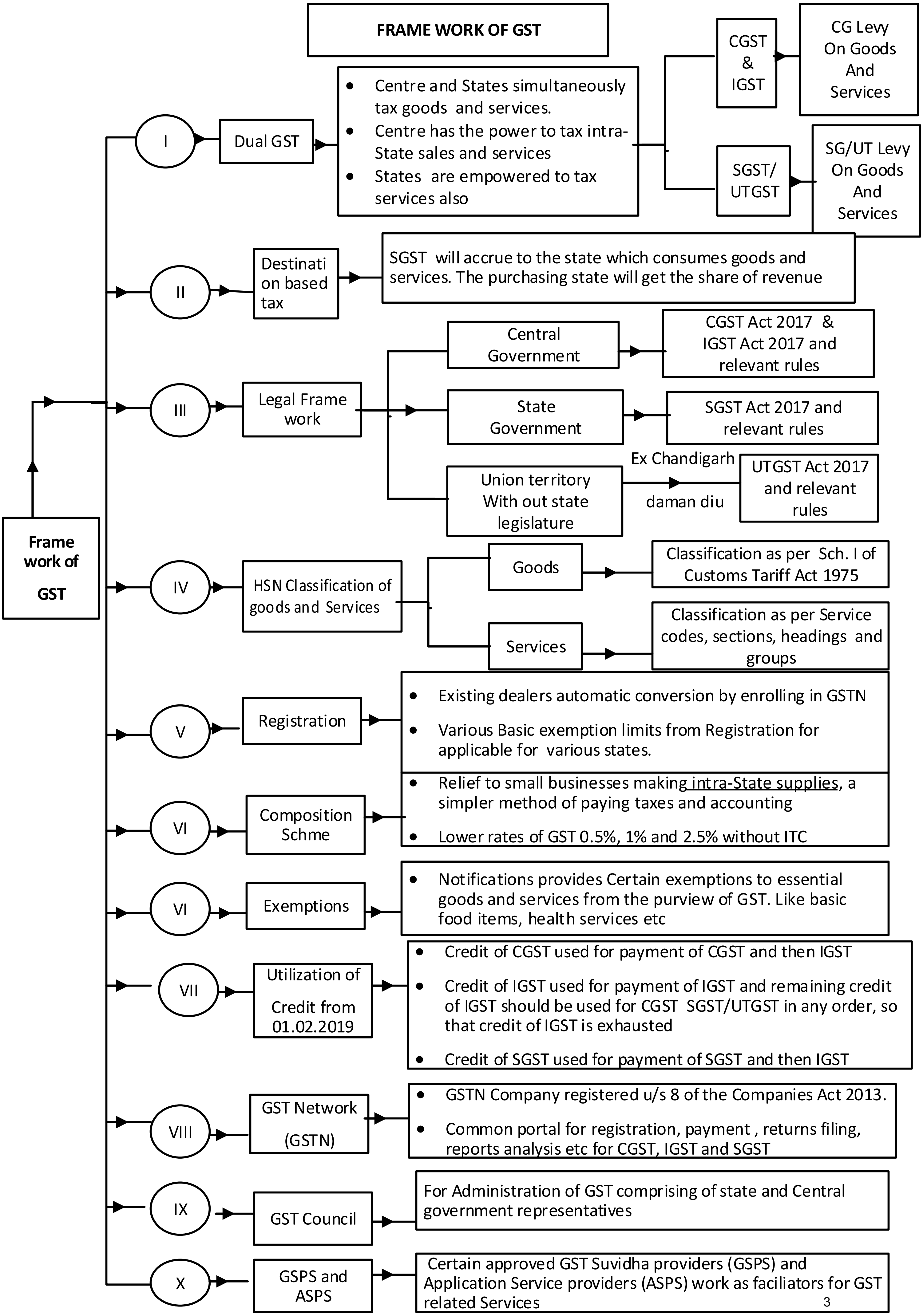
SN	Central taxes	SN	State taxes
1	Central excise	1	Sales tax/Vat
2	Additional excise duties	2	Luxury tax
3	Excise duty on medical and toilet preparations Act	3	Tax on Advertisement
4	Service tax	4	Purchase tax
5	Counter vailing duty	5	Entry tax/octroi
6	Special counter vailing duty (SAD 4%)	6	Tax on lottery, betting and gambling
7	Central sales tax	7	Surcharge and cess relating to goods and Services
8	Surcharge and cess relating to goods and Services	8	

Taxes continue to remain after GST

- Central excise on petroleum products
- State Central excise duty on alcoholic liquor for human consumption
- State vat on petroleum products
- Custom duty on imports (BCD and safe guard duties)

BENEFITS OF GST

- GST brings benefits to all the stakeholders of industry, Government and the consumer. It will lower the cost of goods and services, give a boost to the economy and make the products and services globally competitive.
- Creation of unified national market:
    - ST aims to make India a common market with common tax rates and procedures and remove the economic barriers thus paving the way for an integrated economy at the national level.
- Mitigation of ill effects of cascading:
    - By subsuming most of the Central and State taxes into a single tax and by allowing a set-off of prior-stage taxes for the transactions across the entire value chain, it would mitigate the ill effects of cascading, improve competitiveness and improve liquidity of the businesses.
- Elimination of multiple taxes and double taxation:
    - GST has subsumed majority of existing indirect tax levies both at Central and State level into one tax i.e., GST which is leviable uniformly on goods and services. This will make doing business easier and will also tackle the highly disputed issues relating to double taxation of a transaction as both goods and services.
- Boost to 'Make in India' initiative:
    - GST will give a major boost to the 'Make in India' initiative of the Government of India by making goods and services produced in India competitive in the national as well as international market.
- Buoyancy to the Government Revenue:
    - GST is expected to bring buoyancy to the Government Revenue by widening the tax base and improving the taxpayer compliance.


FRAME WORK OF GST
Frame work of GST
I
Dual GST
Centre and States simultaneously tax goods and services.
Centre has the power to tax intra-State sales and services
States are empowered to tax services also
CGST & IGST
CG Levy On Goods And Services
SGST/ UTGST
SG/UT Levy On Goods And Services
II
Destination based tax
SGST will accrue to the state which consumes goods and services. The purchasing state will get the share of revenue
III
Legal Frame work
Central Government
CGST Act 2017 & IGST Act 2017 and relevant rules
State Government
SGST Act 2017 and relevant rules
Union territory With out state legislature
Ex Chandigarh
daman diu
UTGST Act 2017 and relevant rules
IV
HSN Classification of goods and Services
Goods
Classification as per Sch. I of Customs Tariff Act 1975
Services
Classification as per Service codes, sections, headings and groups
V
Registration
Existing dealers automatic conversion by enrolling in GSTN
Various Basic exemption limits from Registration for applicable for various states.
VI
Composition Schme
Relief to small businesses making intra-State supplies, a simpler method of paying taxes and accounting
Lower rates of GST 0.5%, 1% and 2.5% without ITC
VI
Exemptions
Notifications provides Certain exemptions to essential goods and services from the purview of GST. Like basic food items, health services etc
VII
Utilization of Credit from 01.02.2019
Credit of CGST used for payment of CGST and then IGST
Credit of IGST used for payment of IGST and remaining credit of IGST should be used for CGST SGST/UTGST in any order, so that credit of IGST is exhausted
Credit of SGST used for payment of SGST and then IGST
VIII
GST Network (GSTN)
GSTN Company registered u/s 8 of the Companies Act 2013.
Common portal for registration, payment , returns filing, reports analysis etc for CGST, IGST and SGST
IX
GST Council
For Administration of GST comprising of state and Central government representatives
X
GSPS and ASPS
Certain approved GST Suvidha providers (GSPS) and Application Service providers (ASPS) work as faciliators for GST related Services

- Introduction of GST is biggest indirect tax reform since independence.
- There is no provision for levy of GST in the Constitution and hence Levy of GST need Constitutional amendment
- The Constitution amendment Bill 2014 was passed in Lok Sabha on 6th May 2015 and on the Rajya Sabha on 3rd August 2016. The bill was subsequently ratified by more than 50% of State legislatures. Finally, Constitution 101st(Amendment) Act, 2016 received the president assent on 08.09.2016.
- The central legalisations of GST were passed in parliament and finally received the assent of President on 12th April 2017. State GST laws are also passed by the state legislatures passed and pave way for levy of GST.

GST Constitutional provisions 101(-Constistutional amendment)Act 2016

Constitutional Provisions

Article 246 A → Power to Levy GST →
- Centre and States has power to levy Goods and services tax
- Levy of GST on petroleum products will be applicable from the date notified by GST Council

Article 269 A → Power to Levy IGST →
- GST on inter state supply (IGST) will be levied and collected by Central government
- IGST will be shared between state and central in a manner provided by parliament on the recommendation of GST council.
- import of goods or services or both into India will also be deemed to be supply of goods and/ or services in the course of Inter-State trade or Commerce.

Article 366(12A) → Meaning Of GST →
- Goods and services tax means any tax on supply of goods, or services or both except taxes on the supply of the alcoholic liquor for human consumption.
- GST can be levied on supply of all goods and services except alcoholic liquor for human consumption

Article 366(26A) → Meaning Of Service →
- Services means anything other than goods.

Article 279 A → GST Council →

1	President to constitute a joint forum of the Centre and States namely, Goods & Services Tax Council (GST Council).
2	The provisions relating to GST Council came into force on 12 th September2016. President constituted the GST Council on 15th September, 2016.
3	The Union Finance Minister is the Chairman of this Council and Ministers in charge of Finance/Taxation or any other Minister nominated by each of the States & UTs with Legislatures are its members.
4	The Union Minister of State in charge of Revenue or Finance is also its member.
5	The function of the Council is to make recommendations to the Union and the States on important issues like tax rates, exemptions, threshold limits, dispute resolution etc.
6	It shall also recommend the date on which GST be levied on petroleum crude, high speed diesel, motor spirit, natural gas and aviation turbine fuel.
7	Every decision of the GST Council is taken by a majority of not less than three-fourths of the weighted votes of the members present and voting. Vote of the Centre has a weightage of one-third of total votes cast and votes of all the State Governments taken together has a weightage of two-thirds of the total votes cast, in that meeting.

Inter state supply and Intra state supply

- Inter state Supply
  Sec 7 IGST Act
  - Supply of goods/ services when location of the supplier and the place of supply are in two different States / UTS Sec 7(1)(2)
  - Supply of goods/ services imported into the territory of India Sec 7(3)Sec7(4)
  - Supplier located in India and the place of supply is outside India (sec 7(5)
  - Supply to/by an SEZ developer or SEZ unit; (sec 8(1)
  - Supply of goods made to a tourist who who enters India for a stay of not more than 6 months for legitimate non-immigrant purposes. Sec 8(2)
  - Supply in the taxable territory, not being an intra-State supply & not specified anywhere (sec 7(5)
- Intra state supply
  Sec 8 of IGST Act
  - location of the supplier and the place of supply of goods/services are in the same State or same Union territory shall be treated as intra-State supply. Such supplies are taxable to CGST and SGST
- Supplies in territorial waters
  sec 9 of IGST Act
  - Where the location of supplier is in territorial waters / Place of supply is in territorial waters, the coastal State or Union territory where the nearest point of the appropriate baseline is located

Levy and Collection of GST Sec 9 of CGST Act
Sec 5 of IGST Act and Sec 9 of STGST/UTSGST of various states

Levy and Collection Of GST

- **Levy (fixing liability)** → Supply of goods and services Other than alcoholic liquor for human consumption
  - With in state → CGST + SGST/UTSGST
  - Outside state → IGST
- **Valuation** → GST is payable on the value determine as per sec 15 (Transaction Value)
- **Rates of GST** →
  - 5%, 12%, 18%, 28%. This rates split equally as CGST and SGST/UTGST
  - IGST will be approximately the sum total of CGST and SGST/UTGST.
  - Maximum rate of CGST + SGST / IGST is 40%
- **GST On petroleum products Sec 9(2)/5(2)** →
  - GST on petroleum products crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be levied with effect from such date as may be notified by the Government on the recommendations of the GST Council.

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- **Reverse Charge Under GST Sec 9(3),9(4) /5(3)/5(4)**
  - CG on the recommendation of council specify the categories of supply of goods/services or both, GST shall be paid by recipient.
  - CG on the recommendation of council specify the <u>class of registered persons, specified</u> categories of supply of goods/services or both, received from unregistered person to GST shall be paid by recipient. From <u>01.02.2019</u>
  - → All the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.
- **GST Liability in case of Electronic Commerce Operator (ECO) Sec 9(5)/ 5(5)** →
  - CG on the recommendation of council specify the categories of supply of goods/services or both, GST which shall be paid by the electronic commerce operator (ECO) if such services are supplied through it
  - All the provisions of this Act shall apply to such ECO as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.
  - IF ECO located in taxable territory → Person liable to pay GST is ECO
  - IF ECO does not physical presence in taxable territory → Person liable to pay GST is Person representing ECO
  - If the ECO has neither the physical presence nor any representative in the taxable territory → Person liable to pay GST is person appointed by the ECO for the purpose of paying the tax

❖ Art works sent by artists to galleries for exhibition is not a supply no GST.
❖ when a buyer selects a particular art work displayed at the gallery, that the actual supply takes place and applicable GST would be payable at the time of such supply. Circular No. 22/22/2017 GST dated 21.12.2017

GST LIABILITY CLARIFICATIONS

Latest

Service by way of grant of alcoholic liquor licence is neither a supply of goods nor a supply of service

Service by way of grant of alcoholic liquor licence, against consideration in the form of licence fee or application fee or by whatever name it is called." Is not a supply of goods or services [Notification No. 25/2019 CT (R) dated 30.09.2019/ Notification No. 24/2019 IT (R) dated 30.09.2019]?

Other than liquor cases GST applicable: Circular No. 121/40/2019 GST dated 11.10.2019 has clarified that the above special dispensation applies only to supply of service by way of grant of liquor licenses by the State Governments as an agreement between the Centre and States. GST is applicable in grant of other licenses and privileges in case of mining rights, natural resources such as spectrum etc. against payment of consideration in the form of fee, royalty etc. Tax is required to be paid by the business entities on such services under reverse charge.

Clarification in respect of goods sent/ taken out of India for exhibition or on Consignment basis for export promotion [Circular No. 108/27/2019 GST dated 18.07.2019]

Cannot be considered as supply as there is no consideration: the activity of sending/ taking the goods out of India for exhibition or on consignment basis for export promotion, do not constitute supply as the said activity does not fall within the scope of section 7 of the CGST Act as there is no consideration at that point in time.

when such activity satisfies the tests laid down in Schedule I of the CGST Act It amounts to supply and GST payable

Since such activity is not a supply, the same cannot be considered as "Zero rated supply" as per the provisions contained in section 16 of the IGST Act.

Execution of a bond or LUT, as required under section 16 of the IGST Act, is not required in case of these goods

Levy of GST on the service of display of name or placing of name plates of the donor in the premises of charitable organisations receiving donation or gifts from individual donors - GST Not leviable- Circular No. 116/35/2019 GST dated 11.10.2019]

- The recipient institutions place a name plate or similar such acknowledgement in their premises to express the gratitude.
- When the name of the donor is displayed in recipient institution premises, in such a manner, which can be said to be an expression of gratitude and public recognition of donor's act of philanthropy and is not aimed at giving publicity to the donor in such manner that it would be an advertising or promotion of his business, then it can be said that there is no supply of service for a consideration (in the form of donation).
- There is no obligation (quid *pro quo*) on part of recipient of the donation or gift to do

anything (supply a service). Therefore, there is no GST liability on such consideration

- The payment has the character of gift or donation and the purpose is philanthropic (i.e., it leads to no commercial gain) and not advertisement, GST is not leviable.

Clarification on issue of GST on airport levies [Circular No. 115/34/2019 GST dated 11.10.2019

- Passenger service fee (PSF), User development fee (UDF) changed and collected as per Aircraft rules 1937, by the airport operators from the passengers for providing the services to passengers. PSF and UDF charged by airport operators are consideration for providing services to passengers. And are falls with in the definition of Consideration. u/s 2(31).
- Since, the airport operators are collecting PSF and UDF inclusive of GST, there is no question of their not paying GST collected by them to the Government.
- airport operator and airlines shall be liable to pay GST on the same under forward charge. ITC of the same will be available with the airport operator.

When airlines act as pure agent airport levies will not be includible in value subject to conditions: Circular No. 115/34/2019 GST dated 11.10.2019

Airlines may act as a pure agent for the supply of airport services in accordance with rule 33 of the CGST rules. Rule 33 of the CGST rules provides that the expenditure or costs incurred by a supplier as a pure agent of the recipient of supply shall be excluded from the value of supply.

Accordingly, the airline acting as pure agent of the passenger should separately indicate actual amount of PSF and UDF and GST payable on such PSF and UDF by the airport licensee, in the invoice issued by airlines to its passengers.

The airline shall not take ITC of GST payable or paid on PSF and UDF.

The airline would only recover the actual PSF and UDF and GST payable on such PSF and UDF by the airline operator.

The amount so recovered will be excluded from the value of supplies made by the airline to its passengers. In other words, the airline shall not be liable to pay GST on the PSF and UDF (for airport services provided by airport licensee), provided the airline satisfies the conditions prescribed for a pure agent under rule 33 of the CGST Rules.

The registered passengers, who are the ultimate recipient of the airport services, may take ITC of GST paid on PSF and UDF on the basis of pure agent's invoice issued by the airline to them

Clarification regarding applicability of GST on delayed payment charges in case of late payment of Equated Monthly Instalments (EMI) [Circular No. 102/21/2019-GST dated 28.06.2019]

Asper Entry 27 of exemption notification, interest payable in any manner in respect of any moneys borrowed/debt incurred including a deposit, claim or other similar right or obligation

As per the provisions of section 15(2)(d) of the CGST Act, the value of supply shall include <u>interest or late fee or penalty for delayed payment</u> of any consideration for any supply

The taxability is explained in the following illustrations

Illustration – 1: X sells a mobile phone to Y. The cost of mobile phone is Rs. 40,000/-. However, X gives Y an option to pay in installments, Rs. 11,000/- every month before 10th day of the following month, over next four months (Rs. 11,000/- × 4 = Rs. 44,000/-). As per the contract, if there is any delay in payment by Y beyond the scheduled date, Y would be liable to pay additional/ penal interest amounting to Rs. 500/- per month for the delay.

In some instances, X is charging Y Rs. 40,000/- for the mobile and is separately issuing another invoice for providing the services of extending loans to Y, the consideration for which is the interest of 2.5% per month and an additional/ penal interest amounting to Rs. 500/- per month for each delay in payment.

In this case, the amount of penal interest is to be included in the value of supply [i n terms of section 15(2)(d)]. The transaction between X and Y is for supply of taxable goods i.e. mobile phone. Accordingly, the penal interest would be taxable as it would be included in the value of the mobile, irrespective of the manner of invoicing.

Illustration – 2: X sells a mobile phone to Y. The cost of mobile phone is Rs 40,000/-. Y has the option to avail a loan at interest of 2.5% per month for purchasing the mobile from M/s. ABC Ltd. The terms of the loan from M/s. ABC Ltd. allows Y a period of four months to repay the loan and an additional/ penal interest @ 1.25% per month for any delay in payment.

Here, the additional/ penal interest is charged for a transaction between Y and M/s. ABC Ltd., and the same is getting covered under exemption Entry 27. Consequently, in this case the 'penal interest' charged thereon on a transaction between Y and M/s. ABC Ltd. would not be subject to GST as the same would be covered under said exemption entry. However, any service fee/ charge or any other charges, if any, are levied by M/s. ABC Ltd. in respect of the transaction related to extending deposits, loans or advances does not qualify to be interest as defined in exemption notification, and accordingly will not be exempt.

Moreover, the value of supply of mobile by X to Y would be Rs. 40,000/- for the purpose of levy of GST.

It is further clarified that the transaction of levy of additional/ penal interest does not fall within the ambit of entry 5(e) of Schedule II of the CGST Act as this levy of additional/ penal interest satisfies the definition of "interest" as contained in exemption notification

Art works sent by artists to galleries for exhibition is not a supply no GST.

when a buyer selects a particular art, work displayed at the gallery, that the actual supply takes place and applicable GST would be payable at the time of such supply. Circular No. 22/22/2017 GST dated 21.12.2017

Moulds and dies owned by Original Equipment Manufacturers (OEM) that are sent free of cost (FOC) to a component manufacturer (the two not being related persons or distinct persons) does not constitute a supply as there is no consideration involved [Circular No. 47/21/2018 GST dated 08.06.2018

Services of short-term accommodation, conferencing, banqueting etc., provided to a SEZ developer or a SEZ unit shall be treated as an inter-State supply [Circular No. 48/22/2018 GST dated 14.06.2018].

Tenancy rights/pagadi system

- Pagadi system i.e. transfer of tenancy rights against tenancy premium, covered under supply of service liable to GST. It is a form of lease or renting of property and such activity is specifically declared to be a service Schedule II.
- The transfer of tenancy rights cannot be treated as sale of land/ building as per Schedule III.
- Further, services provided by outgoing tenant by way of surrendering the tenancy rights against consideration in the form of a portion of tenancy premium is liable to GST [Circular No.44/18/2018 CGST dated 02.05.2018].

Inter-State movement of various modes of conveyance, between distinct persons Inter-State movement of various modes of conveyance

Trains, Buses, Trucks, Tankers, Trailers, Vessels, Containers, Aircrafts, Is not liable for GST and hence no GST payable. However, applicable CGST/SGST/IGST, as the case may be, shall be leviable on repairs and maintenance done for such conveyance [Circular No. 1/1/2017 IGST dated 07.07.2017**].

inter-State movement of rigs, tools and spares, and all goods on wheels [like cranes], [except in cases where movement of such goods is for further supply of the same goods], such inter-State movement shall be treated 'neither as a supply of goods or supply of service,' and consequently no IGST would be applicable on such movements. In this context, it is also reiterated that applicable CGST/SGST/IGST, as the case maybe, is leviable on repairs and maintenance done for such goods [Circular No. 21/21/2017-GST dated 22.11.2017].

Fee paid by litigants in the Consumer Disputes Redressal Commissions are not leviable to GST.

Any penalty or fees imposed by or amount paid to these Commissions will also not attract GST. Circular No. 32/06/2018 GST dated 12.02.2018

Activity of bus body building, is a supply of goods or services

Classification of this composite supply, as goods or service would depend on which supply is the principal supply which may be determined on the basis of facts and circumstances of each case **Circular No. 34/08/2018 GST dated 01.03.2018**

Retreading of tyres is a supply of goods or services

The pre-dominant element is the process of retreading which is a supply of service. Rubber used for retreading is an ancillary supply. Which part of a composite supply is the principal supply**. Circular No. 34/08/2018 GST dated 01.03.2018**

Supply of retreaded tyres, where the old tyres belong to the supplier of retreaded tyres, is a supply of goods.

GST on taxable services provided by the members of the JV to the JV and vice versa and inter se between the members of the JV (Taxability of cash calls in case of JV) [Circular No. 35/09/2018 GST dated 05.03.2018]

Illustration	Taxability
Illustration A: There are 4 members in the JV including the operating member and each one contributes Rs. 100 as part of their share. A total amount of Rs. 400 is collected. The operating member purchases machinery for Rs. 400 for the JV to be used in oil production.	It is the subject matter of 'ST/GST' for the reason that the operating member is not carrying out an activity for another for consideration. In Illustration A, the money paid for purchase of machinery is merely in the nature of capital contribution and is therefore a transaction in money
Illustration B: There are 4 members in the JV including the operating member and each one contributes Rs. 100 as part of their share. A total amount of Rs. 400 is. collected. The operating member thereafter uses its own machine and performs exploration and production activities on behalf of the J V	the operating member uses its own machinery and is therefore providing 'service' within the scope of supply of CGST Act. This is because in this scenario, the operating member is recovering the cost appropriated towards machinery and services from the other JV members in their participating interest ratio.

Services provided by a College Hostel Mess

- If the catering services is one of the services provided by an educational institution to its students, faculty and staff and the said educational institution is covered by the definition of 'educational institution' as given above, then the same is exempt
- If the catering services, i.e., supply of food or drink in a mess or canteen, is provided by anyone other than the educational institution, then it is a supply of service to the concerned educational institution and attracts GST [Circular No. 28/02/2018 GST dated 08.01.2018]

Clarification on hostel accommodation provided by Trusts to students

Hostel accommodation services do not fall within the ambit of charitable activities as defined in para 2(r) of Notification No. 12/2017-CT(Rate). However, services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having declared tariff of a unit of accommodation below Rs. 1,000 per day or equivalent are exempt. Thus, accommodation service in hostels including by Trusts having declared tariff below Rs. 1,000 day is exempt. [Circular No. 32/06/2018 GST dated 12.02.2018].

<u>GST liability on Transfer of Development rights for Construction service and Transfer of Construction service for transfer of Development rights Notification No. 4/2018 CT (R) dated 25.01.2018]</u>

GST liability arise in both cases, the liability deferred till 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 (eg. allotment l e t t e r).

Classification

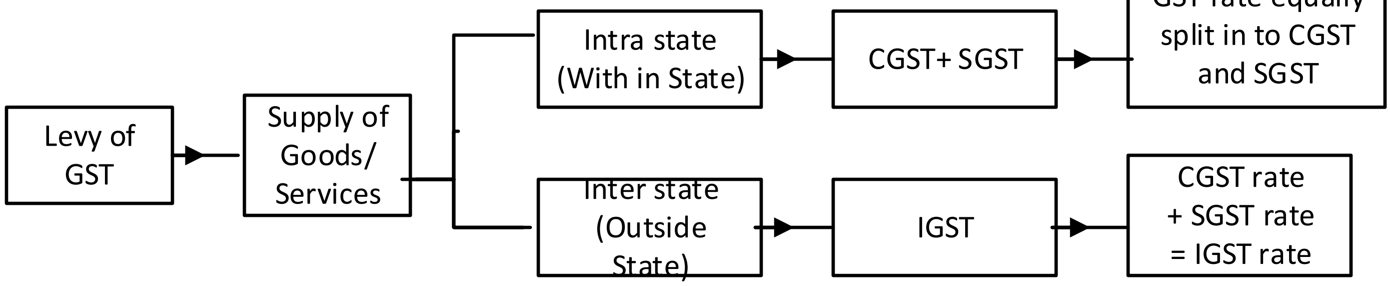
cutting and packing of fabrics into pieces of different lengths from bundles or thans, will not change the nature of these goods and such pieces of fabrics would continue to be classifiable under the respective heading as the fabric. [Circular No. 13/13/2017 GST dated 27.10.2017.

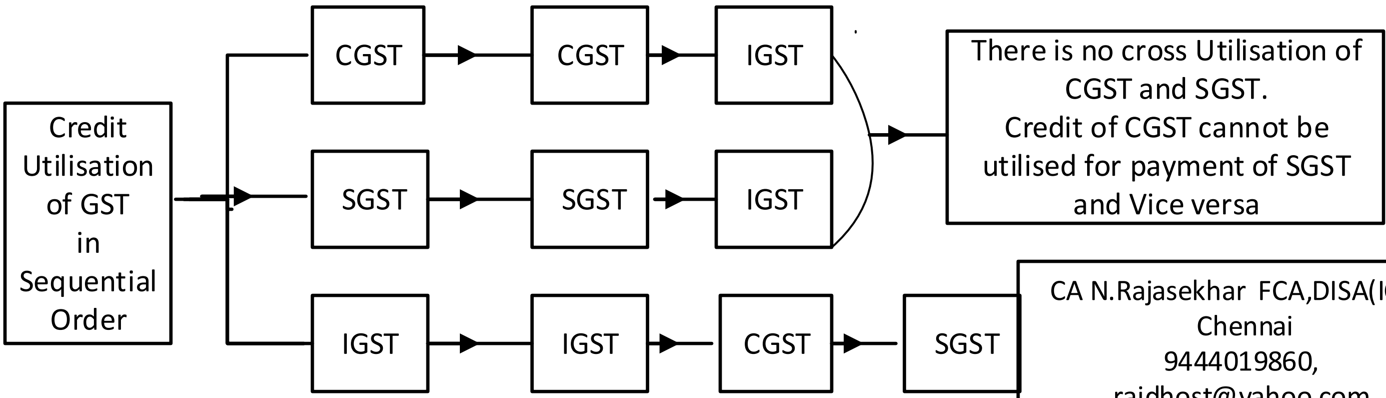
Clarification on various doubts related to treatment of sales promotion schemes under GST. [Circular 92/11/2019 GST dated 07.03.2019		
SNO	Particulars/Issue	GST Liability
1	Free samples and gifts. Example: drug samples of Pharma companies	• As per section 7(1)(a) of the CGST Act, the goods or services which are supplied free of cost (without any consideration) shall not be treated as supply" under GST (except in case of activities mentioned in Schedule I of the CGST Act). Hence there is no GST liability. • ITC is not available Sec 17(5)
2	Buy one get one free offer	• When one item is being "supplied free of cost" without any consideration. 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. It can at best be treated as supplying two goods for the price of one. • Taxability of such supply will be dependent upon as to whether the supply is a composite supply or a mixed supply and the rate of tax shall be determined as per the provisions of section 8 of the CGST Act. • ITC available

Composite and Mixed Supply

Activity/Transaction	Principal supply
Supply of printed books, pamphlets, brochures, envelopes, annual reports, leaflets, cartons, boxes etc., printed with design, logo, name, address or other contents supplied by the recipient of such printed goods	In the case of printing of books, pamphlets, brochures, annual reports, and the like, where only content is supplied by the publisher or the person who owns the usage rights to the intangible inputs while the physical inputs including paper used for printing belong to the printer, supply of printing [of the content supplied by the recipient of supply] is the principal supply and therefore such supplies would constitute
	In case of supply of printed envelopes, letter cards, printed boxes, tissues, napkins, wall paper etc. by the printer using its physical inputs including paper to print the design, logo etc. supplied by the recipient of goods, predominant supply is supply of goods and the supply of printing of the content [supplied by the recipient of supply] is ancillary to the principal supply of goods and therefore such supplies would constitute supply of goods. [Circular No. 11/11/2017 GST dated 20.10.2017]
Activity of bus body building	The principal supply may be determined on the basis of facts and circumstances of each case [Circular No. 34/8/2018-GST dated 01.03.2018]
Retreading of tyres	Pre-dominant element is process of retreading which is a supply of service. Rubber used for retreading is an ancillary supply. Supply of retreaded tyres, where the old tyres belong to the supplier of retreaded tyres, is a supply of goods [Circular No. 34/8/2018-GST dated 01.03.2018].

Levy of GST and Credit Utilisation





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Illustrations on CGST and SGST Calculation

1. Supply of goods and services with in state

Mr. A supplies goods/Services to B with in the same state. Assume GST rate 18%	
Particulars	**Amount (in Rs.)**
Value charged for supply of goods/ services	10,000
Add: CGST @ 9%	900
Add: SGST @ 9%	900
Total price charged by A to B for local supply of goods/ services	11,800
Mr. A pays CGST Rs. 900 and SGST Rs. 900/- to Govt. He is the first seller and will not get any credit	

Mr. B supplies the same goods/Services to C with in the same state. Assume GST rate 18%	
Particulars	**Amount (in Rs.)**
Value of goods/ services purchased from A	10,000
Add: Value addition- 30% (profit and overheads)	3,000
Value of goods	13,000
Add: CGST @ 9%	1,170
Add: SGST @ 9%	1,170
Total price charged by B to C for local supply of goods/ services	15,340
Computation of GST payable by B to the Government	
CGST payable	1170
Less: Credit of CGST	900
CGST payable to Central Government	270
SGST payable	1170
Less: Credit of SGST	900
SGST payable to State Government	270

1. Supply of goods and services outside state (interstate supply)

Mr. X supplies goods/Services to Y with in the same state. Assume GST rate 18%	
Particulars	**Amount (in Rs.)**
Value charged for supply of goods/ services	10,000
Add: CGST @ 9%	900
Add: SGST @ 9%	900
Total price charged by X to Y for local supply of goods/ services	11,800
Mr. X pays CGST Rs. 900 and SGST Rs. 900/- to Govt. He is the first seller and will not get any credit	

Mr. Y supplies the same goods/Services to Z in another state. Assume GST rate 18%	
Particulars	**Amount (in Rs.)**
Value of goods/ services purchased from A	10,000
Add: Value addition- 30% (profit and overheads)	3,000
Value of goods	13,000
Add: IGST @ 18%	2,340
Total price charged by Y to Z for Interstate supply of goods/ services	15,340
Computation of IGST payable by Y to the Government	
IGST payable	2340
Less: Credit of CGST	900
Less: Credit of SGST	900
IGST payable to Central Government	540

The manner of utilization of IGST credit as per new rule is explained in the topic of payment of tax

Definitions under GST-1

Goods/ Services

- **Goods** Sec 2(52) Of CGST Act — Means → Every kind of movable property
  - includes →
    - Actionable claim
    - Growing crops, grass and
    - things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply
  - Excludes → Money and securities
- **Services** Sec 2(102) Of CGST Act — Means → Anything Other than Goods
  - includes → Activities relating to: Use of money or
    - conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged.
    - Explanation: services" includes facilitating or arranging transactions in securities from 01.02.2019

Consideration Sec 2(31) Of CGST Act

- Monetary → Payment in <u>money</u> or otherwise for supply → Deposit when the supplier applies such deposit as Consideration for Supply (ie adjustment deposit for sales) Refundable deposit is not a consideration
- Non-Monetary → Monetary value of any act or forbearance for the supply

→ Received From <u>Recipient</u> Or any Other person Excluding subsidy given by Central/ State Governments

Money: means the Indian legal tender or any foreign currency, cheque, promissory note, bill of exchange, letter of credit, draft, pay order, traveller cheque, money order, postal or electronic remittance or any other instrument recognised by the Reserve Bank of India when used as a consideration to settle an obligation or exchange with Indian legal tender of another denomination but shall not include any currency that is held for its numismatic value [Section 2(75) of CGST Act]

Recipient Sec 2(93) Of CGST Act

- Consideration is payable → For goods/Services → the person who is liable to pay that consideration,
- Consideration is not payable
  - Goods →
    - Person to whom the goods are delivered or made available, or
    - to whom possession or use of the goods is given or made available,
  - Services → The person to whom the service is rendered,

Person include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied.

Definitions under GST-2

Business includes Sec 2(17) CGST Act

- Any trade/commerce, manufacture, profession etc. even if there is no monetary benefit
  - Any activity incidental/ ancillary to it
  - Any activity of same nature even if no volume/continuity
- Supply/acquisition of goods including capital goods & services
  - At the time of
    - Commencement of business
    - Closure of business
- Provision of facilities by club/association to its members for a consideration
- Services as holder of office accepted in course/ furtherance of trade, profession
- Admission to any premises for consideration
- ~~Services by race club by way of totalisator or a licence to book maker in such club~~ Activities of a race club including by way of totalisator or a license to book maker or activities of a licensed book maker in such club from 01.02.2019
- Any activity by Government /local authority as public authorities

Manufacture: means processing of raw material or inputs in any manner that results in emergence of a new product having a distinct name, character and use and the term "manufacturer" shall be construed accordingly [Section 2(72) of CGST Act].
Taxable supply: means a supply of goods or services or both which is leviable to tax under this Act [Section 2(108) of CGST Act].
Taxable territory: means the territory to which the provisions of this Act apply [Section 2(109) of CGST Act]
India including J & K. GST is applicable to J & K also.
Supplier: in relation to any goods or services or both, shall mean the person supplying the said goods or services or both and shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied [Section 2(105) of CGST Act]

E-Commerce operator: means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce. [Section 2(45) of CGST Act]
Exempt supply: means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under section 11, or under section 6 of the Integrated Goods and Services Tax Act, and includes non-taxable supply [Section 2(47) of CGST Act].
Reverse charge: means the liability to pay tax by the recipient of supply of goods or services **or** both instead of the supplier of such goods or services or both under section 9(3)/9(4), or under section 5(3)/5(4) of the IGST Act [Section 2(98) of CGST Act].
Non-taxable supply: means a supply of goods or services or both which is not leviable to tax under CGST Act or under IGST Act. [Section 2(78) of CGST Act]
Taxable person: means a person who is registered or liable to be registered under section 22 or section 24. [Section 2(107) of CGST Act]

Intrastate supply
Where the location of the supplier and the place of supply of goods or services are in the same State/Union territory, it is treated as **intra-State supply** of goods or services respectively.
Interstate supply
Where the location of the supplier and the place of supply of goods or services are in (i) two different States or (ii) two different Union Territories or (iii) a State and a Union territory, it is treated as **inter-State supply** of goods or services respectively.

Concept of supply under GST -Sec 7 of CGST Act

Supply under GST

7(1) inclusions

7(1)(a)

All forms of supply of goods or services or both such as <u>sale, transfer, barter, exchange, license, rental, lease</u> or disposal made or agreed to be made for a <u>consideration by a person in the course or furtherance of business</u>

Essentials

- Consideration
- in the course of Business (Commercial business transactions)
- Taxable supply By Taxable person

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7(1)(b)

- <u>importation of services</u>, for a consideration whether or not in the course or furtherance of business,

Essentials

- Consideration
- in the course of Business Or not in the course of business (personal purpose)

7(1)(c)

- Supplies made without Consideration listed in Schedule I

<u>Schedule I:</u>	
1	**Permanent transfer / disposal** of business assets for which ITC is availed
2	Supplies between **related persons/ distinct persons (person has more than one registration in same state or different state ex. Ho and branches)** in the course or furtherance of business. Gift by employer to employee in excess of Rs. 50000/-(gifts of less than Rs. 50,000 in value in a FY by employer to employee not to be treated as supply)
3	Supply of goods **by / to principal to / by agent** where agent undertakes to supply / receive such goods on behalf of principal without consideration. Supply services with consideration.
4	**Importation of service from a related person** or from any of his other establishments outside India by person in the course or furtherance of business. Example: Importer of exempted supplies who imports services from related person is liable for GST

(1A) where certain activities or transactions, constitute a supply in accordance with the provisions of sub-section (1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II. FA 2018

7(2) Exclusions

- Activities not be considered as supply (Sch-III)- Negative list of supply

7(3)

By Notification on recommendation of GST Council treat activity as

- Supply of goods and not service
- Supply of service and not goods

Continue on next

Concept of supply in GST -2

~~Deemed supply of goods/services .~~If it is satisifed the definition of a supply under Sec 7(1) it will be the Supply of Goods/Services as below (Schedule II) Sec 7(1A)

Deemed Supply of Goods/ Services Sch II

1. Transfer Of
   - Title in goods → Supply of Goods
   - Title in goods under an agreement which stipulates that property shall pass at a future date. → Supply of Goods
   - Right in goods/ undivided share in goods without transfer of title in goods → Supply of Service
2. Land and buildings
   - Lease, tenancy, easement, licence to <u>occupy land</u>. → Supply of Service
   - <u>Lease or letting out of building</u> including a <u>commercial, industrial or residential complex for business or commerce,</u> wholly or partly (lease rentals) → Supply of Service
3. Treatment or Process → Applied to another person's goods 'Job Work' performed by a job worker like dyeing of fabric in various colours. → Supply of Service
4. Transfer of goods forming part of Business Assets
   - transferred or disposed off by/under directions of person carrying on the business , whether or not for consideration → Supply of Goods
   - Allowing or made available for other than business use under directions of person carrying on the business whether or not for consideration

     Ex. Company car used by director for personal purpose → Supply of Service
   - When person who ceases to be a taxable person, shall be deemed to be goods supplied by him, in the course or furtherance of his business, immediately before he ceases to be a taxable person.

     Ex: A, a trader, is winding up his business. Any goods left in stock shall be deemed to be supplied by him and GST shall be payable.

     Exceptions:

     Business is transferred as a going concern to another person.

     Business is carried on by a personal representative who is deemed to be a taxable person → Supply of Goods
5. Renting for commercial/ Construction service payments received before completion certificate/Temporary transfer or use of IPR/Information technology service, supply of software on media/ Agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act/Transfer of the right to use any goods for any purpose → Supply of Service
6. Supply of goods by an unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration.

   Ex: A local club supplies snacks etc. to its members during its monthly meeting for a nominal payment. → Supply of Goods

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Taxability of Composite and Mixed Supply Sec 8 of CGST Act

Composite And Mixed Supply

Composite Supply Sec, 2(30) of the CGST Act → Supply made by a taxable person to a recipient →

1. Comprises two or more taxable supplies of goods or services or both, or any combination thereof.
2. Naturally bundled and supplied in conjunction with each other, in the ordinary course of business.
3. One of which is a principal supply

Treated As Principal Supply, and Taxable At Rate Applicable To Principal supply

Principal supply means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary. [Section 2(90) of CGST Act]

Mixed Supply Sec, 2(74) of the CGST Act → Supply made by a taxable person to a recipient →

1. Two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other
2. for a single price where such supply does not constitute a composite supply
3. The individual supplies are independent of each other and are not naturally bundled.

Treated As that Particular Supply, and Taxable At Highest rate

factors in determination of bundled in the ordinary course of business

Perception of consumer/Majority of business do such bundled service/ Nature of service

Examples of composite supply

SNo	Nature of supply	Principal supply
1	Charger supplied along with mobile phones.	Mobile phone
2	Transportation of goods along with packing insurance loading and unloading	Transportation of goods
3	Supply of food along with service charges	Restaurant service
4	Works Contract	Work contract service
5	Air ticket along with food, insurance and free longue	Airline transport of passengers
6	Supply of Equipment along with accessories and warranty	Supply of equipment
7	Hotel service along with food, telephone, laundry	Renting of immovable property

Examples of Mixed supply

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

Guiding principle of Composite and Mixed supply

SNo	Descriptions	Composite supply	Mixed supply
1	Naturally bundled	Yes	No
2	Supplied together	Yes	No
3	One is predominant supply	Yes	No
4	Can be supplied separately	No	No
5	Each supply priced separately	No	No
6	Other supply is not aim in itself	Yes	No
7	All supplies or goods or services	Yes	Yes
8	One supply is goods other service	Yes	Yes

Reverse Charge under GST Sec 9(3) & Notification No. 13/2017 CT (R) dated 28.06.2017

The following table provides a combination of Supplier of service and Service Recipient where the reverse charge of GST is applicable. Any other combination of Supplier of Service or Service Recipient, if the GST is not exempted the GST is payable by Supplier of Service.

1 Services of Goods Transport Agency (GTA)

S. No	Particulars	Particulars
1	Supplier of Service	GTA who has not paid CGST @ 6%
2	Service Recipient	Consignor or consignee who is (a) factory, society, registered dealer of excisable goods, body corporate, partnership firm, AOP and (b) who pays or is liable to pay freight either himself or through his agent for transportation of such goods in goods carriage
3	GST liability of Supplier of Service	NIL
4	GST liability of Service Recipient	100%
5	Explanation	The person who pays or is liable to pay freight for the transportation of goods by road in goods carriage, located in the taxable territory shall be treated as the person who receives the service for the purpose of this notification. i.e., If such a person is located in a non-taxable territory, the supplier of service shall be liable to pay GST

2.Services of Individual Advocate/ Senior Advocate,

S. No	Particulars	Particulars
1	Supplier of Service	An individual advocate including a senior advocate or firm of advocates.
2	Nature of Service	by way of representational services before any court, tribunal or authority, directly or indirectly
3	Service Recipient	Any business entity located in the taxable territory
4	GST liability of Supplier of Service	NIL
5	GST liability of Service Recipient	100%

legal service" means any service provided in relation to advice, consultancy or assistance in any branch of law, in any manner and includes representational services before any court, tribunal or authority.

3. Services of Arbitral tribunal to a business entity.

S. No	Particulars	Particulars
1	Supplier of Service	An arbitral tribunal
2	Service Recipient	Business entity turnover
3	GST liability of Supplier of Service	NIL
4	GST liability of Service Recipient	100%

4. Services provided by way of **sponsorship** to anybody corporate or partnership firm

S. No	Particulars	Particulars
1	Supplier of Service	Any person
2	Service Recipient	Anybody corporate or partnership firm located in the taxable territory
3	GST liability of Supplier of Service	NIL
4	GST liability of Service Recipient	100%

5.All Taxable Services by Government or Local Authority *excluding* ~~renting of immovable property~~ ~~and~~ Postal, port, airport and railway services Notification No. 3/2018 CT (R) dated 25.01.2018 & Notification No. 3/2018 IT (R) dated 25.01.2018]

S. No	Particulars	Particulars
1	Supplier of Service	Central Government/State Government /Union Territory or Local Authority
2	Service Recipient	Any Business entity located in taxable territory
3	GST liability of Supplier of Service	NIL
4	GST liability of Service Recipient	100%

Supply of Service of Renting of immovable property by Central Government/State Government /Union Territory or Local Authority to a Registered person, GST is payable under reverse charge by recipient person i.e. by Registered Person

6. Services of director to company/Body Corporate

S. No	Particulars	Particulars
1	Supplier of Service	Director
2	Service Recipient	Company/Body Corporate located in taxable territory
3	GST liability of Supplier of Service	NIL
4	GST liability of Service Recipient	100%

7.Services supplied by an insurance agent to any person carrying on insurance business.

S. No	Particulars	Particulars
1	Supplier of Service	Insurance Agent
2	Service Recipient	Any person carrying on insurance business, located in the taxable territory
3	GST liability of Supplier of Service	NIL
4	GST liability of Service Recipient	100%

8 Services supplied by a recovery agent

S. No	Particulars	Particulars
1	Supplier of Service	A recovery agent

2	Service Recipient	A banking company or a financial institution or a non- banking financial company, located in the taxable territory
3	GST liability of Supplier of Service	NIL
4	GST liability of Service Recipient	100 %

9.Supply of services by an ~~author~~, music composer, photographer, artist. or the like

S. No	Particulars	Particulars
1	Supplier of Service	An ~~Author~~/music Composer/photographer/artist or the like
2	Nature of service	by way of transfer or permitting the use or enjoyment of a copyright covered under section 13(1)(a) of the Copyright Act, 1957 relating to original literacy dramatic, music, literacy artistic work
3	Service Recipient	~~Publisher,~~ music company, producer or the like, located in the taxable territory.
4	GST liability of Supplier of Service	NIL
5	GST liability of Service Recipient	100 %

In case of service by an author to Publisher Reverse charge is optional wef 01.10.2019. Notification No. 22/2019 CT (R) dated 30.09.2019/ Notification No. 21/2019 IT (R) dated 30.09.2019

an author can choose to pay tax under forward charge if-

- he has taken registration under the CGST Act and filed a declaration, in the prescribed form, that he exercises the option to pay CGST on the said service under forward charge in accordance with section 9(1) of the CGST Act and to comply with all the provisions as they apply to a person liable for paying the tax in relation to the supply of any goods and/or services
- he shall not withdraw the said option within a period of 1 year from the date of exercising such option;
- he makes a declaration on the invoice issued by him in prescribed form to the publisher

10.Services of Person located in nontaxable territory		
S. No	Particulars	Particulars
1	Supplier of Service	Any person located in a non-taxable territory
2	Nature of service	Any service supplied by any person who is located in a non-taxable territory to any person other than non-taxable online recipient
3	Service Recipient	Any person located in the taxable territory other than non-taxable online recipient.
4	GST liability of Supplier of Service	NIL
5	GST liability of Service Recipient	100 %

Non-taxable online recipient means:

As per Section 2(16) of the Integrated Goods and Services Tax (IGST) Act, 2017,

- any Government,
- local authority,
- governmental authority,
- an individual or
- any other person not registered

and receiving online information and database access or retrieval services in relation to any purpose other than commerce, industry or any other business or profession, located in taxable territory.

11. Services supplied by a person located in non- taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India		
S. No	Particulars	Particulars
1	Supplier of Service	**A person located in nontaxable territory**
2	Nature of service	transportation of goods by a vessel from a place outside India up to the customs station of clearance in India
3	Service Recipient	Importer includes any owner, beneficial owner or any person holding himself out to be the importer
4	GST liability of Supplier of Service	NIL
5	GST liability of Service Recipient	100 %

12. Services by way of transportation of passengers by a radio-taxi, motor cab, maxicab		
S. No	Particulars	Particulars
1	Supplier of Service	Driver of Cab
2	Nature of service	Transport of Passengers
3	Service Recipient	E Commerce Operator
4	GST liability of Supplier of Service	NIL
5	GST liability of Service Recipient	100 %

13. Services of providing accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places through electronic commerce operator		
S. No	Particulars	Particulars
1	Supplier of Service	Unregistered person Supplying services through Electronic Commerce Operator
2	Nature of service	Transport of Passengers

3	Service Recipient	E Commerce Operator
4	GST liability of Supplier of Service	NIL
5	GST liability of Service Recipient	100 %

14 Services of Overseeing Committee members to RBI ***Notification No. 33 & 34/2017 IT (R) dated 13.10.2017]***		
S. No	Particulars	Particulars
1	Supplier of Service	Overseeing Committee members
2	Nature of service	Services to RBI
3	Service Recipient	RBI
4	GST liability of Supplier of Service	NIL
5	GST liability of Service Recipient	100 %

15 Services of Individual Direct Selling Agent		
S. No	Particulars	Particulars
1	Supplier of Service	Individual Direct Selling Agents (DSAs) other than a body corporate, partnership or LLP firm
2	Nature of service	Services supplied by individual Direct Selling Agents (DSAs)
3	Service Recipient	A banking company or a NBFC, located in the taxable territory
4	GST liability of Supplier of Service	NIL
5	GST liability of Service Recipient	100 %

16 Services provided by Business facilitator to a banking company from 01.01.2019		
S. No	Particulars	Particulars
1	Supplier of Service	Business facilitator
2	Nature of service	Services provided by Business facilitator to a banking company
3	Service Recipient	A banking company or a NBFC, located in the taxable territory

4	GST liability of Supplier of Service	NIL
5	GST liability of Service Recipient	100 %

17 Services provided by an agent of business correspondent to business from 01.01.2019		
S. No	Particulars	Particulars
1	Supplier of Service	An agent of business Correspondent
2	Nature of service	Services provided by an agent of business correspondent to business
3	Service Recipient	A business correspondent located in taxable territory
4	GST liability of Supplier of Service	NIL
5	GST liability of Service Recipient	100 %

18 Security services (services provided by way of supply of security personnel) provided to a registered person other than CG/ SG/ LA and Government Agency. from 01.01.2019		
S. No	Particulars	Particulars
1	Supplier of Service	Any person other than a body corporate
2	Nature of service	Security services (services provided by way of supply of security personnel) provided to a registered person other than CG SG LA and Government Agency.
3	Service Recipient	Registered person located in taxable Territory
4	GST liability of Supplier of Service	NIL
5	GST liability of Service Recipient	100 %

19. Services supplied by any person by way of transfer of development rights or Floor Space Index (FSI) (including additional FSI) for construction of a project by a promoter. from 01.01.2019		
S. No	Particulars	Particulars
1	Supplier of Service	Any person

2	Nature of service	Services supplied by any person by way of transfer of development rights or Floor Space Index (FSI) (including additional FSI) for construction of a project by a promoter
3	Service Recipient	Promoter Builder
4	GST liability of Supplier of Service	NIL
5	GST liability of Service Recipient	100 %

20. Long term Lease of land 30 years or more from 01.04.2019		
S. No	Particulars	Particulars
1	Supplier of Service	Any person
2	Nature of service	Long term lease of land (30 years or more) by any person against consideration in the form of upfront amount (called as premium, salami, cost, price, development charges or by any other name) and/or periodic rent for construction of a project
3	Service Recipient	Promoter
4	GST liability of Supplier of Service	NIL
5	GST liability of Service Recipient	100 %

21. Services provided by way of renting of a motor vehicle provided to a body corporate wef 01.10.2019		
S. No	Particulars	Particulars
1	Supplier of Service	Any person other than a body corporate, who is paying CGST @ 2.5% on renting of motor vehicles with input tax credit only of input service in the same line of business
2	Nature of service	Services provided by way of renting of a motor vehicle provided to a body corporate
3	Service Recipient	Anybody corporate located in the taxable territory
4	GST liability of Supplier of Service	NIL

5	GST liability of Service Recipient	100 %

22 Services of lending of securities under Securities Lending Scheme,1997 ("Scheme") of Securities and Exchange Board of India, as amended WEF 01.10.2019		
S. No	Particulars	Particulars
1	Supplier of Service	Lender i.e., a person who deposits the securities registered in his name or in the name of any other person duly authorised on his behalf with an approved intermediary for the purpose of lending under the Scheme of SEBI
2	Nature of service	Services of lending of securities under Securities Lending Scheme, 1997 ("Scheme") of Securities and Exchange Board of India, as amended
3	Service Recipient	Borrower i.e., a person who borrows the securities under the Scheme through an approved intermediary of SEBI
4	GST liability of Supplier of Service	NIL
5	GST liability of Service Recipient	100 %

Clarification on the liability of GST on Lending of Securities- [Circular No. 119/38/2019 GST dated 11.10.2019]

- The activity of lending of securities is not a transaction in securities as it does not involve disposal of securities.
- The Scheme under the Securities Lending Scheme, 1997 doesn't treat lending of securities as disposal of securities and therefore is not excluded from the definition of services.
- The lender temporarily lends the securities held by him to a borrower and charges lending fee for the same from the borrower.
- The borrower of securities can further sell or buy these securities and is required to return the lended securities after stipulated period of time.
- The lending fee charged from the borrowers of securities has the character of consideration and this activity is taxable in GST since 01.07.2017.
- With effect from 1st October 2019, the borrower of securities shall be liable to discharge GST under reverse charge mechanism. The nature of GST to be paid shall be IGST under reverse charge mechanism.
- Apart from above, the activities of the intermediaries facilitating lending and borrowing of securities for commission or fee are also taxable separately

New effective rates of GST for the new projects by promoters (Builders) are as follows:

(i) New rate of 1% without ITC on construction of **affordable houses (**area 60 sqm in metros/ 90 sqm in non-metros and value up to Rs. 45 lakh).

(ii) New rate of 5% without ITC shall be applicable on construction of:

   (a) all houses other than affordable houses, and

   (b) commercial apartments such as shops, offices etc. in a residential real estate project (RREP) in which the carpet area of commercial apartments is not more than 15% of total carpet area of all apartments.

Conditions:

Above tax rates shall be available subject to following **conditions**:

(a) Input tax credit shall not be available.

(b) 80% of inputs and input services [other than services by way of grant of development rights, long term lease of land (against upfront payment in the form of premium, salami, development charges etc.) or FSI (including additional FSI), electricity, high speed diesel, motor spirit, natural gas], used in supplying the service shall be purchased from registered persons[17].

GST liability on Transfer of Development rights (TDR) for Construction service and Transfer of Construction service for transfer of Development rights Notification No. 4/2018 CT (R) dated 25.01.2018]

- GST liability arise in both cases for land owner and for builder
- The liability deferred till 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 (eg. allotment letter).
- The liability to pay tax on TDR, FSI, long term lease (premium) has been shifted from land owner to builder under the reverse charge mechanism (RCM

GST Exemption in case of TDR and FSI.

Supply of TDR, FSI, long term lease (premium) of land by a landowner to a developer from 01.04.2019. Entry No 41A and 41B	
Condition for Exemption	constructed flats are sold before issuance of completion certificate and tax is paid on them.
Withdrawal of exemption	Exemption will be withdrawn, when flats sold after issue of completion certificate withdrawal shall be limited to 1% of value in case of affordable houses and 5% of value in case of other than affordable houses

Negative list of supply Schedule III

Activities or transactions which shall be treated <u>neither as a supply of goods nor a supply of services</u>

Negative List of Supply

1. Services by an employee to the employer in the course of or in relation to his employment.
2. Services by any court or Tribunal established under any law for the time being in force.t.
3. Services of MP, MLA, MLC, Corporater, members of panchayat, Govt nominated posts like chairman of corporations /Constitutional posts like speaker, governor etc
4. Services of funeral, burial, crematorium or mortuary including transportation of the deceased.
5. Outright sale of land or Building
6. Actionable claims, other than lottery, betting and gambling.
7. Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India
8. - Supply of warehoused goods to any person before clearance for home consumption;
     Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption.

Time of supply of Goods

Time of supply of Goods/Services various types (Point in which tax liability arise)

- Time of supply under forward charge
- Time of supply under reverse charge
- Time of supply of vouchers exchangeable for goods
- Time of supply in residual cases

Time of supply of Goods Under forward charge

- Date of issue of invoice/Due date of issue of invoice
- Date on which payment recorded in the books of supplier
- Date on which the payment is credited to the supplier's bank account

→ Which ever is earlier

~~The time of supply for suppliers of goods (excluding composition suppliers) will be the time of issue of invoice. Thus,~~ Taxation Amendment Act 2018 GST will not be leviable on advances received against supply of goods in case of such suppliers.**[Notification No. 66/2017 CT dated 15.11.2017]**

Composition dealers are also not required to pay tax on advances received. As they have to prescribed rate on turnover.

Payment of GST in case of goods is date of invoice/ due date of invoice. Hence no need to pay tax on advances received against supply of goods Sec 12(2)(a)

Time of supply of vouchers exchangeable for goods Sec 12(4)

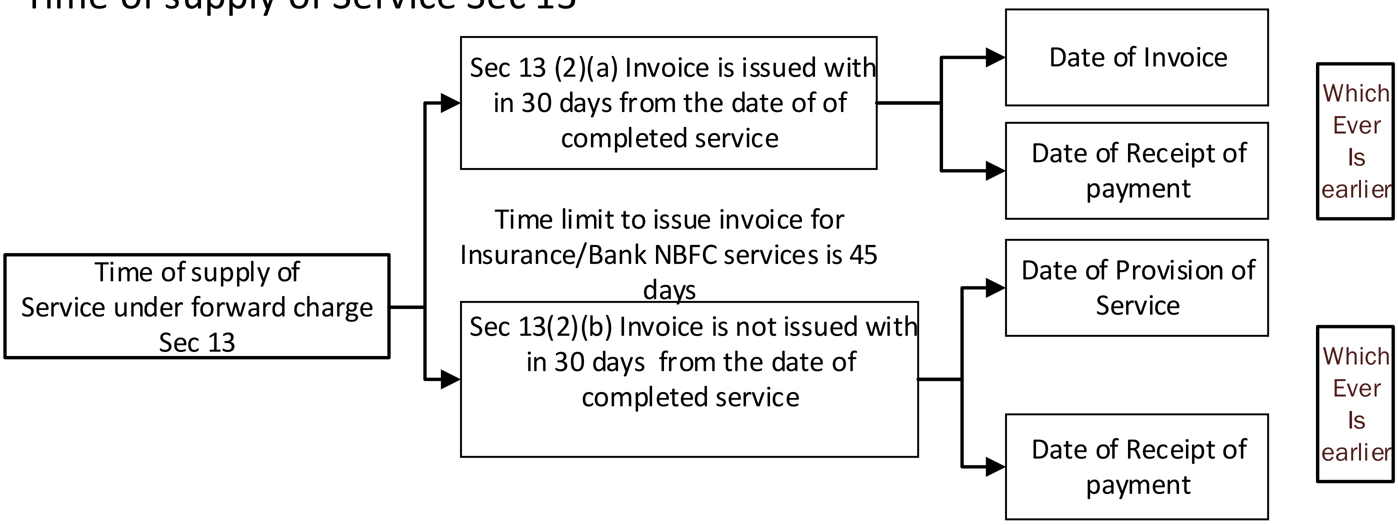
- Food pass (Any food item can be purchases)
  - Supply is identifiable at the time of issue of voucher → DATE OF ISSUE OF VOUCHER
  - Supply is not identifiable at the time of issue of the voucher → DATE OF REDEMPTION OF VOUCHER
- Shirt coupon (Only Shirt can be purchased)
  - Supply is identifiable at the time of issue of voucher → DATE OF ISSUE OF VOUCHER
  - Supply is not identifiable at the time of issue of voucher → DATE OF REDEMPTION OF VOUCHER

Addition in value by way of interest, late fee/penalty for delayed payment of consideration for goods Sec 12(6)/Services Sec 13(6) —Time of supply→ Date on which the supplier receives such addition in value

Time of supply in residual cases for supply of goods Sec 12(5)/ Services Sec 13(5)

- When GST Return is to be filed → Due date of filing of Return
- Other cases → Date of payment of GST

Time of supply of Service Sec 13



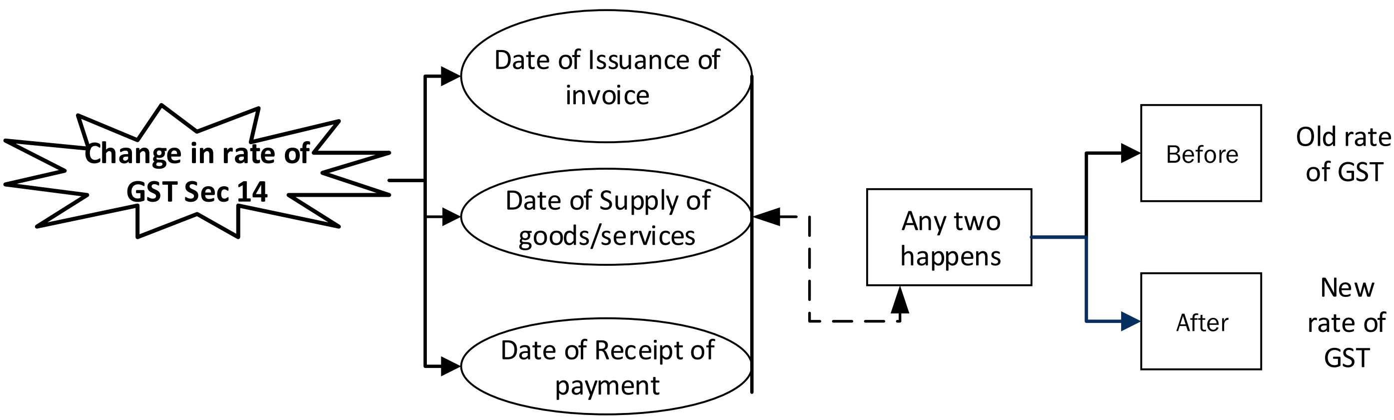
In case where Sec 13(2) (a) or Sec 13(2)(b) do not apply
the date on which the recipient shows the receipt of services in his books of account,

Supplier of taxable service receives an amount up to Rs. 1000/- in excess of the amount indicated in the tax invoice, the time of supply to the extent of such excess amount shall, at the <u>option</u> of the said supplier, be the <u>date of issue of invoice</u> relating to such excess amount.

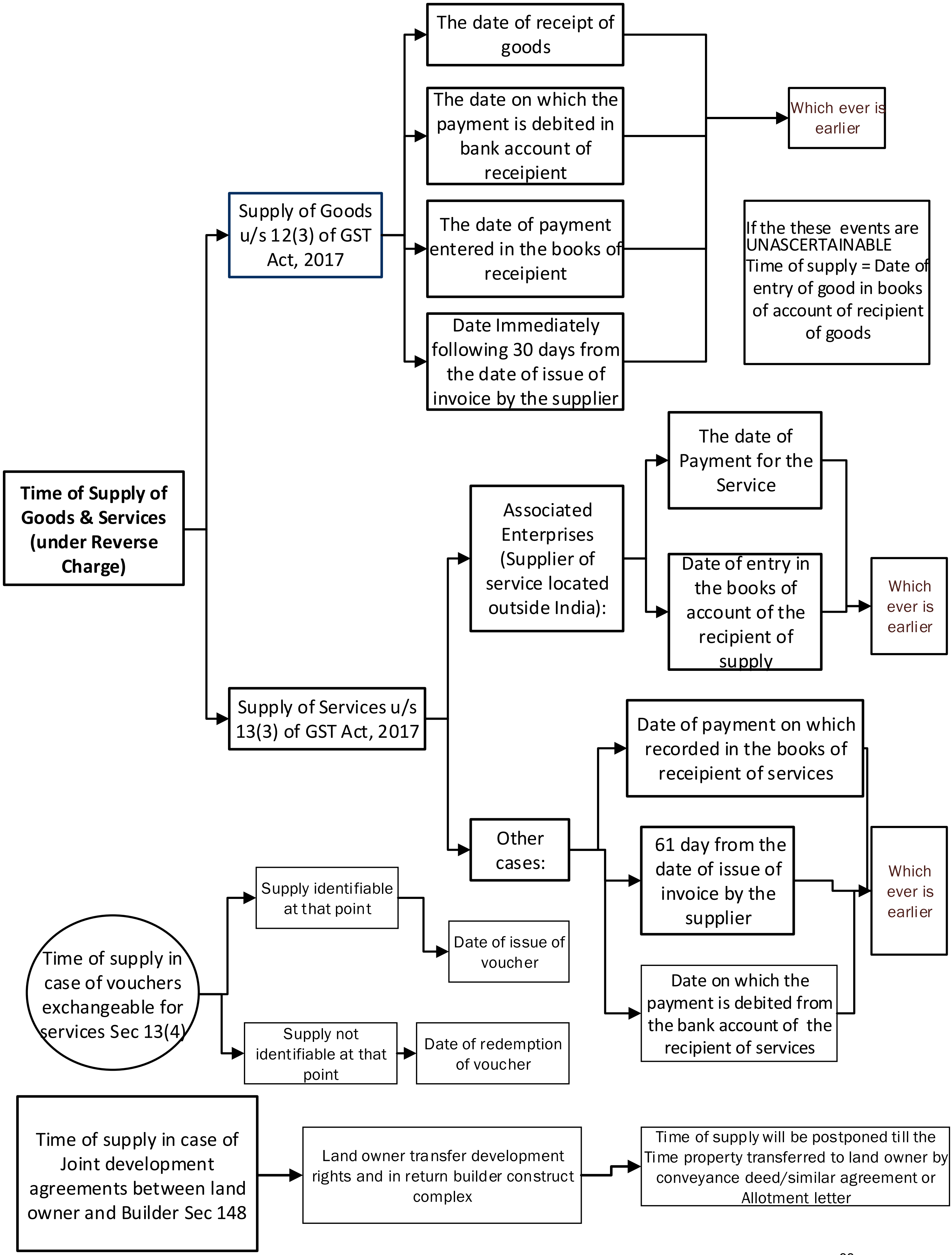
Meaning of Date of Receipt payment

1	Normal cases	Date of entry in books or date of crediting in bank account, Whichever earlier.
2	Special cases in case of Change in rate of GST	
	Rate changes between entry in books and credited in bank account	Payment is credited in the bank with in 4 days from the effective date of new rate- <u>date of entry in the books is the date of payment</u>
		Payment is credited in the bank after 4 days- <u>date of Crediting in the bank account is the date of payment</u>

Change in rate of GST in case of supply of goods/Services Sec 14



Time of Supply of Goods & Services (under Reverse Charge)



Time of Supply in case of Service of TDR and Lon term Lease of Land [Notification No. 6/2019 CT(R) dated 29.03.2019]

Promoter of building (Recipient of Service)

Receives Development rights/ FSI or additional FSI

Receives Long term lease of land on or after 01.04.2019

Consideration paid by Builder to Land owner (Service Provider)

For TDR or FSI

Construction of Complex Building

For Long term Lease

Upfront fee

Time of Suppy

Date of issuance of completion certificate or first occupation of the project, whichever is earlier. GST is payable under Reverse Charge by Promoter of Building

Place of Supply of Services- Important definitions

Supplier Means Sec 2(105)

In relation to goods, Services or goods or Services Both

person supplying the said goods or services or both

include an agent acting as such on behalf of such supplier

Recipient Means Sec 2(93)

Consideration payable

Goods/Services

person who is liable to pay that consideration

No Consideration payable

Goods

the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available;

Services

the person to whom the service is rendered,

Location of Supplier Sec 2(18)/ Recipient Sec 2(17)

Supply Made from/ Supplies received from

Place of business for which registration is obtained

Location of such place of business

Fixed establishment elsewhere

Location of such fixed establishment

More than one establishment, whether place of business or fixed establishment

Location of the establishment most directly concerned with the receipt of supply

all other cases (In absence of such places)

Usual place of residence of the recipient Supplier

Place of Supply General Rule Sec 12(2)

Recipient is registered

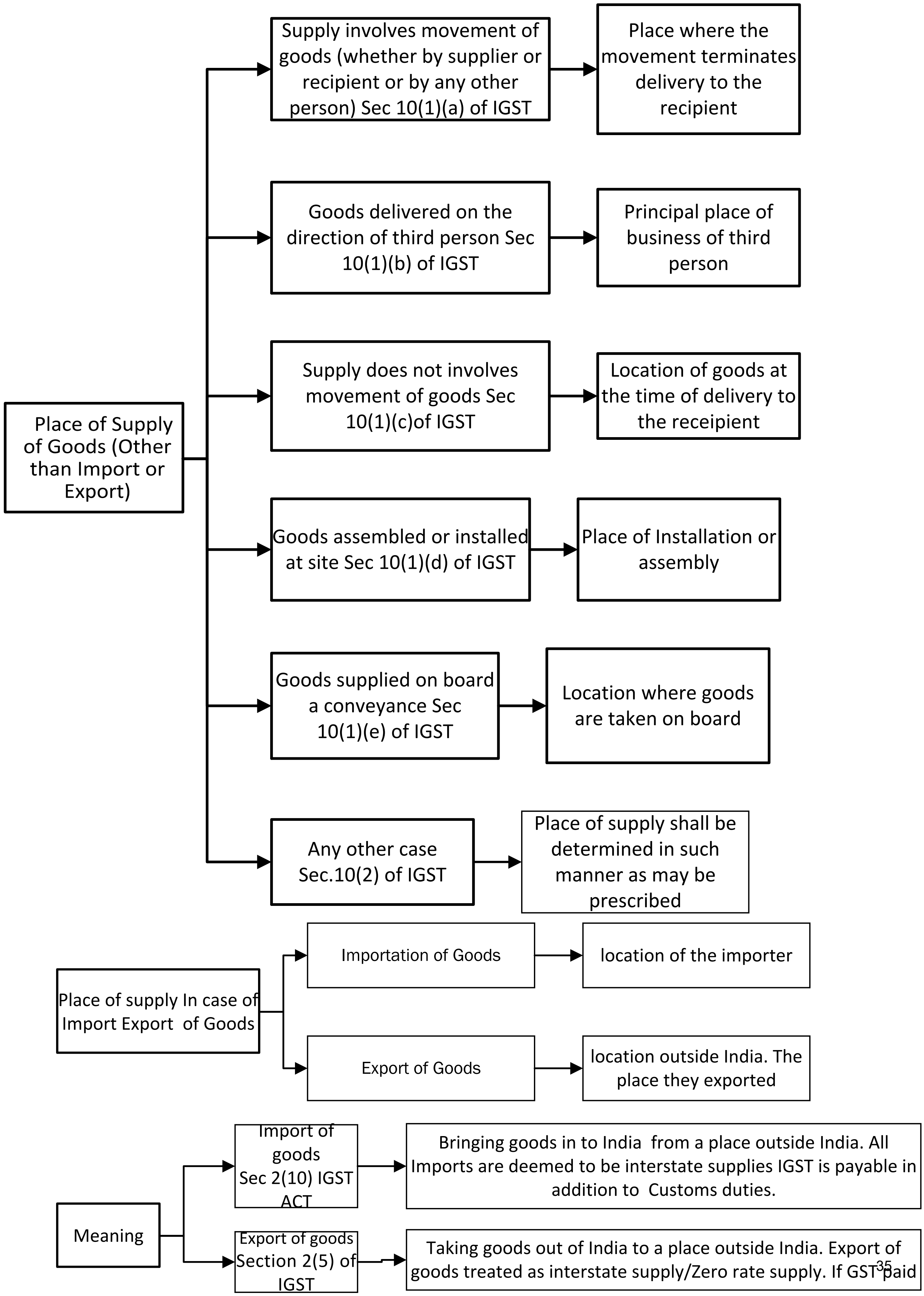
Location of Recipient

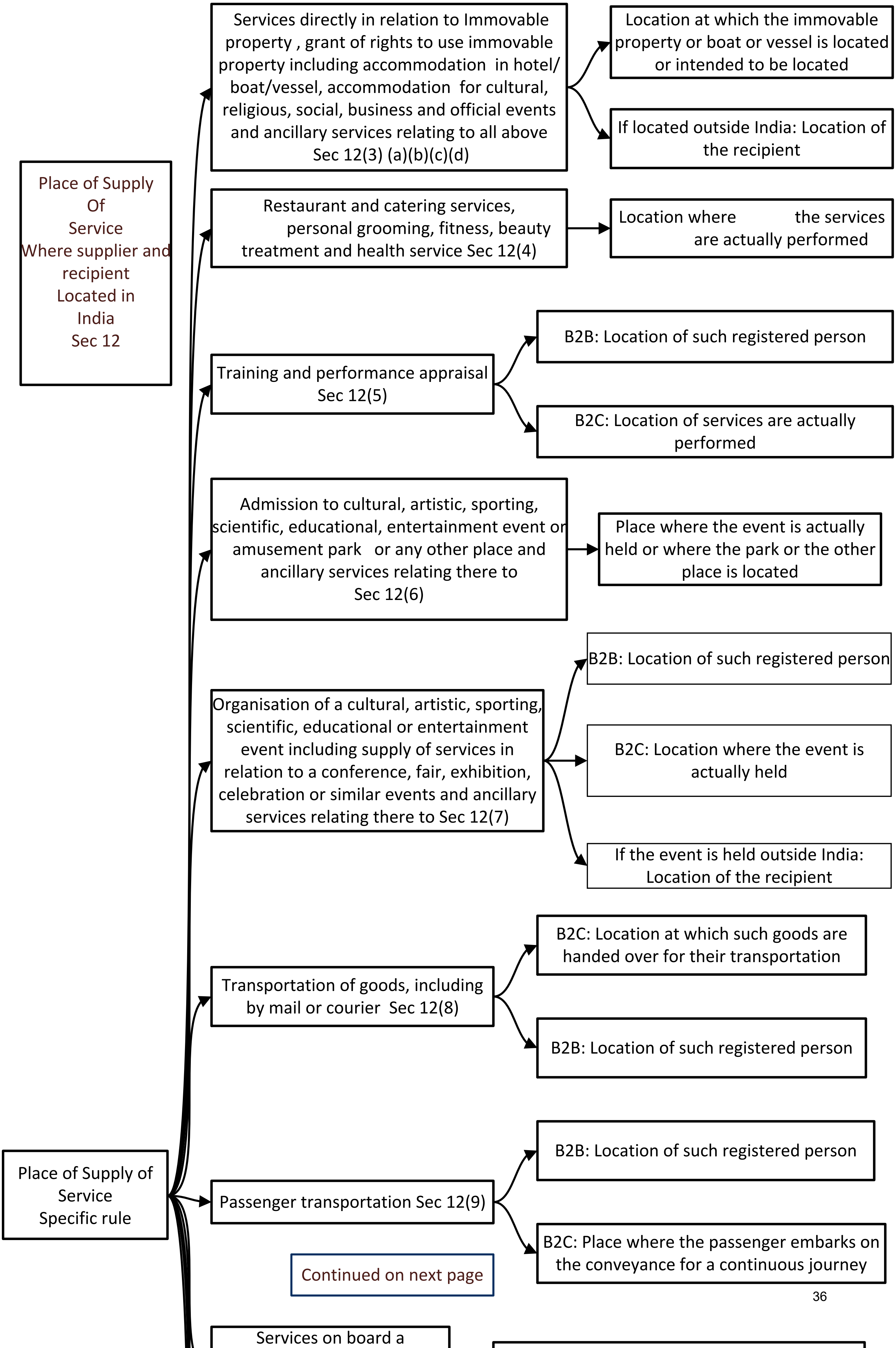
Recipient is Unregistered

Address of recipient available in records, Location of Unregistered Person

In other cases, the location of the supplier of services

Place of Supply of Goods (Other than Import or Export)





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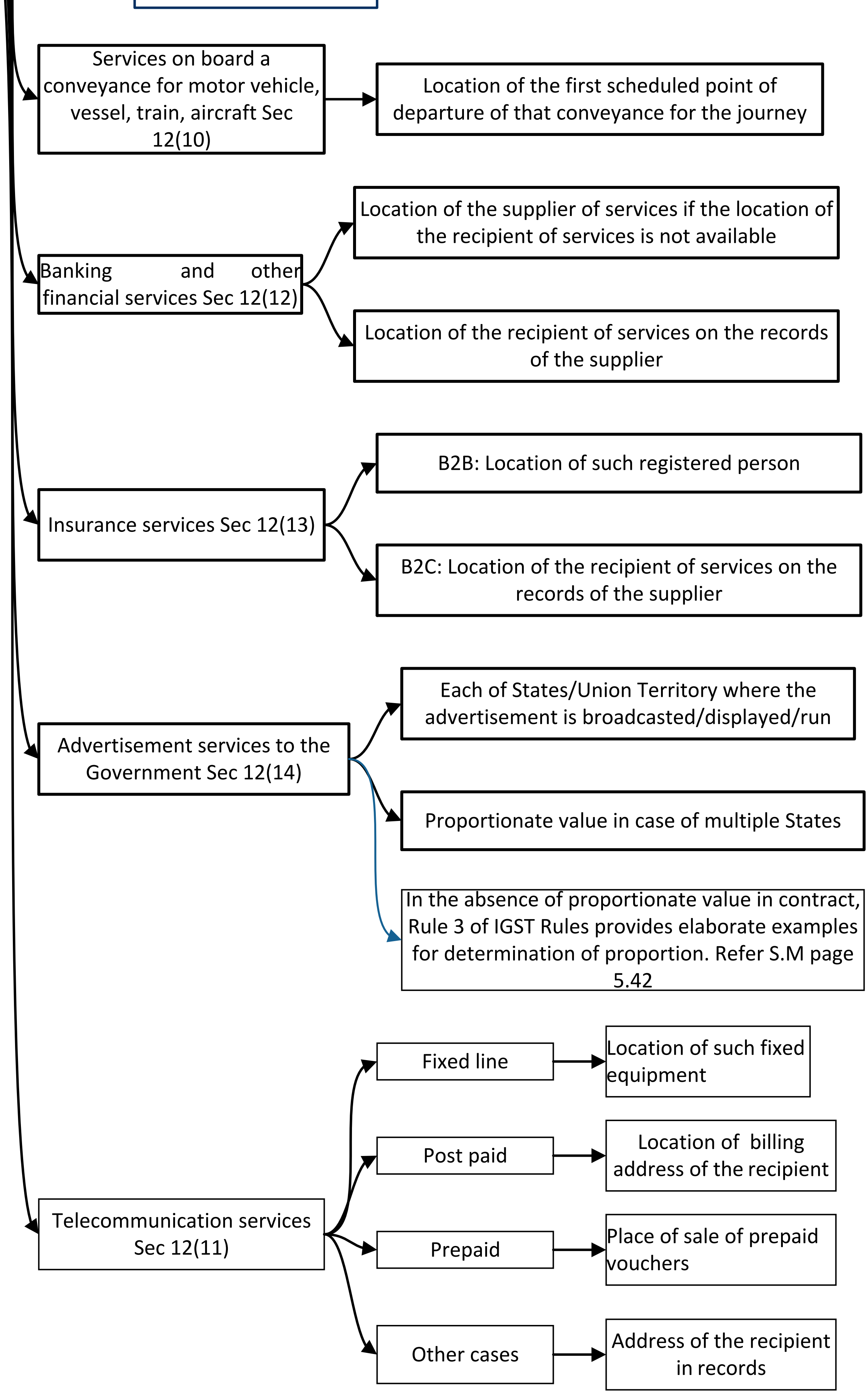

Services on board a conveyance for motor vehicle, vessel, train, aircraft Sec 12(10)
Location of the first scheduled point of departure of that conveyance for the journey
Banking and other financial services Sec 12(12)
Location of the supplier of services if the location of the recipient of services is not available
Location of the recipient of services on the records of the supplier
Insurance services Sec 12(13)
B2B: Location of such registered person
B2C: Location of the recipient of services on the records of the supplier
Advertisement services to the Government Sec 12(14)
Each of States/Union Territory where the advertisement is broadcasted/displayed/run
Proportionate value in case of multiple States
In the absence of proportionate value in contract, Rule 3 of IGST Rules provides elaborate examples for determination of proportion. Refer S.M page 5.42
Telecommunication services Sec 12(11)
Fixed line
Location of such fixed equipment
Post paid
Location of billing address of the recipient
Prepaid
Place of sale of prepaid vouchers
Other cases
Address of the recipient in records

Place of Service :
Where Supplier OR Recipient Located Outside India Sec 13 (1)

Place of Service When Supplier OR Recipient Located Outside India Sec 13 Cross Border Services

- Sec 13(3) (a)Services supplied in respect of goods which are required to be made physically available → Location where the services are actually performed
- provisio-Services supplied in respect of goods but from a remote location by way of electronic means → Location where the goods are situated at the time of supply of services

Above provisions are not applicable in case of goods that are temporarily imported into India for repairs and exported after repairs without being use in India

- Sec 13 (3)(b) Services which require the physical presence of the recipient or the person acting on his behalf with the supplier of services → Location where the services are actually performed
- Sec (13)(4) Service supplied directly in relation to an immovable property → Place where the immovable property is located or intended to be located
- Sec (13)(5) Admission to or organisation of an event → Place where the event is actually held

In case of above services of Sec 13(3),(4) and (5) are supplied

- At more than one location, including a location in the taxable territory -POS is Location in taxable territory Sec 13(6)
- In more than one State- POS is Each such State in proportion to the value of services provided in each State Sec (13(7)

- Sec (13)(8)(a) Services supplied by a banking company, or a financial institution, or a NBFC to account holders → Location of the supplier of services
- Sec (13)(8)(b)Intermediary services → Location of the supplier of services
- Sec (13)(8)(c) Services consisting of hiring of means of transport, including yachts but excluding aircrafts and vessels, up to a period of one month → Location of the supplier of services
- Sec (13)(9) Transportation of goods, other than by way of mail or courier → Place of destination of such Goods
- Sec (13)(10) Passenger transportation → Place where the passenger embarks on the conveyance for a continuous journey
- Sec (13)(11) Services provided on-board a conveyance → First scheduled point of departure of that conveyance for the journey
- Sec (13)(12) Online information and database access or retrieval services → Location service of Recipient
- Sec 13(3)- govt notify any description of services or circumstances in which the place of supply shall be the place of effective use and enjoyment of a service to prevent double taxation/non taxation/ uniformity of rules
- Sec 13(2) -All other Services other than Services from Sec 13(3) to Sec 13(3) →
  - Location of the recipient of service
  - Location of the supplier of service, if location of recipient is not available in the ordinary course of business

Place of supply in case of R & D activities of Pharma Industry when Supplier is located in Taxable territory and recipient locate in Nontaxable Territory- Notification No. 04/2019 IT dated 30.09.2019 WEF 01.10.2019

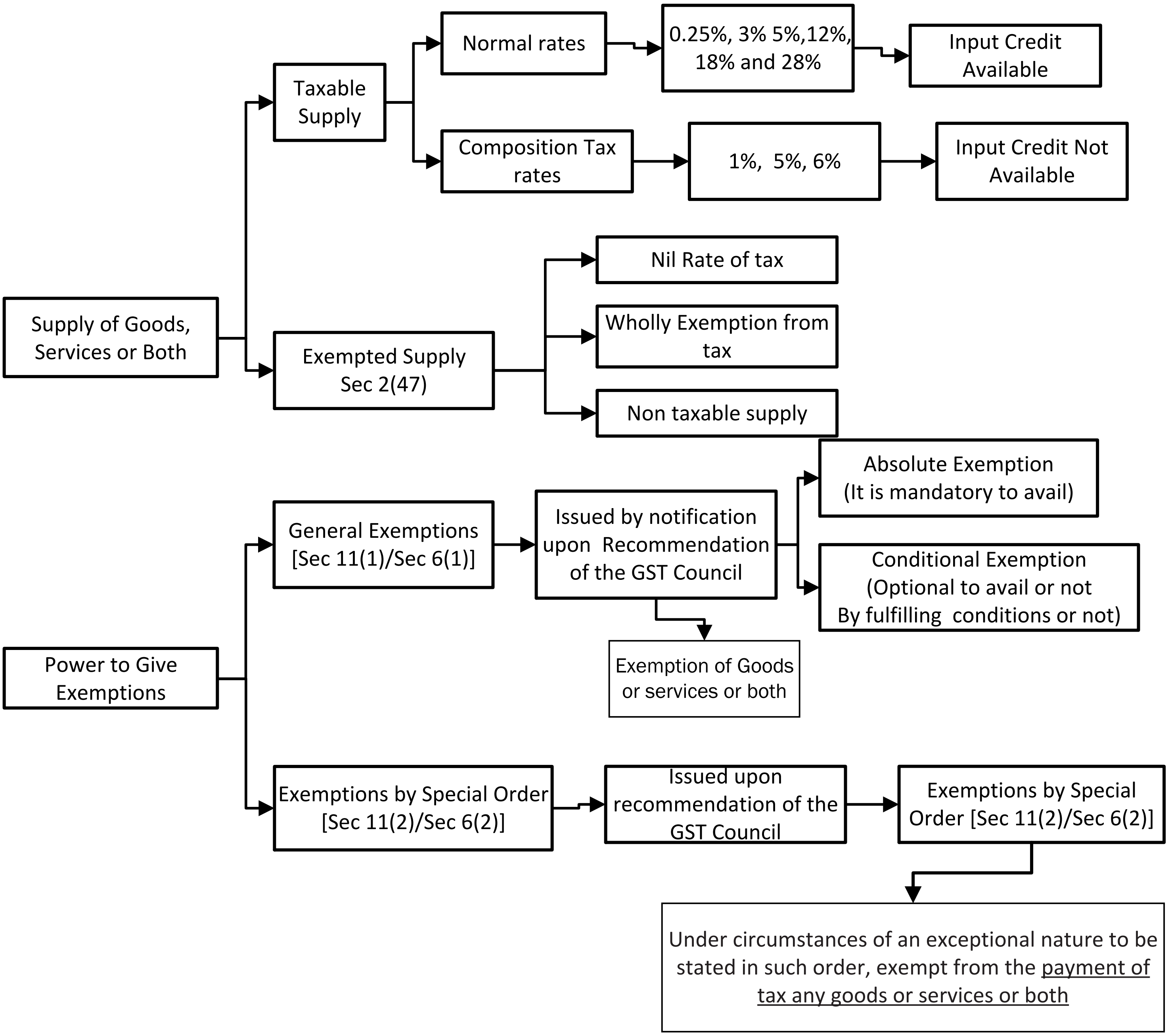
Sl. No.	Nature of supply	Place of supply
1.	Integrated discovery and development	Location of the recipient of services subject to fulfillment of the following conditions: - • Supply of services from the taxable territory is provided as per a contract between the service provider located in taxable territory and service recipient located in non-taxable territory. • Such supply of services fulfills all other conditions in the definition of export of services, except the condition that place of supply is outside India.
2.	Integrated development	
3.	Evaluation of the efficacy of new chemical/ biological entities in animal models of disease	
4.	Evaluation of biological activity of novel chemical/ biological entities in in-vitro assays	
5.	Drug metabolism and pharmacokinetics of new chemical entities	
6.	Safety Assessment/ Toxicology	
7.	Stability Studies	
8.	Bio-equivalence and Bioavailability Studies	
9.	Clinical trials	
10.	Bio analytical studies	

Clarification of place of supply of in case of certain supplies Circular No. 103/22/2019 GST dated 28.06.2019]

Sl. No.	Nature of service	Place of supply
1	Various cargo handling services provided by ports to clients. Some of such services are in respect of arrival of wagons at port, haulage of wagons inside port area up-to place of unloading, siding of wagons inside the port, unloading of wagons, movement The place of supply for the above services is As per sec 12(2) or Sec 13(2) depend upon the terms of contract	General Rule Sec 12(2) – • location of the person receiving the services • the services are supplied to an unregistered person, the place of supply is: the location of such unregistered person, if the address of the unregistered person is available in the records of the supplier • the location of the supplier of services in other cases
		Where the supplier or recipient located outside India Sec 13(2) Location of the recipient of service Location of the supplier of service, if location of recipient is not available in the ordinary course of business

2	Services rendered on goods temporarily imported in India - place of supply in case of services rendered on unpolished diamonds received from abroad, which are exported after cutting, polishing etc.	In case of cutting and polishing activity on unpolished diamonds which are temporarily imported into India are not put to any use in India, the place of supply would be determined as per the provisions contained in section 13(2) of the IGST Act
3	Place of supply in case of software/ design services related to Electronics Semi-conductor and Design Manufacturing (ESDM) industry: supply of software/design services by a supplier located in taxable territory to a service recipient located in non-taxable territory by using the sample hardware kits provided by the service recipient Circular No. 118/37/2019 GST dated 11.10.2019	The place of supply of software/design by supplier located in taxable territory to service recipient located in non-taxable territory by using sample prototype hardware / test kits in a composite supply, where such testing is an ancillary supply, is the location of the service recipient as per section 13(2) of the IGST Act. Provisions of section 13(3)(a) of IGST Act do not apply separately for determining the place of supply for ancillary supply in such cases

Exemptions under GST



- Sec 11(3) of the CGST Act, 2017 or sec 6(3) of the IGST Act, 2017, Government is empowered to clarify the scope of applicability of any notification or special order by inserting an explanation in such notification or order.
- Such clarification shall only be issued by notification within ONE year of issuing of notification or special order and every such explanation shall have effect as if it had always been the part of the first such notification or order, as the case may be

EXEMPTIONS UNDER GST - Notification No. 12/2017 CT (R) dated 28.06.2017

Charitable activities
Condition to claim exemption:
It should register u/s 12AA of Income Tax Act and carry one or more specified charitable activities
Notified charitable activities
Public health by way of care or counselling to
ill persons, severe physical or mental disable/ HIV or alcohol or drug addict persons
Public awareness of preventive health, family planning
Advancement of religion or spirituality including YOGA
Advancement of educational programs or skill development relating to,-- Orphans, persons over the age of 65 years residing in a rural area,, prisoners, mentally retarded persons
Preservation of environment including watershed, forests and wildlife
Rural area" means the area comprised in a village as defined in Land Revenue Records, but excluding: (a) the area under any municipal committee, municipal corporation, town area committee, cantonment board or notified area committee; or any area that may be notified as urban area by the Central Govt. or State Govt

Hostel accommodation provided by trusts

- Hostel accommodation services provided by trusts to students do not fall within the ambit of charitable activities as defined above.
- However, accommodation service in hostels including such services provided by trusts having declared tariff4 below ` 1,000 per day is exempt under Entry 14 of the Notification [discussed later in this chapter] [Circular No. 32/06/2018-GST dated 12.02.2018]

Religious yatras or pilgrimage

Religious Yatras/pilgrimage organised by any charitable or religious trust are not exempt. Further, services of transportation of passengers for a pilgrimage by the charitable trust are not exempt from GST.

GST on services provided TO charitable trusts

Services provided to charitable or religious trusts are not outside the ambit of GST. Unless specifically exempted, all goods and services supplied to charitable or religious trusts are leviable to GST.

Services by way of training or coaching in recreational activities relating to-

arts or culture, or sports by **charitable entities** registered under section 12AA of the Income-tax Act.

Health Care services
Health care Services of diagnosis, treatment for illness, injury, deformity, abnormality and pregnancy rendered by
Authorised Medical Practioners (ie doctors registered under medical council or any Indian law),
Hospitals, clinics, nursing homes sanatoriums, Laboratories
Paramedics, (ie Support staff like nurses, lab technicians and Physio therapist).
Plastic/Cosmetic Surgery when undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma
Ambulance services provided by all service providers (whether or not by clinical establishment or an authorised medical practitioner or paramedics)
System of medicine exempted: Allopathy, Yoga, Naturopathy, Ayurveda, Homeopathy, Siddha, Unani, Any other system of medicine that may be recognized by Central Government
Not covered- (taxable)
Health care services of hair transplant or cosmetic or plastic surgery of beautification

Certain health care services of Hospitals and their taxability			
SNo	**Activity**	**Taxability**	**Reference**
1	Room rent received from Inpatients	Exempt from GST	Circular No 27/01/2018 Dated 04.01.2018
2	Amount received by senior Doctors, specialists/Technicians who attend to hospitals on contract basis/retainer basis	Exempt from GST	Circular No 32/06/2018 Dated 12.02.2018
3	Hospitals charge the patients, say, Rs. 10,000/- and pay to the consultants/technicians only Rs. 7,500/- and keep the balance for providing ancillary services which include nursing care, infrastructure facilities, paramedic care, emergency services	Exempt from GST. Services falls within the definition of health care services	Circular No 32/06/2018 Dated 12.02.2018
4	Food supplied to the patients	Hospital own canteen. No ITC on inputs and capital goods. GST is chargeable on food supplied to patients.	Circular No 32/06/2018 Dated 12.02.2018
		Outsourced canteen., canteen should charge GST to hospital. Hospital will not get ITC on food bills.	
5	Food supplied to the in-patients as advised by the doctor/nutritionists	is a part of composite supply of healthcare and not separately taxable.	Circular No 32/06/2018 Dated 12.02.2018
6	supplies of food by a hospital to patients (not admitted) or their attendants or visitors	No exemption. GST payable.	Circular No 32/06/2018 Dated 12.02.2018

7	Ambulance services by Hospitals, private parties, outsourced/ run by Government/dial 108	Exempt from GST.	
8	Supply of services other than healthcare services such as renting of shops, auditoriums in the premises of the clinical establishment, display of advertisements	No exemption. GST payable.	

Services by a Veterinary Clinic
Services **by** a Veterinary Clinic **in relation to** health care of animals or birds.
Cord Blood Bank
Service provided **by** cord blood banks **by way of** preservation of stem cells or any other service in relation to such preservation.

Renting of immovable property of precincts of religious place
Services by a person by way of-
renting of precincts of a religious place *meant for general public* owned by charitable or religious trust registered u/s 12AA/institution registered u/s 10(23(C)/Body Authority covered u/s 10(23BBA)
Or For conduct of any religious ceremony**;**
Religious place means a place which is primarily meant for conduct of prayers or worship pertaining to a religion, meditation, or spirituality.
Precincts include immovable located within outer boundary wall or immediate vicinity of religious place is eligible for exemption benefit
General public means the body of people at large sufficiently defined by some common quality of public or impersonal nature
Example: Hall attached to temple renting for religious function
exemption shall not apply to,-
renting of rooms where charges are Rs. 1,000 or more per day;
renting of premises, community halls, kalyanmandapam or open area, and the like where charges are Rs.10,000 or more per day;
renting of shops or other spaces for business or commerce where charges are ` 10,000 or more per month

Renting of a hotel, inn, guest house, club, campsite or other commercial places
Renting of a hotel, inn, guest house, club, campsite or other commercial places meant for residential or lodging purposes
When declared tariff Below or Equal to Rs.1000/-

Declared tariff = Room rent Published or printed (without excluding discount) + Charges for all amenities like furniture, air-conditioner, refrigerators or any other amenities
Example 1: if the declared tariff is Rs. 1100/-, but actual room rent charged is `Rs 800/-, by giving discount of Rs.300, GST will be required to be paid on Rs 800/-
Example 2. In the above example, when the declared tariff is revised as per tourist season for all customers as Rs. 800/- there is no GST liability

Pure labour contracts of a single residential unit
Services **by way of** pure labour contracts of construction, erection, commissioning, or installation of **"original works"** pertaining to a **single residential unit otherwise than as a part of a residential complex**.
"Residential complex" means any complex comprising of a building or buildings, having more than one single residential unit. **"Single residential unit"** means a self-contained residential unit which is designed for use, wholly or principally, for residential purposes for one family.

Services by way of renting of residential dwelling for use as residence

Exempted Services	
1	Services by way of renting of residential dwelling for use as residence
2	Houses allotted by Government department to its employees and a license fee is charged for the same
3	Furnished flats given on rent for temporary stay (a few days for a family
Taxable	
Accommodation in hotel, motel, inn, guest house, camp-site, lodge, house boat, or like places meant for temporary stay	
Residential house taken on rent used only or predominantly for commercial or nonresidential use	
House given on rent and the same being used as a hotel or a lodge	
Rooms in a hotel or a lodge let out whether or not for temporary stay	
Furnished flats given on rent for is given for a short stay for different persons over a period of time	

Pilgrimage Services
Services **by** a **"specified organization"** in respect of a **"religious pilgrimage facilitated by the ~~Ministry of External Affairs, Govt. of India,~~ under bilateral arrangement"**.
"Specified organization" means: (a) Kumaon Mandal Vikas Nigam Limited (a Govt. of Uttarakhand Undertaking), (b) Haj Committee of India, (c) State Haj Committee.
Exemption available to Services provided by "Kumaon Mandal Vikas Nigam Limited" in relation to "Kailash Mansarovar Yatra" and Service provided by "Haj Committee of India" and "State Haj Committee" in relation to "Haj Pilgrimage" is exempt.

CONSTRUCTION SERVICES

Pure labour contracts under Housing for All (Urban) Mission / Pradhan Mantri Awas Yojna

Services provided **by way of** pure labour contracts of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of a civil structure or any other **"original works"** pertaining to the "Beneficiary- Led (individual house) Construction or Enhancement (BLC)" under the **Housing for All (Urban) Mission or Pradhan Mantri Awas Yojna.**

"Original works" means –

(a) all new constructions,

(b) all types of additions and alterations to abandoned or damaged structures on land that are required to make them workable, or

(c) erection, commissioning or installation of plant, machinery or equipment or structures, whether pre-fabricated or otherwise.

Entry No 11 Pure labour contracts of a single residential unit

Services **by way of** pure labour contracts of construction, erection, commissioning, or installation of **"original works"** pertaining to a **single residential unit otherwise than as a part of a residential complex.**

"Residential complex" means any complex comprising of a building or buildings, having more than one single residential unit.

"Single residential unit" means a self-contained residential unit which is designed for use, wholly or principally, for residential purposes for one family.

Hiring of motor vehicle

Services **by way of** giving on hire –

(a) to a State Transport Undertaking, a motor vehicle meant to carry **more than** 12 passengers, or

(b) to a Goods Transport Agency (GTA), a means of transportation of goods.

Transportation of Passengers		
Coverage 1		
1	Supplier of Service	Airways like Air India, spice jet /Indigo
2	Service	Transportation of passengers with or without belongings
3	Places	Embarking from or Terminating in Airports located in North East like Assam, Meghalaya, Manipur, Mizoram, Nagaland Arunachala Pradesh, Tripura and Bagdogra of West Bengal
4	Taxability	Service exempt
Coverage 2		
1	Supplier of Service	Passenger transport service
2	Service	Transportation of passengers by road with or without belongings
3	Transport through	NON A/C Contract carriage Other than radio taxi excluding the transportation of passengers for tourism, conducted tour, charter or hire], or by **non-air-conditioned stage carriage.**

4	Taxability	Service exempt
Coverage 3		
1	Supplier of Service	Passenger transport service
2	Service	Transportation of passengers with or without belongings
3	Transport through	Transport in Rail in 2nd class, sleeper class
		Transport of passengers by metro, monorail or tramway
		Transportation in Inland water ways
		Transport of passengers by public transport, other than predominantly for tourism purpose, in a vessel between places located in India:
		Transport in Metered cabs or auto rickshaws fare as per Govt Rules. And E - rickshaw
4	Service	Exempt
		"E-rickshaw" means a special purpose battery powered vehicle of power not exceeding 4000 watts, having 3 wheels for carrying goods or passengers, for hire or reward

Notes
transportation of passenger for tourism, conducted tour, charter or hire, there is no exemption and service is taxable
Similarly, transportation of passenger through radio taxi is taxable,
Contract carriage Means: Motor vehicle transporting passengers on a contract, runs on a fixed or agreed rate on any route or point to point and includes- (i) a maxi cab; and (ii) a motorcar
Radio taxi means a taxi including a radio cab, by whatever name called, which is in two-way radio communication with a central control office and is enabled for tracking using Global Positioning System (GPS) or General Packet Radio Service (GPRS).
Stage carriage: means a motor vehicle constructed or adapted to carry more than 6 passengers excluding the driver for hire or reward at separate fares paid by or for individual passengers, either for the whole journey or for stages of the journey [Section 2(40) of the Motor Vehicles Act, 1988].

Transportation of Goods by Road, Rail, Vessel		
Coverage 1		
1	Supplier of Service	Transporter of goods other than GTA or Courier Agency
2	Service	Transportation of goods by road
3	Taxability	Exempt
Coverage 2		
1	Supplier of Service	Transporter of goods
2	Service	Transportation of goods by Inland waterways
3	Taxability	Exempt
Coverage 3		
1	Supplier of Service	Goods transport agency by road

2	Service	<u>**Transportation of any goods**</u>
3	Value based exemption	gross amount charged single goods carriage <=Rs.1500/-
		gross amount charged for all goods of single consignee <=Rs.750/-
Coverage 4		
1	Supplier of Service	Goods transport by road/ rail/Vessel
2	Service	Transportation of goods of description of goods SLNo 4
3	Taxability	Service is exempt.
4	List of services exempted	
	a) Agricultural Produce	
	b) milk, salt and food grain including flours, pulses and rice	
	c) organic manure	
	d) newspaper or magazines registered with the Registrar of Newspapers	
	e) relief materials meant for the victims of natural or man-made disasters, calamities, accidents or mishap	
	f) defence or military equipment	
Coverage 5		
1	Supplier of Service	Transporter of goods by Air/Vessel
2	Service	Services **by way of** transportation of goods **by** an **aircraft/vessel** from a place outside India up to the **customs station** of clearance in India. / Services by way of transportation of goods by an <u>aircraft/vessel</u> from customs station of clearance in India to a place outside India have been exempted till 30.09.2019 [Notification No. 2/2018 CT (R) dated 25.01.2018].
3	Taxability	Exempt
Coverage 6		
1	Supplier of Service	Goods transport Agency
2	Recipient	Unregistered person (including an unregistered casual taxable person
2	Service	Transportation of goods
3	Taxability	Service is exempt.
4	Exemption Not available when the Recipient is	
	(a) any factory registered under or governed by the Factories Act, 1948, or	
	(b) any Society registered under the Societies Registration Act, 1860 or under any other law for the time being in force in any part of India, or	
	(c) any Co-operative Society established by or under any law for the time being in force, or	
	(d) anybody corporate established, by or under any law for the time being in force, or	
	(e) any partnership firm whether registered or not under any law including AOP,	
	(f)any casual taxable person registered under the CGST Act or IGST Act or SGST Act or UTGST	

Inland water ways comprise of rivers, canals, back waters, creeks etc., . There is around 14500 Km inland water ways in India

Examples of inland water/National water ways- for understanding

1. Ganga-Bhagirathi-Hooghly river Between Allahabad and Haldia connecting UP, Bihar, Jharkhand and West Bengal (1620 KM)
2. Sadiya- Dhubri stretch of river Brahmaputra (891 KM)
3. Bhadrachalam- Rajahmundry stretch of river Godavari Connecting Telangana and Andhra Pradesh

Coverage 7 Effective from 01.01.2019		
1	Supplier of Service	Goods transport Agency
2	Recipient	Department or Establishment of CG/SG /LA Govt. Agencies who has obtained Registration only for the purpose of deducting TDS/TCS and not supplying any taxable supply of goods or services.
2	Service	Transportation of goods
3	Taxability	Service is exempt.

Legal Services

I Supplier of Service is arbitral tribunal (Sole arbitrator/panel of arbitrators)

S No	Recipient who is	Taxability
1	any person other than a business entity	Exempt
2	Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity;	Exempt
3	business entity with a turnover up to ~~Rs. 20 Lakhs (Rs. 10 lakhs in case of Special category states) such~~ amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act, 2017. WEF 01.10.2019.	Exempt
4	Other business entity	No exemption. Taxable

II. Supplier of Service who is of Individual advocate other than Senior Advocate /Firm of advocates

S No	Recipient who is	Taxability
1	Individual advocate/Firm of advocates	Exempt
2	any person other than a business entity	Exempt
3	Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity	Exempt
4	business entity with a turnover up to ~~Rs. 20 Lakhs (Rs. 10 lakhs in case of Special category states) such~~ amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act, 2017. WEF 01.10.2019.	Exempt
5	Other business entity	No exemption. Taxable

Business entity means any person including individual ordinarily carrying any activity relating to industry commerce, business, or profession

III Supplier of Service is a senior advocate (

.S No	Recipient who is	Taxability
1	any person other than a business entity	Exempt
2	business entity with a turnover up to ~~Rs. 20 Lakhs (Rs. 10 lakhs in case of Special category states) such~~ amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act, 2017. WEF 01.10.2019.	Exempt
3	Other business entity	Taxable
4	Individual advocate/Firm of advocates by way of Consultancy or Representation capacity with a turnover up to ~~Rs. 20 Lakhs (Rs. 10 lakhs in case of Special category states) such~~ amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act, 2017. WEF 01.10.2019.	Exempt

5	Individual advocate/Firm of advocates by way of Consultancy or Representation capacity with a turnover Exceeding ~~Rs. 20 Lakhs (Rs. 10 lakhs in case of Special category states) such~~ amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act, 2017. WEF 01.10.2019.	Taxable
6	Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity;	Exempt

Senior advocate has the meaning assigned to it in section 16 of the Advocates Act, 1961 which, inter alia, provides that an advocate may, with his consent, be designated as senior advocate if the Supreme Court or a High Court is of opinion that by virtue of his ability standing at the Bar or special knowledge or experience in law he is deserving of such distinction. Senior advocates shall, in the matter of their practice, be subject to such restrictions as the Bar Council of India may, in the interest of the legal profession, prescribe

IV. Supplier of Service is of person representing arbitral tribunal

S No	Recipient who is	Taxability
1	arbitral tribunal	Taxable

Sports Services

Services provided to a recognized sports body

S no	Supplier of Service	Recipient	Transaction	Taxability
1	individual as a <u>player, referee, umpire, coach or team manager</u>	recognised sports body	Participation in a sporting event organized by a recognized sports body	Exempt
2	recognized sports body	recognised sports body	Any service	Exempt
3	individuals such as <u>selectors, commentators, curators, technical experts</u>	recognised sports body	participation in a sporting event organized by a recognized sports body	Taxable
4	individual as a player, referee, umpire, coach or team manager	Unrecognized sports body like IPL	participation in a sporting event	Taxable

Recognized Sports body means

- The Indian /international Olympic Association
- Sports Authority of India
- A national sports federation or National sports promotion organizations recognized by the Ministry of Sports and Youth
- A federation or a body which regulates a sport at international levels and its affiliated federations or bodies regulating a sport in India

Sponsorship of tournaments or championships

Scope of Exempt Service –

Services by way of sponsorship of sporting events organized:

a) by a national sports federation, or its affiliated federations, where the participating teams or individuals represent any district, state or zone/ any **COUNTRY**

b) by Association of Indian Universities, Inter-University Sports Board, School Games Federation of India, All India Sports Council for the Deaf, Paralympic Committee of India or Special Olympics Bharat;
c) by Central Civil Services Cultural and Sports Board;
d) as part of national games, by Indian Olympic Association; or
e) Under Panchayat Yuva Kreeda Aur Khel Abhiyaan (PYKKA) Scheme.

Services provided by and to Fédération International Football Association (FIFA) and its subsidiaries directly or indirectly related to any of the events under FIFA U-17 Women's World Cup 2020 to hosted in India WEF 01.10.2019.

Condition to be fulfilled: Director (Sports), Ministry of Youth Affairs and Sports have to certify that the services are directly or indirectly related to any of the events under FIFA U-17 Women's World Cup 2020.

Services by way of right to admission to the events organised under FIFA U-17 Women's World Cup 2020. Wef 01.10.2019

Services relating to agriculture

Services relating to agriculture/agricultural produce by way of:
a) agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing;
b) supply of farm labour;
c) processes carried out at an agricultural farm including tending, pruning, cutting, harvesting, drying, cleaning, trimming, sun drying, fumigating, curing, sorting, grading, cooling or bulk packaging and such like operations which do not alter essential characteristics of agricultural produce but make it only marketable for the primary market;
d) renting or leasing of agro machinery or vacant land with or without a structure incidental to its use;
e) loading, unloading, packing, storage or warehousing of agricultural produce;
f) agricultural extension services;
g) services by any Agricultural Produce Marketing Committee or Board or
h) Services provided by a commission agent for sale or purchase of agricultural produce.

All the above services from (a) to (h) in relating to agriculture are not liable for GST.

Agriculture means the cultivation of plants and rearing of all life-forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products [Section 65B(3)].

Agricultural produce means any produce of agriculture on which either no further processing is done or such processing is done as is usually done by a cultivator or producer which does not alter its essential characteristics but makes it marketable for primary market [Section 65B(5)].

Examples not liable for GST.

	Agricultural Activity	Examples cover under Exemption
1	Agricultural operations	Breeding of fish (pisciculture), rearing of silk worms (sericulture), cultivation of ornamental flowers (floriculture) and horticulture, forestry
		Plantation crops like rubber, tea or coffee
		Process of cereals, pulses, copra and jiggery **done by Cultivator**

2	Processes which do not alter the essential characteristics of agricultural produce	tending, pruning, cutting, harvesting; drying, cleaning, trimming, sun drying, fumigating, curing, sorting, grading, cooling or bulk packaging
3	Agricultural extension services	Application of scientific research and knowledge to agricultural practices through farmer education or training
4	Renting or leasing of agro machinery or vacant land	Leasing of vacant land with a green house or a storage shed which is incidental to its use for agriculture
5	Commission agent	Commission received on purchase/sale of paddy
6	Services by any Agricultural Produce Marketing Committee	provision of facilities and amenities like, sheds, water, light, electricity, grading facilities, collect market fees, license fees, rents etc

Examples: Coverage under Taxable

	Agricultural Activity	**Examples cover under taxable Service**
1	Processes which alter the essential characteristics of agricultural produce	Process of fast food snack items like Potato chips or tomato ketchup The processes of grinding, sterilizing, extraction packaging in retail packs of agricultural products for sale in retail market
2	Services by any Agricultural Produce Marketing Committee	service provided by such bodies which is not directly related to agriculture or agricultural produce will be liable to tax e.g. renting of shops or other property
3	Renting or leasing of agro machinery or vacant land	Renting and leasing of agro machinery for rice
4	Commission agent	Commission received on purchase/sale of rice

Other exemptions relating to agriculture

- Services by way of loading, unloading, packing, storage or warehousing of rice. (entry No 24)
- Services by way of warehousing of minor forest produce. (Entry No 24 A)
- Services by way of fumigation (method of pest control) in a warehouse of agricultural produce. Entry No 53 A
- Carrying out an intermediate production process as job work in relation to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce. (Entry No. 55)
- Services by way of artificial insemination of livestock (other than horses). (Entry No 55A)
- Services by way of storage/ warehousing of cereals, pulses, fruits, nuts and vegetables, spices, copra, sugarcane, jaggery, raw vegetable fibers such as cotton, flax, jute etc., indigo, unmanufactured tobacco, betel leaves, Tendu leaves, coffee and tea. WEF 01.10.2019 – (New Entry 24 B)

GST on warehousing Loading unloading packing of tea coffee jaggery etc., [Circular No. 16/16/2017 GST dated 15.11.2017]

SN	Produce	GST Liability	Reason/Remarks
1	Tea (i.e. black tea, white tea etc.), / processed coffee beans or powder	GST payable. No exemption	Tea is a processed product made in tea factories after carrying out several processes, such as drying, rolling, shaping, refining, oxidation, packing etc. Hence it is not an agricultural produce. Similarly, in case of processed coffee bean/powder.
2	Jaggery	GST payable. No exemption	Processing of sugarcane into jaggery changes its essential characteristics. Thus, jaggery is also not an agricultural produce
3	Processed spices	GST payable. No exemption	Changes its essential characteristics.
4	Processed dry fruits/ cashew nuts	GST payable. No exemption	Changes its essential characteristics.
5	Dal obtained after Dehusking or splitting or both of pulses	GST payable. No exemption	Dehusking or splitting done by millers and not by farmers, hence not an agricultural produce
6	Pulse grains such as whole gram, rajma	GST exemption	Agricultural produce
7	Milling of paddy in to rice	GST payable. No exemption	Milling is done by millers and not by farmers, hence not an agricultural produce

Educational Services (notification No 2/2018 dated 25/01/2018)

S N	Supplier of Service	Recipient	Transaction
1	Educational institution	Students, faculty and staff	Consideration from Services to students, faculty and staff
2	Educational institution	Any person	consideration in the form of entrance fee by way of conduct of entrance examination
3	Person located in a non- taxable territory	Educational Institution Other than Pre-school education and education up to higher secondary school or education as a part of an approved vocational education course	Consideration from the service of supply of online educational journals or periodicals
4	Any person	Educational institution ** Of Preschool and Up to Higher Secondary	Consideration from service of (i)transportation of students, faculty and staff; (ii)catering, including any mid-day meals scheme sponsored by the Government;

<table>
<tr><th>S N</th><th>Supplier of Service</th><th>Recipient</th><th>Transaction</th></tr>
<tr><td></td><td></td><td></td><td>(iii)security or cleaning or house-keeping services performed in such educational institution;
(iv)services relating to admission to, or conduct of examination by, such institution
(v)supply of online educational journals or periodicals</td></tr>
<tr><td colspan="3">** Educational institute of Pre-school education and education up to higher secondary school or equivalent and IIM (Indian Institute of management from 01.01.2019).
Services under Exemption under SL No 4 (i) to (iii) available</td><td>SL No 4 item (v) exemption not available to Pre-school education and education up to higher secondary school or education as a part of an approved vocational education course</td></tr>
</table>

College Hostel Mess services

- Run by educational institution and service to staff, students and faculty – Exempt from GST
- Run by Outside Agency – GST payable

~~**Services provided by the Indian Institutes of Management, as per the guidelines of the Central Government, to their students, by way of the following educational programs, except Executive Development Programme: -**~~

- ~~2 year full time PGPM (Post Graduate Programme in Management) for the Post Graduate Diploma in Management, to which admissions are made on the basis of Common Admission Test (CAT) conducted by the Indian Institute of Management;~~
- ~~fellow programme in Management;~~
- ~~5 years integrated programme in Management~~

Now IIM Cover under definition of Educational Institute from 01.01.2019

Clarification on applicability of GST exemption to the DG Shipping approved maritime courses conducted by Maritime Training Institutes of India [Circular No. 117/36/2019 GST dated 11.10.2019)

Maritime Training Institutes and their training courses are approved by the Director General of Shipping which are duly recognised under the provisions of the Merchant Shipping Act, 1958 read with the Merchant Shipping (standards of training, certification and watch-keeping for Seafarers) Rules, 2014. Therefore, Maritime Training Institutes are educational institutions under GST Law and the courses conducted by them are exempt from levy of GST.

Skill Development Services

Services provided by: -	
1	the National Skill Development Corporation (NSDC) set up by the Government of India;
2	a Sector Skill Council (SSC) approved by the NSDC;
3	(an assessment agency approved by the SSC or the NSDC;
4	a training partner approved by the NSDC or the SSC in relation to:-
	(a) the National Skill Development Programme implemented by the NSDC; or
	(b) a vocational skill development course under the National Skill Certification and
	(c) any other Scheme implemented by the NSDC

Sponsorship of tournaments or championships
Scope of Exempt Service –
Services by way of sponsorship of sporting events organized:
by a national sports federation, or its affiliated federations, where the participating teams or individuals represent any district, state or zone/ any COUNTRY
by Association of Indian Universities, Inter-University Sports Board, School Games Federation of India, All India Sports Council for the Deaf, Paralympic Committee of India or Special Olympics Bharat;
by Central Civil Services Cultural and Sports Board;
as part of national games, by Indian Olympic Association; or
Under Panchayat Yuva Kreeda Aur Khel Abhiyaan (PYKKA) Scheme.

Skill Development Initiative **SDI**
Services of assessing bodies empaneled centrally by the Directorate General of Training, Ministry of Skill Development and Entrepreneurship **by way of** assessments under the Skill Development Initiative (SDI) Scheme.
Services of DDU-GKY
Services provided **by** Training Providers (called “Project Implementation Agencies”) under Deen Dayal Upadhyaya Grameen Kausalya Yojana **(DDU-GKY)** under the Ministry of Rural Development, Govt. of India, by way of offering skill or vocational training courses certified by the National Council for Vocational Training **(NCVT)**.

Services by a performing artist in folk or classical art forms			
Supplier of Service	Recipient	Service	Taxability
Artist of folk music, folk dance and folk theatre	Any person	Performance in folk music, folk dance/Folk theatre	Exempt up to Consideration for a Performance was up to Rs. 1,50,000
Artist of Classical music, Classical dance and Classical theatre	Any person	Performance in Classical music, Classical dance/ Classical theatre	Exempt up to Consideration for a Performance was up to Rs. 1,50,000
Above (1) and (2) as a brand ambassador	Any person	Performance in above(1) and (2)	Taxable
Artist of Western music, mimicry, modern theatre, magic shows	Any person	Performance	Taxable
Artists of cinema, television	Any person	Performance	Taxable
Artists of Painting, sculpture	Any person	Performance	Taxable

Admission to museum, zoo etc.
Service **by way of** admission to a museum, zoo, national park, wildlife sanctuary or a tiger reserve.
Admission to entertainment events
Services **by way of** right to admission to,-- (i) **c**ircus, **d**ance or theatrical performance including drama or ballet; (ii) recognized sporting event; (iii) **a**ward function, **c**oncert, **p**ageant, **m**usical performance or any **s**porting event other than a recognised sporting event ***(Remember – CAMPS)***, where the consideration for admission is not more than ~~Rs. 250~~ Rs. 500/-per person.(WEF 25.01.2018)

Specified financial services

1	Interest, discount received on advancing loans, bills and deposits made
2	Service by way of purchase/sale of foreign currency among <u>banks and authorized dealers</u>
3	transactions are entered into by banks in instruments like repos and reverse repos (trading of goods)
4	Subscription to or trading in Commercial Paper (CP) or Certificates of Deposit (CD)
	Taxable Services
1	Service charges or administrative charges or entry charges, documentation charges, process fee recovered in addition to interest on a loan, advance or a deposit.
2	Investments by way of equity or any other manner where the investor is entitled to a share of profit.
3	Service by way of purchase/sale of foreign currency among banks/ authorized dealers and <u>general public</u>

- Services by an intermediary of financial services located in a multi services SEZ with International Financial Services Centre (IFSC) status to a customer located outside India for international financial services in currencies other than Indian rupees (INR), have been exempted from CGST

Services by the intermediaries	
Services by the following persons in respective capacities -	
1	**by** a business facilitator / a business correspondent **to** a banking company with respect to accounts in its "rural area" branch.
2	**by** any person as an intermediary **to** a business facilitator / business correspondent with respect to services mentioned in above
3	**by** a business facilitator / business correspondent **to** an insurance company in a rural area

Renting of Motor Vehicle for transportation of passengers and goods	
Scope of Exempt Service –	
	Services by way of giving on hire-
	to a state transport undertaking, a motor vehicle meant to carry more than twelve passengers; or **to a local authority, an Electrically operated vehicle (EOV) meant to carry more than 12 passengers Wef 01.10.2019 EOV means vehicle falling under Chapter 87 in the First Schedule to the Customs Tariff Act, 1975 which is run solely on electrical energy derived from an external source or from one/more electrical batteries fitted to such road vehicle**
	to a goods transport agency, a means of transportation of goods
	vehicle for transport of students, faculty and staff, to a person providing services of transportation of students, faculty and staff to an educational institution providing services by way of pre-school education and education up to higher secondary school or equivalent, [Notification No. 2/2018 CT (R) dated 25.01.2018].

Services provided by an Incubatee		
1	Supplier of Service	Incubatee located within premises of incubator
2	Service	Service Up to Total turnover of Rs.50 lakhs is exempt from GST
3	Condition for exemption	total turnover during the preceding financial year <= 50 lakhs
4	Period of exemption	Three years from the date of entering into an agreement as an incubate with incubator.
5	Incubatee" means an entrepreneur located within the premises of a Technology Business Incubator (TBI) or Science and Technology Entrepreneurship Park (STEP) recognised by the National Science and Technology Entrepreneurship Development Board (NSTEDB) of the Department of Science and Technology, Government of India and who has entered into an agreement with the TBI or the STEP to enable himself to develop and produce hi-tech and innovative products.	

Services provided by TBI or STEP		
1	Supplier of Service	Technology Business Incubator (TBI) or Science and Technology Entrepreneurship Park (STEP)
2	Service	Any Service to Incubatee

Business exhibition
Service **by** an organizer **to** any person **in respect of** a business exhibition held outside India.

Tour operator
Services provided **by** a tour operator **to** a foreign tourist **in relation to** a tour conducted wholly outside
"Tour operator" means any person engaged in the business of planning, scheduling, organizing, arranging tours (which may include arrangements for accommodation, sightseeing or other similar services) by any mode of transport, and includes any person engaged in the business of operating tours.
Example: Service provided by **Travel Agency to** a Foreign National for a tour conducted in Outside India is exempted.

Import of services
Services **received from** a **Supplier of Service located in a Non-taxable Territory (NTT) by** - (a) the Central Govt., State Govt., Union Territory, Local authority, Governmental authority or an individual in relation to any purpose other than commerce, industry, business or profession; or (b) an entity registered u/s 12AA of the Income tax Act, 1961 for the purposes of providing charitable activities; or (c) a person located in a non-taxable territory (NTT).
This exemption is not allowed to – (i) Online information and database access or retrieval services **(OIDAR)** received by persons specified in Entry (a) or Entry (b); or Services by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India.

Service by a club/association/society to own members		
Coverage 1		
1	Supplier of Service	Registered trade union
2	Service	To its own members by way of reimbursement of charges or share of contribution
3	Taxability	Exempt
Coverage 2		
1	Supplier of Service	Registered unincorporated body or a non- profit entity
2	Service	To its own members by way of reimbursement of charges or share of contribution, for the provision of carrying out any activity which is exempt from the levy of GST

3	Taxability	Exempt
Coverage 3		
1	Supplier of Service	Registered unincorporated body or a non- profit entity
2	Service	To its own members by way of reimbursement of charges or share of contribution provided by Resident welfare Association.
3	Taxability	Exempt up to an amount of Rs. 7500/- per month per member for sourcing of goods or services from a third person for the common use of its members in a housing society or a residential complex
Coverage 4		
1	Supplier of service	unincorporated body or a non-profit entity registered under any law for the time being in force
2	Activities of Supplier of service	activities relating to the welfare of industrial or agricultural labour or farmers; or
		promotion of trade, commerce, industry, agriculture, art, science, literature, culture, sports, education, social welfare, charitable activities and protection of environment
3	Service	to its own members against consideration in the form of membership fee
4	Taxability	Exempt up to an amount of Rs. 1000/- per member per year.

Classification on Clarification regarding exemption available to services provided by a Resident Welfare Association (RWA) to its own members under earlier law is also made applicable		
	Issue	**Clarification**
1	In a residential complex, monthly contribution collected from members is used by the RWA for the purpose of making payments to the third parties, in respect of commonly used services or goods ex. Maintenance lift, sump etc.	Exemption in mega exemption notification is provided specifically with reference to service provided by an unincorporated body or a non–profit entity registered under any law for the time being in force such as RWAs, to its own members
2	If the contribution of a member(s) of a RWA exceeds `Rs.7500 per month, how should the GST liability be calculated	If per month per member contribution of any or some members of a RWA exceeds `Rs. 7500 entire contribution of such Members liable for GST
3	If a RWA provides certain services such as payment of electricity or water bill issued by third person, in the name of its members, acting as a 'pure agent' of its members, is exclusion from value of taxable service available for the purposes of SSP exemption or exemption provided under mega exemption notification?	Expenditure or costs incurred by a Supplier of Service as a pure agent of the recipient of service shall be excluded from the value of taxable service. If RWA do not charge any Commission. If Bills were in the name of RWA there is no agent involved and hence includable in value.
5	Is ITC credit available to RWA for payment of GST	RWA may avail ITC and use the same for payment of GST

Clarification on issues related to GST on monthly subscription/ contribution charged by a Residential Welfare Association from its members Circular No. 109/28/2019 GST dated 22.07.2019.

	Issue	Clarification
1	Upper limit of exemption of Maintenance charges of RWA	Supply of service by RWA (unincorporated body or a non-profit entity registered under any law) to its own members by way of reimbursement of charges or share of contribution up to an amount of Rs. 7,500/- per month per member for providing services and goods for the common use of its members in a housing society or a residential complex are exempt from GST.
2	Aggregate turnover <= Rs. 20 lakhs and Maintenance charges > Rs. 7500/-	RWA does not require Registration. No GST even Maintenance charges per member per month > Rs. 7500/-
3	Aggregate turnover > Rs. 20 lakhs and Maintenance charges > Rs. 7500/- and availability of ITC	Registration. GST payable. RWAs are entitled to take ITC of GST paid by them on capital goods (generators, water pumps, lawn furniture etc.), goods (taps, pipes, other sanitary/hardware fillings etc.) and input services such as repair and maintenance services.
5	Where a person owns 2 or more flats in the housing society/residential complex, ceiling Limit calculation	a person who owns 2 or more residential apartments in a housing society/residential complex shall normally be a member of the RWA for each residential apartment owned by him separately. The ceiling of Rs. 7,500/- per month per member shall be applied separately for each residential apartment owned by him. For example, if a person owns 2 residential apartments in a residential complex and pays Rs. 15,000/- per month as maintenance charges towards maintenance of each apartment to the RWA (Rs. 7,500/- per month in respect of each residential apartment), the exemption from GST shall be available to each apartment.

SERVICES BY CERTAIN BODIES / INSTITUTIONS

ESI
Services **by** the Employees' State Insurance Corporation (ESIC) to the persons governed under the ESI Act, 1948.
EPFO
Services provided **by Employees Provident Fund Organisation (EPFO) to** the persons governed under EPF Act, 1952.
IRDA
Service provided **by** the **Insurance Regulatory and Development Authority of India (IRDA) to** insurers (i.e. insurance companies) under the IRDA Act, 1999.
SEBI
Service provided **by** the Stock Exchange Board of India **(SEBI) by way of** protecting the interests of investors in securities and to promote the development of, and to regulate, the securities market.
RBI

All services provided **by** Reserve Bank of India (RBI).
The services provided **by** RBI **to** any person are exempted but the services provided **by** any person **to** RBI are not exempted.
FDM
All services provided by a 'Foreign Diplomatic Mission' (FDM) located in India.
• 'FDM' does not cover any office or establishment of an international organization / multi-national company. Hence the services provided by such office or establishment are not exempt. • Services provided by FDM are exempt. But services provided to FDM are not exempt under this Entry.
NCCCD
Service provided by the National Centre for Cold Chain Development (NCCCD) by way of cold chain knowledge dissemination.

Miscellaneous Services

Going concern
Services **by way of** transfer of a going concern, as a whole or an independent part thereof.
Services associated with transit cargo to Nepal and Bhutan
Supply of services associated with transit cargo to Nepal and Bhutan (landlocked countries).
Acquiring Bank
Services provided by an "acquiring bank" to any person in relation to settlement of an amount upto Rs. 2,000 in a single transaction transacted through credit card, debit card, charge card or other payment card services.
"Acquiring Bank" means any banking company, financial institution including non- banking financial company (NBFC) or any other person [Example – Paytm] , who makes the payment to any person who accepts such card.
Upfront amount for industrial leasing
Upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable in respect of service by way of granting of long term lease (30 years or more) lease of industrial plots or plots for development of infrastructure for financial business, provided by the State Govt. Industrial Development Corporations or State Govt. Industrial Undertakings or by any other entity having 50% or more ownership of Central Government, State Government or Union territory to the industrial units or the developers in any industrial or financial business area. GST exemption on the upfront amount is admissible irrespective of whether such upfront amount is payable or paid in one or more instalments, provided the amount is determined upfront. Circular No. 101/20/2019 GST dated 30.04.2019
Spectrum service
Service provided by the Central Govt., State Govt., Union Territory or Local authority by way of allowing a business entity to operate as a telecom Supplier of Service or use radio frequency spectrum during the period
Leasing of Railways assets
Services of leasing of assets (rolling stock assets including wagons, coaches, locos) by the Indian Railway Finance Corporation to Indian Railways.

Journalist
Services by way of collecting or providing news by an independent journalist, Press Trust of India (PTI) or United News of India.
Public libraries
Services of public libraries by way of lending of books, publications or any other knowledge-enhancing content or material.
Slaughtering service
Services by way of slaughtering of animals
Public conveniences
Services by way of public conveniences such as provision of facilities of bathroom, washrooms, lavatories, urinal or toilets.
Services in Nepal or Bhutan
Supply of services associated with transit cargo to Nepal and Bhutan (landlocked countries) exempt from
Specified services received by RBI
Services received by the RBI, from outside India in relation to management of foreign exchange reserves.
"External asset management" services received by RBI from overseas financial institution is exempt under this
Supply of service by way of access to a road or a bridge on payment of annuity, has been exempted from GST

- ❖ Services by way of providing information under the Right to Information Act, 2005 have been exempted from CGST [Notification No. 2/2018 CT (R) dated 25.01.2018

Services provided by a banking company to Basic Saving Bank Deposit (BSBD) account holders under Pradhan Mantri Jan Dhan Yojana (PMJDY) *[Effective from 01.01.2019]*. Entry No 27A.

Services provided by rehabilitation professionals. Effective from 01.01.2019 Entry No 27A

Service provider	Rehabilitation professional recognised under Rehabilitation Act 1992
Services	rehabilitation, therapy or counselling and such other activities
Conditions	Centres should be established by State/Central Government or Entity registered under Sec 12AA of Income tax Act

Supply of TDR (Transferrable Development rights), FSI (Floor Space Index) long term lease (premium) of land by a landowner to a developer from 01.04.2019. Entry No 41A and 41B

Condition for Exemption	constructed flats are sold before issuance of completion certificate and tax is paid on them.
Withdrawal of exemption	Exemption will be withdrawn when flats sold after issue of completion certificate. Such withdrawal shall be limited to 1% of value in case of affordable houses and 5% of value in case of other than affordable houses.

Insurance Services Exempt from tax
NPS
Services of life insurance business provided by way of annuity under the National Pension System (NPS).
Group insurance of forces
Services of life insurance business provided by the Army, Naval and Air Force Group Insurance Funds to the members of Army, Navy and Air Force, respectively, under the Group Insurance Schemes of the Central Govt.
Specified schemes of General Insurance Business
Services of **general insurance business** provided under **certain specified schemes**.
(a) Hut Insurance Scheme; (b) Cattle Insurance under Swarnajaynti Gram Swarozgar Yojna (earlier known as Integrated Rural Development Programme); (c) Scheme for Insurance of Tribals; (d) Janata Personal Accident Policy and Gramin Accident Policy; (e) Group Personal Accident Policy for Self-Employed Women; (f) Agricultural Pumpset and Failed Well Insurance; (g) premia collected on export credit insurance; (h) Weather Based Crop Insurance Scheme or the Modified National Agricultural Insurance Scheme, approved by the Government of India and implemented by the Ministry of Agriculture; (i) Jan Arogya Bima Policy; National Agricultural Insurance Scheme (Rashtriya Krishi Bima Yojana); (k) Pilot Scheme on Seed Crop Insurance; (l) Central Sector Scheme on CattleInsurance; (m) Universal Health Insurance Scheme; (n) Rashtriya Swasthya Bima Yojana; (o) Coconut Palm Insurance Scheme; Pradhan Mantri Suraksha BimaYojna
Services of **life insurance business** provided under **certain specified schemes**.
(a) Janashree Bima Yojana; (b) Aam Aadmi Bima Yojana; (c) Life micro-insurance product as approved by the Insurance Regulatory and Development Authority, having maximum amount of cover of fifty thousand rupees; (d) Varishtha Pension Bima Yojana; (e) Pradhan Mantri Jeevan Jyoti Bima Yojana; (f) Pradhan Mantri Jan Dhan Yogana; Pradhan Mantri Vaya Vandan Yojana
Collection of contribution under Atal Pension Yojna (APY)
Service by way of collection of contribution under Atal Pension Yojna (APY).
Collection of contribution under Pension Scheme of State Govt.
Service by way of collection of contribution under any pension scheme of the State Governments.

- **Services of life insurance provided/agreed to be provided by the Central Armed Police Forces (under Ministry of Home Affairs) Group Insurance Funds to their members under the Group Insurance Schemes of the concerned Central Armed Police Force. WEF 01.10.2019**
- Services of life insurance provided or agreed to be provided by the Naval Group Insurance Fund to the personnel of Coast Guard under the Group Insurance Schemes of the Central Government, have been exempted from CGST [Notification No. 2/2018 CT (R) dated 25.01.2018].
- life insurance business provided under, inter alia, life micro-insurance product as approved by the Insurance Regulatory and Development Authority, having maximum amount of cover of ` 2,00,000, have been exempted from CGST [Notification No. 2/2018 CT (R) dated 25.01.2018
- Services provided by State Government by way of general insurance (managed by Government) to employees of the State Government/Police personnel, employees of Electricity Department or students are exempt vide entry 6 of aforesaid notification which exempts services by Central Government, State Government, Union territory or local authority to individuals

Services to and BY Government Exempt from tax
SERVICES TO GOVT.
Pure services to Govt. in relation to Panchayat / Municipality function
Pure services (excluding works contract service or other composite supplies involving supply of any goods) provided to the Central Govt., State Govt., Union Territory, local authority or Governmental authority / a Government Entity by way of any activity: Notification No. 2/2018 CT (R) dated 25.01.2018 (i) in relation to any function entrusted to a Panchayat under article 243G of the Constitution, or (ii) in relation to any function entrusted to a Municipality under article 243W of the Constitution.
Service by a Govt. entity to Govt.
Supply of service by a "Government entity" to Central Government, State Government, Union territory, local authority or any person specified by Central Government, State Government, Union territory or local authority against consideration received from Central Government, State Government, Union territory or local authority, in the form of grants.
"Government entity" means an authority or a board or any other body including a society, trust, corporation, (i) set up by an Act of Parliament or State Legislature; or (ii) established by any Government, with 90% or more participation by way of equity or control, to carry out a function entrusted by the Central Government, State Government, Union Territory or a local authority."
Services by Fair Price Shops to Central Govt. State Govt. / UT
Supply of services by Fair Price Shops to Central Govt State Govt. / UT. by way of sale of wheat, rice and coarse grains under Public Distribution System (PDS) against consideration in the form of commission or margin.
Air services to the Central Govt.
Services provided to the Central Govt. by way of transport of passengers (with or without accompanied belongings), by air, embarking from or terminating at a Regional Connectivity Scheme Airport (RCS Airport), against consideration in the form of viability gap funding, for a period of 3 years from the date of commencement of operations of the regional connectivity Notification No. 2/2018 CT (R) dated 25.01.2018].
This exemption shall not be allowed after expiry of a period of 1 year from the date of commencement of operations of the RCS Airport as notified by the Ministry of Civil Aviation.
Insurance services to Govt.
Services provided to the Central Govt., State Govt., Union Territory under any insurance scheme for which total premium is paid by the Central Govt., State Govt. or Union Territory.
Training services to Govt.
Services provided to the Central Govt., State Govt. or Union Territory administration under any training programme for which total expenditure is borne by the Central Govt., State Govt. or Union Territory administration.

Services provided by GSTN to Govt.
Services provided by the Goods and Service Tax Network (GSTN) to the Central Govt., State Govt. or Union Territories for implementation of GST.

Composite supply of goods and services in which the value of supply of goods constitutes not more than 25% of the value of the said composite supply provided to the Central Government, State Government or Union territory or local authority or a Governmental authority or a Government Entity by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution, has been exempted from CGST [Notification No. 2/2018 CT (R) dated 25.01.2018].

SERVICES BY GOVT
Municipality services by Govt.
Services by Central Govt., State Govt., Union Territory, Local authority or Governmental authority by way of any activity in relation to any function entrusted to a municipality under article 243W of the Constitution.
Panchayat services by Govt.
Services by Central Govt., State Govt., UT Govt., Local authority or a Governmental authority by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution.
All services by Govt.
All services provided by Central Govt., State Govt., Union Territory or Local authority excluding following services (unless the following services are covered under any other Entry of Exemption): (i) Services by the Department of Posts by way of speed post, express parcel post, life insurance and agency services provided to a person other than the Central Govt., State Govt., Union territory. (ii) Services in relation to an aircraft or a vessel (inside or outside the precincts of a port or airport). (iii) Transport of goods or passengers.
Services by Govt. to a small business entity
Services provided by the Central Govt., State Govt., Union Territory or Local authority to a business entity with an Aggregate Turnover of upto Rs~~. 20 lakhs (Rs. 10 lakh in case of a Special Category States) in the preceding Financial Year~~ such amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act, 2017. [i.e. a small business entity
"Renting", in relation to immovable property, means allowing, permitting or granting access, entry, occupation, use or any such facility, wholly or partly, in an immovable property, with or without the transfer of possession or control of the said immovable property and includes letting, leasing, licensing or other similar arrangements in respect of immovable property.

This exemption is not allowed to following services:

Services like

(i) Services by the Department of Posts by way of speed post, express parcel post, life insurance and agency services provided to a person other than the Central Govt., State Govt., Union territory.

(ii) Services in relation to an aircraft or a vessel (inside or outside the precincts of a port or airport).

Transport of goods or passengers

Services by Govt. to Govt.

Services provided by the Central Govt., State Govt., Union Territory or Local authority to another Central Govt., State Govt., Union Territory or Local authority.

This exemption is not allowed to the services

(v) Services by the Department of Posts by way of speed post, express parcel post, life insurance and agency services provided to a person other than the Central Govt., State Govt., Union territory.

(vi) Services in relation to an aircraft or a vessel (inside or outside the precincts of a port or airport).

Services by Govt. up to Rs. 5,000

Services provided by Central Govt., State Govt., Union Territory or a Local authority where the consideration for such services does not exceed Rs. 5,000/-.

(iv) This exemption is not allowed to the services like Services by the Department of Posts by way of speed post, express parcel post, life insurance and agency services provided to a person other than the Central Govt., State Govt., Union territory.

(v) Services in relation to an aircraft or a vessel (inside or outside the precincts of a port or airport).

Where continuous supply of service (CSS) as defined in section 2(33) is provided by the Central Govt., State Govt., Union Territory or a Local authority, the exemption shall be available only if the consideration charged for such service does not exceed Rs. 5,000/- in a financial year.

If the consideration exceeds Rs. 5,000/-, No exemption is allowed.

Certain services by Govt.

Services provided by Central Govt., State Govt., Union Territory or Local Authority by way of –

(a) registration required under any law, or

(b) testing, calibration, safety check or certification relating to protection or safety of workers, consumers or public at large, including fire license, required under any law.

Certain services by Govt. / local authority

Services provided by the Central Govt., State Govt., Union Territory or Local authority by way of issuance of passport, visa, driving licence, birth certificate or death certificate.

Services provided by the Central Govt., State Govt., Union Territory or Local authority by way of tolerating non-performance of a contract for which consideration in the form of fines or liquidated damage is payable to the Central Govt., State Govt., Union Territory or Local authority under such contract.

Services provided by the Central Govt., State Govt., Union Territory or Local authority by way of assignment of right to use natural resources to an individual farmer for cultivation of plants and rearing of all life forms of animals (except the rearing of horses) for food, fiber, fuel, raw material or other similar products.
Services provided by the Central Govt., State Govt., Union Territory or Local authority by way of assignment of right to use any natural resource where such right to use was assigned by the Central Govt., State Govt., Union Territory or Local authority before 01.04.2016. This exemption is allowed only to the tax payable on one-time charge (payable, in full upfront or in
Service provided by the Central Govt., State Govt., Union Territory by way of deputing officers after office hours or on holidays for inspection or container stuffing or such other duties in relation to import export cargo on payment of Merchant Overtime Charges (MOT Charges).

Services by way of admission to a protected monument so declared under the Ancient Monuments and Archaeological Sites and Remains Act 1958 or any of the State Acts, for the time being in force, have been exempted from CGST ***[Notification No. 47/2017 CT (R) dated 14.11.2017].***

Central Government's share of profit petroleum exempted from CGST

The intra-State supply of services by way of grant of license or lease to explore or mine petroleum crude or natural gas or both, has been exempted from so much of CGST as is leviable on the consideration paid to the Central Government in the form of Central Government's share of profit petroleum as defined in the contract entered into by the Central Government in this behalf. [Notification No. 5/2018 CT (R) dated 25.01.2018]

Royalty and license fee exempted from IGST to the extent it is paid on the consideration attributable to royalty and license fee included in transaction value under Rule 10(1)(c) of Customs Valuation (Determination of value of imported Goods) Rules, 2007 **Notification No. 6/2018 IT (R) dated 25.01.2018]**

Activities carried by DISCOMS against recovery of charges from consumers under State Electricity Act Circular No. 34/08/2018 GST dated 01.03.2018]

Clarification: Service by way of transmission or distribution of electricity by an electricity transmission or distribution utility is exempt from GST under *Notification No. 12/2017- CT (R), Sl. No. 25.* The other services such as, -

i. Application fee for releasing connection of electricity;

ii. Rental Charges against metering equipment;

iii. Testing fee for meters/ transformers, capacitors etc.;

iv. Labour charges from customers for shifting of meters or shifting of service lines;

v. Charges for duplicate bill;

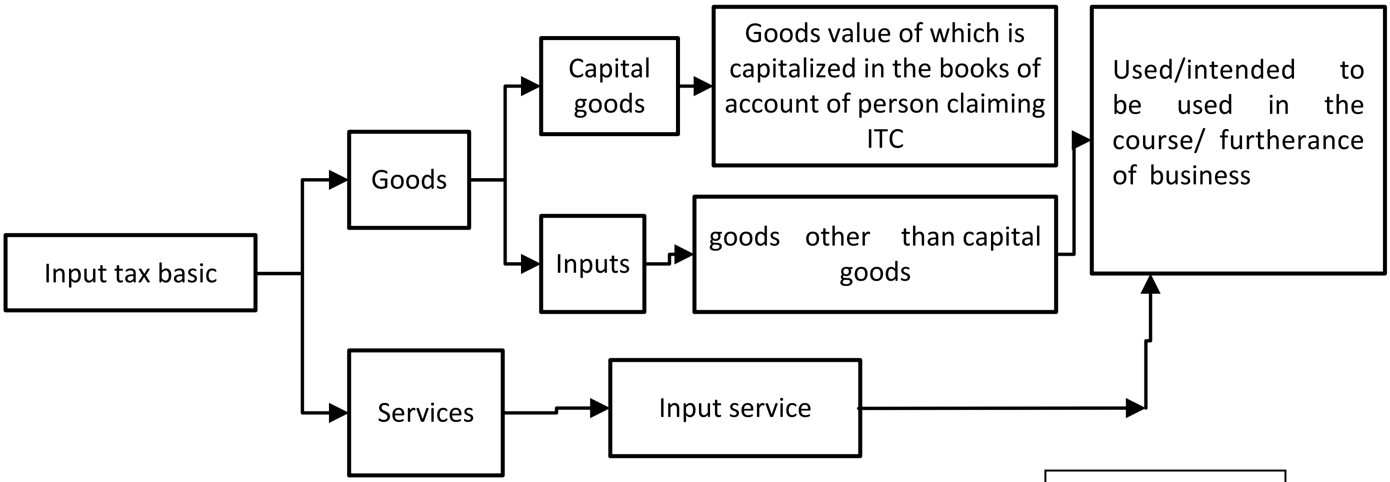
provided by DISCOMS to consumer are taxable.

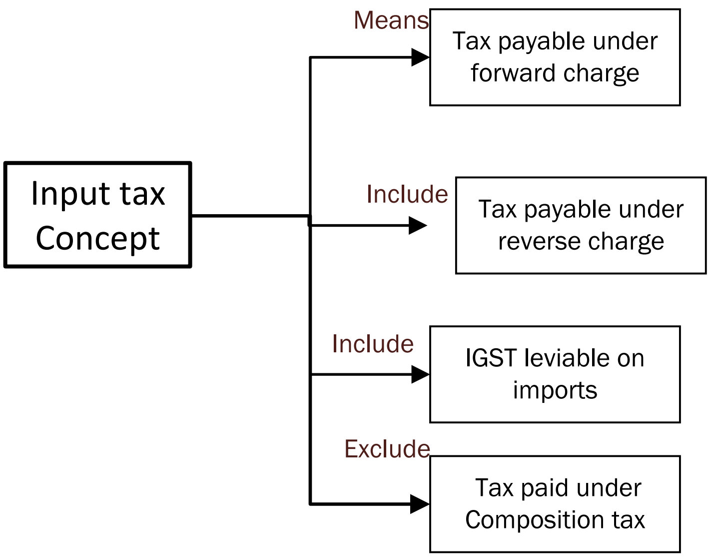
Guarantee provided by State Government to state owned companies against guarantee commission, is taxable under GST?

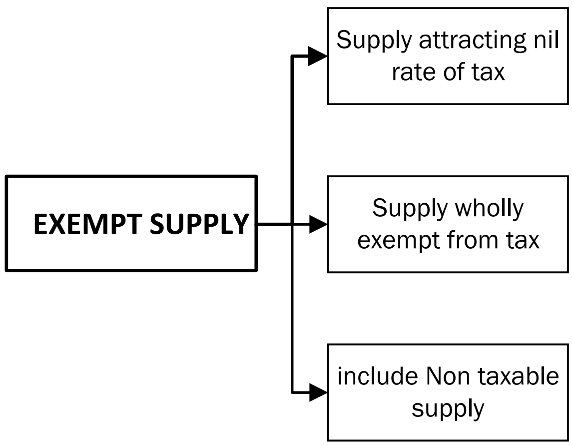
The service provided by Central Government/State Government to any business entity including PSUs by way of guaranteeing the loans taken by them from financial institutions against consideration in any form including Guarantee Commission is taxable. [Circular No. 34/08/2018 GST dated 01.03.2018]

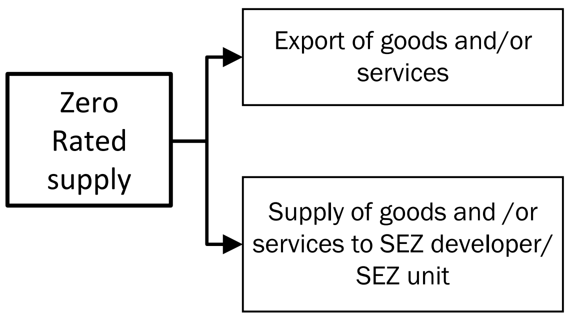
Services supplied by Central/State Government/Union territory to their undertakings or Public Sector Undertakings (PSUs) by way of guaranteeing the loans taken by such undertakings or PSUs from the **banking companies** and financial institutions *[Effective from 01.01.2019]*.
(The words ‘banking companies’ have been inserted in the entry)

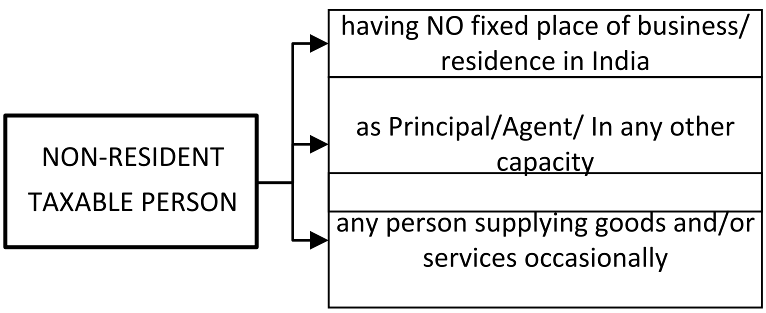
Input tax Basic Definitions

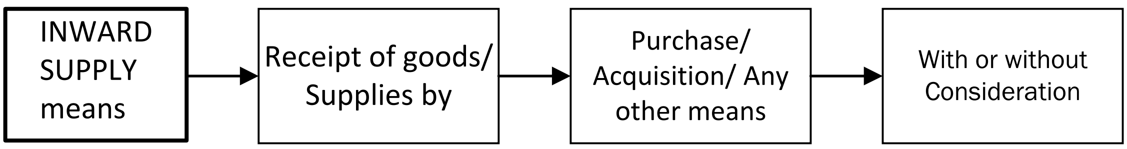












Input tax Snap shot

- Eligibility for taking ITC [Section 16(1)]
  - Person Registered under GST laws eligible to take credit
  - Goods/services to be used in the course or furtherance of business
- Conditions to be [Section Fulfilled by registered Person 16(2)]
  - Possession of tax paying documents like invoice/debit note etc
  - The person taking the ITC must have received the goods and / or services.. In case of supply is received by another person on behalf of registered person. It is deemed that registered person received goods/Services from 01.02.2019
  - Tax should actually have been paid, by cash or through utilization of ITC, on the goods and / or services for which ITC is being taken
  - The registered person taking the ITC must have filed his return under section 39.
- Goods received in lots: [First proviso to section 16(2)]
  - Goods covered under an invoice are not received in a single consignment but are received in lots / instalments, the ITC can be taken only upon receipt of the last lot / instalment.
- Payment for the invoice to be made within 180 days [Second proviso to section 16(2) read with rule 37 of CGST Rules]
  - Failure to do so: Supply along with corresponding credit should shown in GSTR2 after expiry of 180 days. Credit availed will be added to output tax liability. Interest @18% from the date of availment of credit. In case of part payment proportionate credit will be allowed
- If depreciation claimed on tax component, ITC not allowed [Section 16(3)]
  - When registered person Claims Depreciation on tax portion , he is not eligible for ITC
- Time limit for availing ITC: [Section 16(4)
  - Due date of filing of return for the month of September of succeeding financial year or date of filing of annual return, whichever is earlier
  - Ie 20th October of next FY or date of filing annual return Which ever is earlier.(due date 31 st Dec of next FY)
  - The time limit u/s 16(4) does not apply to claim for re-availing of credit that had been reversed earlier
- Restriction of ITC in proportion of (i) taxable supplies (ii) business purposes Sec 17(1)(2)
  - When ITC used for both taxable and non taxable supplies Credit should be apportioned proportionately as per methods and rules
- ITC not allowed on certain supplies [Section 17(5)] (Blocked Credits)
  - There are some some negative supplies where ITC Not allowed , termed as blocked credits

Restriction on availment of input tax credit (ITC) in respect of invoices/debit notes not uploaded by the suppliers in their GSTR-1s [New sub-rule (4) inserted in rule 36 of the CGST Rules] [Notification No. 49/2019 CT dated 09.10.2019]

With effect from 09.10.2019, a new sub-rule (4) has been introduced in rule 36 to specify the quantum of ITC that can be claimed against the invoices/debit notes uploaded and invoices/debit notes not uploaded, by the supplier as below

Case	Amount of ITC to be claimed by recipient
Where invoice/debit note has been uploaded by the supplier in his GTSR-1	Full ITC, if all other conditions of availing ITC are fulfilled
Where invoice/debit note has not been uploaded by supplier in his GTSR-1	20% of the eligible ITC available in respect of the uploaded invoices/debit notes. However, the ITC so claimed should not exceed the actual eligible ITC available in respect of the invoices not uploaded.

Illustration:

Mr. Vijay, a registered supplier, receives 100 invoices (for inward supply of goods/ services) involving GST of Rs. 10 lakhs, from various suppliers during the month of October 20XX.

Compute the ITC that can be claimed by Mr. Vijay in his GSTR-3B for the month of October 20XX to be filed by 20th November 20XX in the following independent cases assuming that GST of Rs. 10 lakhs are otherwise eligible for ITC:

Case I

Out of 100 invoices, 80 invoices involving GST of Rs. 6 lakhs have been uploaded by the suppliers in their respective GSTR-1s filed on the prescribed due date therefor.

Case II

Out of 100 invoices, 75 invoices involving GST of Rs. 8.5 lakh have been uploaded by the suppliers in their respective GSTR-1s filed on the prescribed due date therefor.

Answer

ITC to be claimed by Mr. Vijay in his GSTR-3B for the month of October 20XX to be filed by 20th November 20XX will be computed as under

Case I

Invoices	Amount of ITC involved in the invoices (Rs.)	Amount of ITC that can be availed (Rs.)	Reason/ Remark
In respect of 80 invoices uploaded in GSTR-1	6 lakhs	6 lakhs	Full ITC can be claimed in respect of Invoices uploaded
In respect of 20 invoices not	4 lakhs	1.2 lakh	20% of ITC of Invoice uploaded 20% of 6 lakhs)

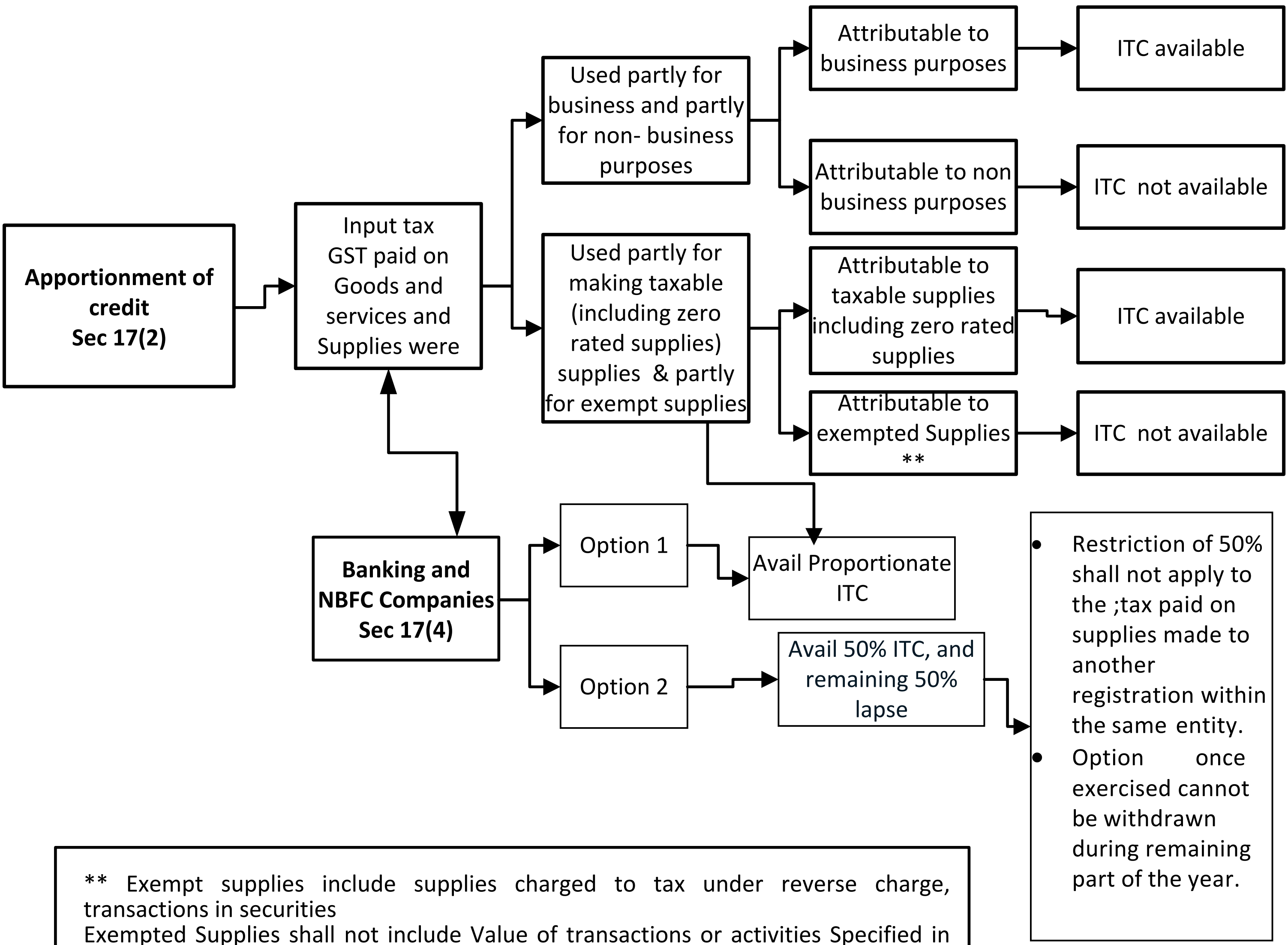
uploaded in GSTR-1			can be claimed
Total	10 Lakh	**7.2 lakh**	

Case II

ITC to be claimed by Mr. Vijay in his GSTR-3B for the month of October 20XX to be filed by 20th

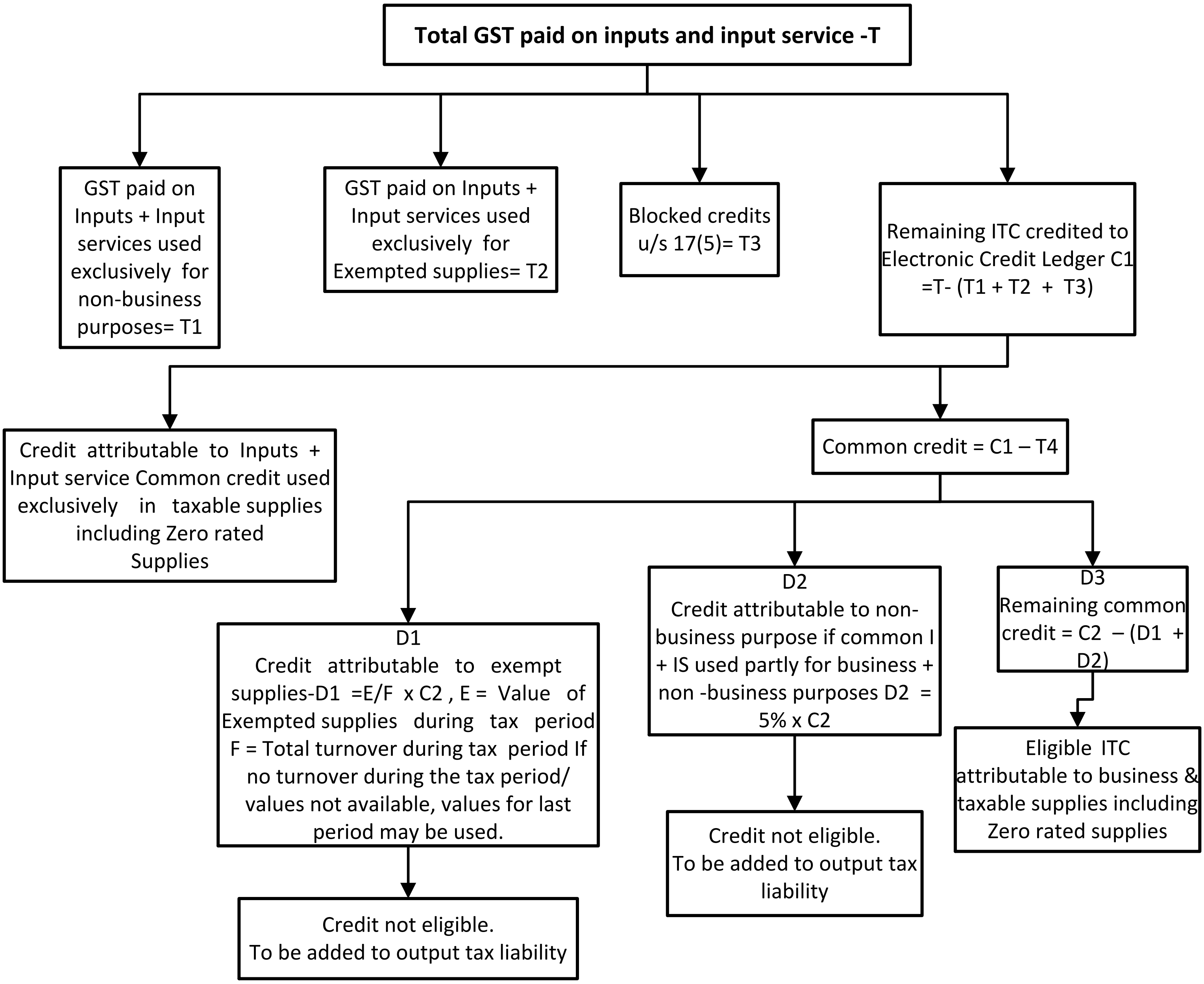
November 20XX will be computed as under-

Invoices	Amount of ITC involved in the invoices (Rs.)	Amount of ITC that can be availed (Rs.)	Reason/ Remark
In respect of 75 invoices uploaded in GSTR-1	8.5 lakh	8.5 lakh	Full ITC can be claimed in respect of Invoices uploaded
In respect of 25 invoices not uploaded in GSTR-1	1.5 lakh	1.5 lakh	20% of ITC of invoices uploaded 8.5 lakhs x20% =1.7 lakhs which is exceed Rs. 1.5 lakhs, the actual amount of ITC Rs. 1.5 lakhs can be claimed
Total	10 Lakhs	**10 lakhs**	



** Exempt supplies include supplies charged to tax under reverse charge, transactions in securities
Exempted Supplies shall not include Value of transactions or activities Specified in Schedule III except sale of land and sale of building when entire consideration is received post completion certificate. From 01.02.2019 Sec 17 (3)

Apportionment of common credit in case of inputs and Input service -rule 42



(Exempt supplies include reverse charge supplies, transactions in securities, sale of land and sale of building when entire consideration is received after CC. Aggregate value of exempt supplies and total turnover exclude the Central excise duty, State excise duty & VAT.

- C_3, D1, and D2 will be computed separately for ITC of CGST, SGST/ UTGST and IGST.
- ∑ ($D_1 + D_2$) will be computed for the whole financial year, by taking exempted turnover and aggregate turnover for the whole financial year. If this amount is more than the amount already added to output tax liability every month, the differential amount will be ~~added to the output tax liability~~ reversed in GSTR 3B in any of the month till September of succeeding year along with interest @ 18% from 1st April of succeeding year till the date of payment.
- If this amount is less than the amount added to output tax liability every month, the additional amount paid has to be claimed back as credit in GSTR 3 of any month till September of the succeeding year.

Rule 42 T**he aggregate value of exempt supplies exclude**

(a) the value of services by way of accepting deposits, extending loans or advances in so far as the consideration is represented by way of interest or discount, except in case of a banking company or a financial institution including a non-banking financial company, engaged in supplying services by way of accepting deposits, extending loans or advances; and

(b) the value of supply of services by way of transportation of goods by a vessel from the customs station of clearance in India to a place outside India.

Apportionment of Common Credit in case of Capital goods Rule 43 of CGST

Total input tax (IT) on capital goods (CG)

(a)
IT on CG used exclusively for taxable supplies including zero rated supply (ZRS)

ITC Available

Credited to Electronic Credit Ledger (ECrL)

(b)
Input Tax on CG used exclusively for non-business/exempt supplies

ITC Not Available

Not to be credited to Electronic Credit Ledger (ECrL)

(A)
IT on CG not covered under (a) & (b).
Ie Capital goods Commonly use for Taxable ,Non taxable, exempted, non business purpose
Useful life of CG should taken as 5 years from date of invoice

Common credit on CG Total credit of (A)

If CG under (a)/(b) subsequently get covered under 'A', then 'A' = (a) or(b) – 5% of ITC for a quarter or part thereof

Determine Common credit of CG <u>for a tax period</u> during their useful life Tm = Tc/60

Determine Common credit at the beginning of a tax period for all CG having useful life in that tax period Tr = Tm of such CG

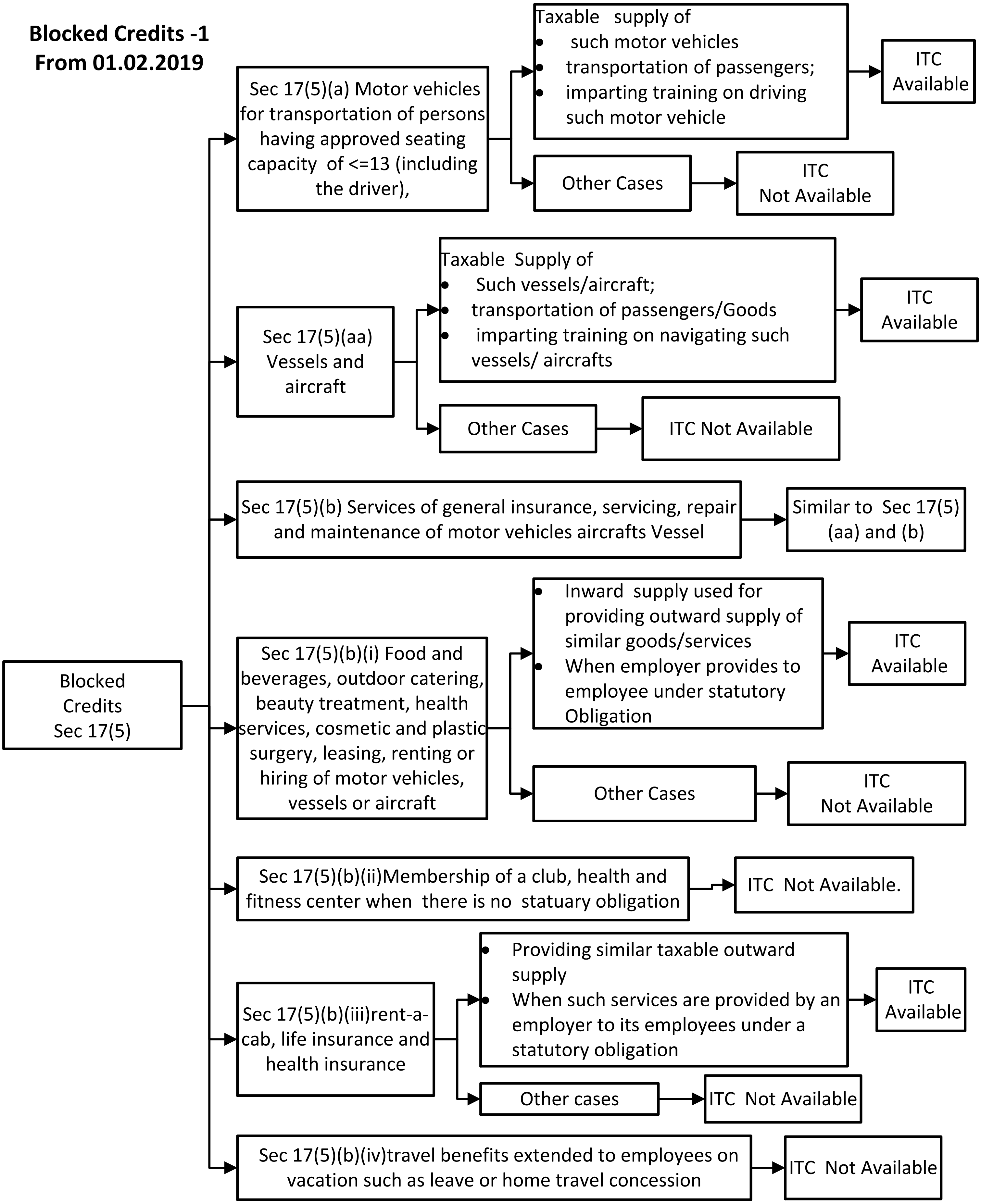
Common credit towards exempted supplies
Te =E/F x Tr

E=Aggregate value of exempt supplies during the tax period; F =Total turnover in the state during the tax period. If no turnover during the tax period/values not available, values for last tax period may be used.

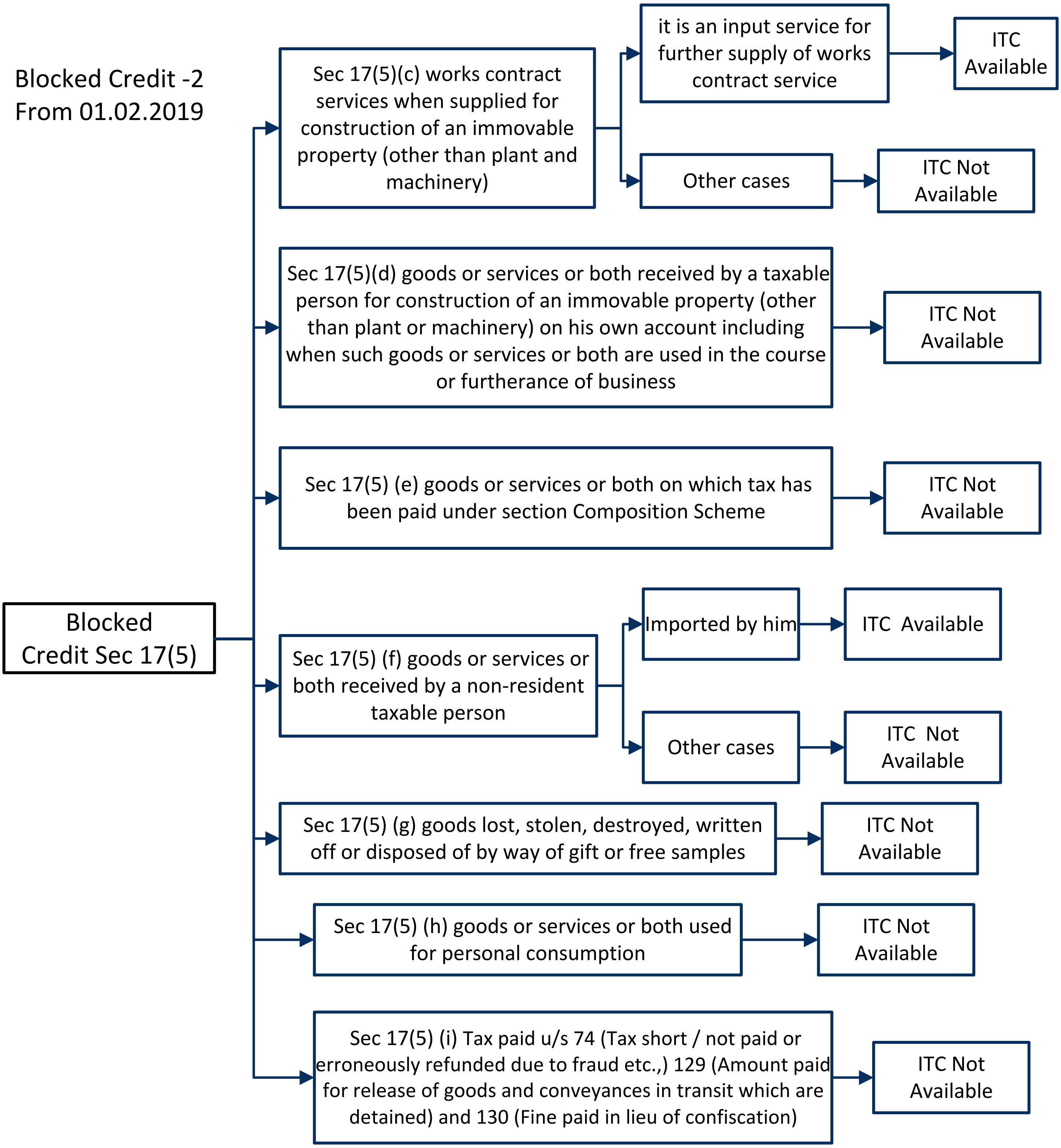
Add Te to the output tax liability along with interest during every tax period of the useful life of the capital goods concerned.

Te will be computed separately for ITC of CGST, SGST/ UTGST and IGST and declared in GSTR3B
Exempt supplies include reverse charge supplies, transactions in securities, sale of land and sale of building when entire consideration is received after completion certificate.
Aggregate value of exempt supplies and total turnover excludes the central excise duty, State excise duty & VAT.

Blocked Credits -1
From 01.02.2019



Blocked Credit -2
From 01.02.2019



'construction' includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalisation, to the said immovable property

'plant and 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.

Examples on ITC in case of Blocked Credit u/s 17(5) - courtesy ICAI

ITC in case of Motor vehicles

1. ITC on cars purchased by a manufacturing company for official use of its employees is blocked.
2. ITC on cars purchased by a car dealer for sale to customers is allowed.
3. ITC on cars purchased by a company engaged in renting out cars for transportation of passengers, is allowed.
4. ITC on cars purchased by a car driving school is allowed.
5. ITC on buses purchased by a company for transportation of its employees from their residence to office and back, is allowed.
6. ITC on trucks purchased by a company for transportation of its finished goods is allowed.

ITC in case of Vessels and Aircrafts

1. ITC on aircraft purchased by a manufacturing company for official use of its CEO is blocked.
2. ITC on aircraft purchased by an Aviation School providing training on flying aircrafts, is allowed.

ITC in case of insurance of motor vehicles, vessels and Aircrafts

1. ITC on general insurance taken on a car used by employees of a manufacturing company for official purposes, is blocked.
2. ITC on maintenance & repair services availed by a company for a truck used for transporting its finished goods, is allowed.

ITC in case of food beverage and Outdoor catering

1. AB & Co., a caterer of Amritsar, has been awarded a contract for catering in a marriage to be held at Ludhiana. The firm has given the contract for supply of snacks, to be served in the marriage, to CD & Sons, a local caterer of Ludhiana. ITC on such outdoor catering services availed by AB & Co., is allowed.
2. ITC on outdoor catering services availed by a company, for a team development event organised for its employees, is blocked.
3. 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.

Special circumstances enabling availing of credit when <u>non paying tax entities becomes tax paying entities Sec 18(1)(2)(3) and rule 40</u>

Eligibility of Input tax credit

- Registered person switching from composition levy to regular scheme of payment of taxes
- Registered person's exempt supplies becoming taxable
- Person applying for registration within 30 days of becoming liable for registration
- Person obtaining voluntary registration

Credit entitled on
- Inputs as such held in stock
- Inputs contained in semi-finished goods held in stock
- Inputs contained in finished goods held in stock
- Capital goods [In case of exempt supply becoming taxable Capital Goods used exclusively for such exempt supply] reduced by 5% per quarter or part thereof from the date of invoice

Credit entitled on
- Inputs as such held in stock
- inputs contained in semi- finished goods held in stock
- Inputs contained in finished goods held in stock

Credit available on the day immediately preceding day happening of an event in all the cases

ITC, in all the above cases, is to be availed within 1 year from the date of issue of invoice by the supplier.

Conditions for availing above credit:

- Filing of electronic declaration giving details of inputs held in stock/contained in semi-finished goods and finished goods held in stock and capital goods on the days immediately preceding the day on which credit becomes eligible.
- Declaration has to be filed within 30 days from becoming eligible to avail credit.
- Details in (i) above to be certified by a CA/ Cost Accountant if aggregate claim of CGST, SGST/ IGST credit is more than ` 2,00,000.

ITC Reversal on 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 <u>ITC availed on the return supply</u>

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 26.10.20184].

Special circumstances enabling availing of credit when tax paying entities becomes non tax paying entities Sec 18 (4) 18(6) and Rule 44

Reversal of Input tax credit

- Registered person (who has availed ITC) switching from regular scheme of payment 18(4)
- Supplies of registered person getting wholly exempted from tax Sec 18(4)
- Cancellation of registration Sec 18(4)
- Supply of capital goods (CG)/ plant and machinery (P& M) on which ITC has been taken Sec 18(6) rule 40(2) and 44(6)

Amount to be reversed is equivalent to ITC on :
Inputs held in stock/ inputs contained in semi-finished or finished goods held in stock
Capital goods
on the day immediately preceding the date of switch over/ date of exemption/date of cancellation of registration

Manner of reversal of credit on inputs and capital goods & other conditions

(i) **Inputs** → Proportionate reversal based on corresponding invoices. If such invoices not available, prevailing market price on the effective date of switch over/ exemption/cancellation of registration should be used with due certification by a practicing CA/ Cost Accountant

(ii) **Capital goods** → Reversal on *pro rata* basis pertaining to remaining useful life (in months), taking useful life as 5 years.

(iii) ITC to be reversed will be calculated separately for ITC of CGST, SGST/UTGST and IGST.

(iv) Reversal amount will be added to output tax liability of the registered person.

(v) Electronic credit/cash ledger will be debited with such amount. Balance ITC if any will lapse.

Amount to be paid is equivalent to higher of the following:

- ITC on CG or P&M less 5% per quarter or part thereof from the date of invoice
- Tax on transaction value of such CG or P & M
- If amount at (i) exceeds (ii), then reversal amount will be added to output tax liability.
- Separate ITC reversal is to be done for CGST, SGST/UTGST and IGST
- Tax to be paid on transaction value when refractory bricks, moulds, dies, jigs & fixtures are supplied as scrap.

Transfer of Unutilised Credit in case of change in constitution sec 18(3) and rule 41

Registered Person

Leasing or business

Or

2. Change of ownership (sale, lease, Merger, Amalgamation, J V)

Transfers unutilised Credit

credit can be availed by transferee

Change of ownership include death of sole proprietor. The legal heir can avail Unutilised ITC . [Circular No. 96/15/2019 GST dated 28.03.2019]

Condtions

- Transferor transfers Inputs, WIP,CG with specific provision of transfer of liabilities .
- Transferee Accounts Inputs, WIP & ,CG to the satisfaction
- details of change in constitution along with request for transfer of credit to filed in common portal
- A Certificate by CA/CWA will have to be submitted certifying that change in constitution has been done with specific provision for transfer of liabilities.
- Upon acceptance of such details by the transferee on the common portal, the unutilized ITC will be credited to his Electronic Credit Ledger.

in the case of demerger, the input tax credit shall be apportioned in the ratio of the entire value of assets of the new units whether ITC availed or not as specified in the demerger scheme.

Transfer of credit on obtaining separate registrations for multiple places of business within a State/Union territory as below [New rule 41A inserted in the CGST Rules, 2017]Notification No. 03/2019 CT dated 29.01.2019] from 01.02.2019

Registered person with separate registration of multiple place of business → May transfer wholly or partly Unutilised ITC of ECL → To his newly registered place of Business on the value of entire assets of new business whether ITC availed or not → Details of transfer with in 30 days of transfer in common portal → The transferee (new business)will get credit of ITC upon acceptance

Procedure and ITC on goods sent for job work Sec 19

- Principal can take credit o goods (inputs and capital goods) sent for job work.
- Credit can be taken even if t said goods are sent directly t job worker without being first brought to the principal' place of business
- The inputs and/or capital goods are required to be sent to the job worker under the cover of a challan issued by the principal with prescribed form
- The challan needs to be issued even for the inputs or capital goods sent directly to the job worker
- Time limit for return of goods sent for job work/supply from job worker's place of business
  - •Inputs - 1 year/ Capital goods - 3 years from the date of sending the same for job work or from the date of receipt of the same by the job worker
- On failing to comply with the time limit for return of goods, the goods will be deemed to be supplied to the job worker on the day they were sent out.
- Principal is liable to pay tax along with applicable interest on such supply.
- Time-limit for return of goods do not apply to moulds and dies, jigs and fixtures or tools sent out for job work.
- The details of various challans relating to goods sent to /received from job worker or sent from one job worker to another job worker are to be included in quarterly Form GST ITC 04 submitted by 25th day of the month succeeding the relevant quarter.
- CGST Commissioner or SGST/UTGST Commissioner to grant extension of time period for furnishing of the said details ***Notification No. 51/2017 CT dated 28.10.2017***

Distribution of Credit by Input Service Distributor Sec 20 and Rule 39 and rule 54

ISD is an office of a business → Receives Tax invoice for input services → distributes available ITC to other branch offices of the same business with same PAN. CGST/SGST and IGST should be distributed separately

Person who distributes Input service is Known as Input service Distributor

Distribution of Credit

- ITC attributable to specific Recipient → Distributed to such recipient only
- ITC attributable to more than one recipient/ all recipient → Distributed on Pro rata Basis of turnover of previous FY/ Quarter immediately preceding the month of distribution

The credit attributable to a recipient is distributed even if such recipient is unregistered or is making exempt supplies. Ineligible credit also to be distributed.

Illustration

XYZ Ltd, having its head Office at Chennai is registered as ISD. It has three units in different cities situated in different States namely 'Hyderabad, Bangalore' and Cochin. M/s XYZ Ltd furnishes the following information. CGST paid on services used only for Chennai Unit: ` Rs. 60,000 IGST, CGST & SGST paid on services used for all units: Rs.2,40,000/-Turnover of the units for the relevant period are as follows

Place	Turnover in Rs.
Chennai	5,00,00,000
Hyderabad	8,00,00,000
Bangalore	10,00,00,000
Cochin	7,00,00,000
Total Turnover	30,00,00,000

Solution

Particulars	Total Credit	Distribution of total credit			
		Chennai	Hyderabad	Bangalore	Cochin
CGST Credit	60,000	60,000	NIL	NIL	NIL
IGST Credit turnover ratio	2,40,000	40,000	64,000	80,000	56,000

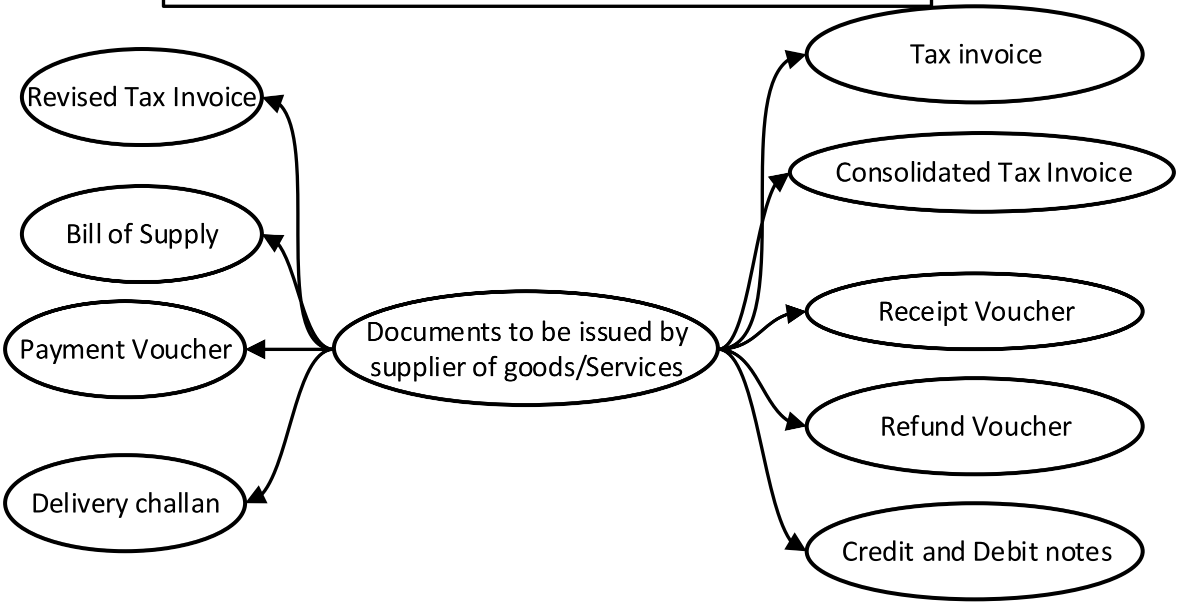
Value of turnover distributed is to be reduced by Central excise duty, State excise duty VAT and CST if any levied on other than GST goods from 01.02.2019

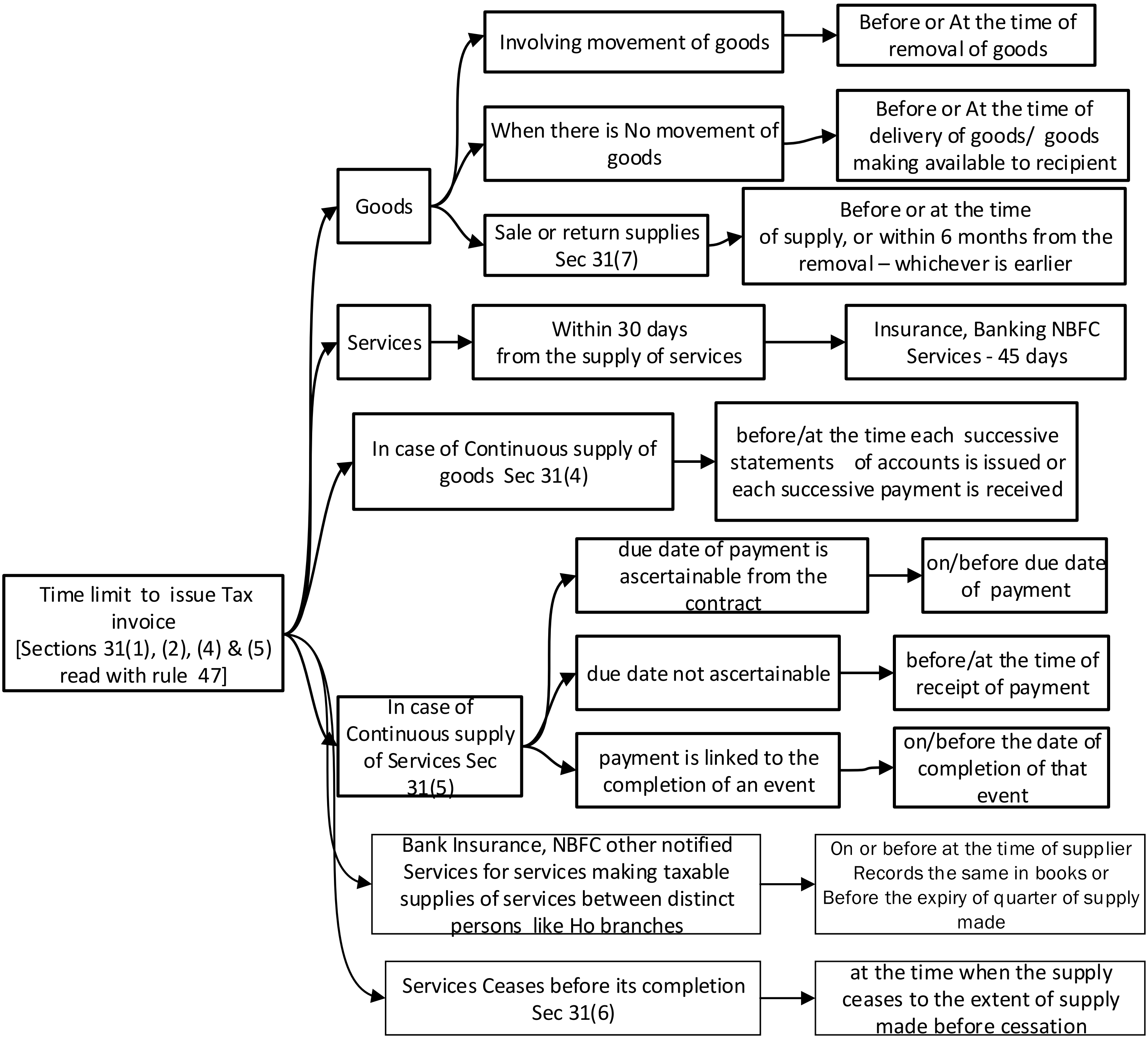
CA N.Rajasekhar FCA,DISA(ICAI) Chennai 9444019860, rajdhost@yahoo.com

Procedure for ISD

- Should register as ISD. He cannot accept supplies under reverse charge mechanism. In such case he need a separate registration as a tax payer.
- The ISD has to issue an ISD invoice, as prescribed in rule 54(1) of the CGST Rules, for distributing ITC. It should be clearly indicated in such invoice that it is issued only for distribution of ITC.
- The ISD needs to issue a ISD credit note, for reduction in credit if the distributed credit gets reduced for any reason.
- The additional ITC on account of issue of a debit note to the ISD is distributed by the ISD
- If the ISD is a banking company/ financial institution including NBFC, the document for distributing credit need not be serially numbered.
- ITC available for distribution in a month is to be distributed in the same month.
- Details of distribution of credit and all ISD invoices issued should be furnished by ISD in monthly GSTR-6 within 13 days after the end of the month.
- The details in the returns are made available to the respective recipients in their GSTR 2A.The recipients may include these in its GSTR- 2 and take credit.
- An ISD is not required to file annual return.
- Sec 21 :If the ISD has distributed excess credit to any recipient, the excess will be recovered from the recipient with interest as if it was tax not paid by initiating action under section 73 or 74

Documents for supply of goods/ Services Sec 31 and rule 46 to 55A





Revised Tax invoice with in one month from the date of issue of original invoice Section 31(3)(a) read with rule 53

person who has been granted registration with effect from a date earlier than the date of issuance of certificate of registration to him

Person can issue Revised Tax Invoices. against the invoices already issued during said period

person who becomes liable for registration and appplication is made for registration

Person can issue revised tax invoice time lag between the date of grant of certificate of registration and the effective date of registration.

Consolidated Tax invoice Sec 31(3)(b)

the recipient is unregistered and

Large number of transaction with the Value of the goods/services/both supplied < Rs.200 and

the recipient does not require such invoice

Registered person need not issue invoice for every such transaction. They can issue one consolidated invoice at the end of each day for all transactions done during the day

Bill of Supply Sec 31(3)(c)

Registered Person

Supplying exempted goods or services or both

No tax liability

Paying tax under composition levy

Does not Collect tax

Such persons should issue Bill of Supply. It does not contain the details pertaining to rate of tax and amount of tax. The value to be mentioned in the Bill of Supply is not a taxable value

Invoice-cum-bill of supply: Notification No. 45/2017 - Central Tax dated 13th October 2017 -

If a registered person is supplying taxable as well as exempted goods/services to an unregistered person, then he can issue a single "invoice-cum-bill of supply" for all such supplies.

Insurer/banking company/financial institution, including NBFC can issue a <u>consolidated tax invoice at month end for the supply made during that month</u> Notification No. 55/2017 CT dated 15.11.2017]

Receipt Voucher Sec 31(3)(d)

Registered Person receiving Advance for supply of goods/Services

Such persons should issue Receipt Voucher

nature of supply is not determinable-same shall be treated as inter-State supply

rate of tax is not determinable tax shall be paid at the rate of 18%

Refund voucher Sec 31(3)(e)

Person received advance and issued Receipt voucher

Supply does not made and no tax invoice is issued in pursuance thereof,

Such persons should issue Refund Voucher

Payment Voucher

Recipient of supply under Reverse charge When making payment to supplier shall issue Sec 31(f)(g)

Payment Voucher

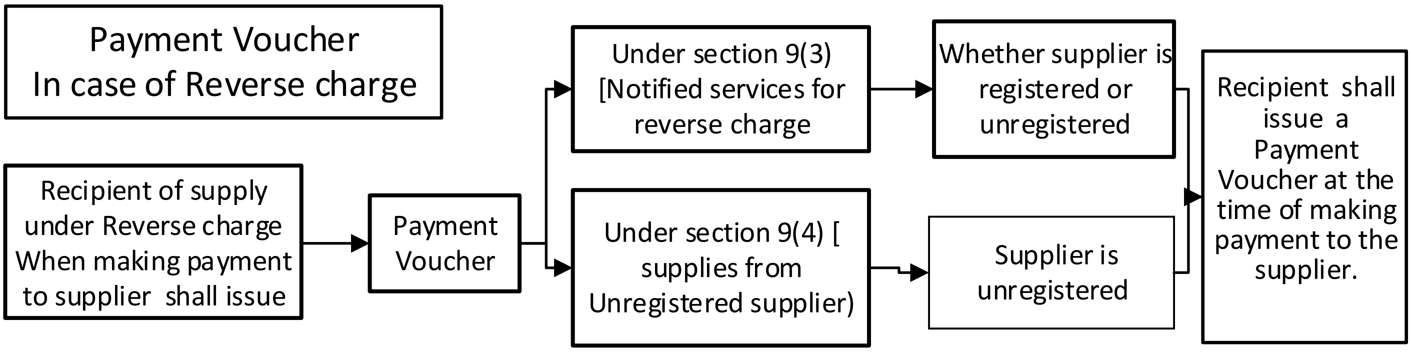
Under section 9(3) [Notified services for reverse charge

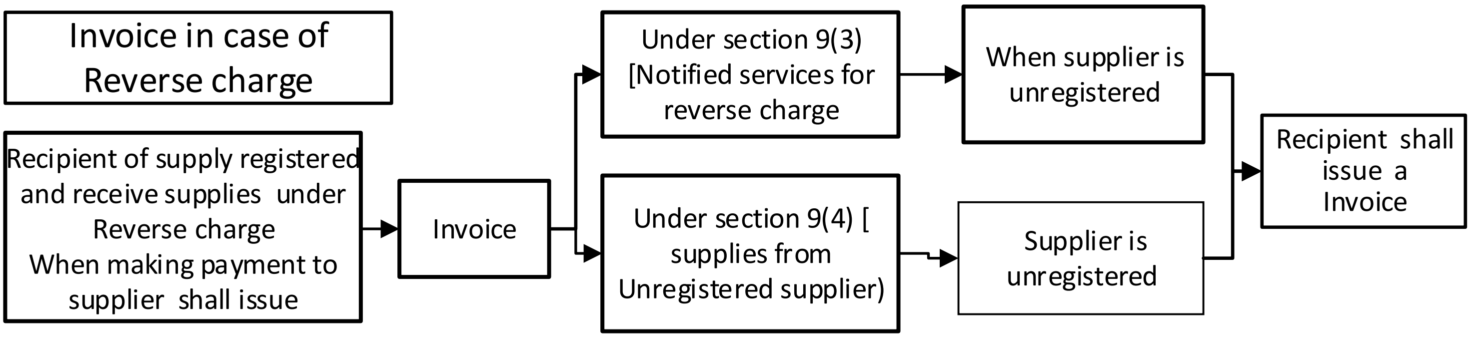
Whether supplier is registered or unregistered

Under section 9(4) [supplies from Unregistered supplier)

Supplier is unregistered

Recipient shall issue a Payment Voucher at the time of making payment to the supplier.


Payment Voucher
In case of Reverse charge
Recipient of supply under Reverse charge When making payment to supplier shall issue
Payment Voucher
Under section 9(3) [Notified services for reverse charge
Under section 9(4) [supplies from Unregistered supplier)
Whether supplier is registered or unregistered
Supplier is unregistered
Recipient shall issue a Payment Voucher at the time of making payment to the supplier.


Invoice in case of Reverse charge
Recipient of supply registered and receive supplies under Reverse charge When making payment to supplier shall issue
Invoice
Under section 9(3) [Notified services for reverse charge
Under section 9(4) [supplies from Unregistered supplier)
When supplier is unregistered
Supplier is unregistered
Recipient shall issue a Invoice

<table>
<tr><th colspan="3">Contents of Tax Invoice Sec 31(1) (2) and rule 46</th></tr>
<tr><td colspan="3">[Subject to rule 54 (i.e. other than input service Distributor, Banking or NBFC and so on) Section 31 read with Rule 46 of the CGST Rules, 2017]
There is no format prescribed for an invoice, however, invoice rules makes it mandatory for an invoice to have the following fields (only applicable field are to be filled</td></tr>
<tr><td>1</td><td colspan="2">Name, address and GSTIN of the supplier</td></tr>
<tr><td>2</td><td colspan="2">A consecutive serial number, in one or multiple series, containing alphabets or numerals or special characters like hyphen or dash and slash symbolized as “-” and “/” respectively, and any combination thereof, unique for a financial year</td></tr>
<tr><td>3</td><td colspan="2">Date of its issue</td></tr>
<tr><td>4</td><td colspan="2">Name, address and GSTIN or UIN, (Unique Identity Number for specialized agency like UNO) if registered, of the recipient</td></tr>
<tr><td rowspan="3">5</td><td>If the recipient is unregistered and value of supply</td><td>Particulars of Invoice</td></tr>
<tr><td>Rs. 50,000 or more</td><td>Name and address of the recipient and the address of delivery, along with the name of State Code.</td></tr>
<tr><td>Less than Rs.50,000</td><td>Above details should be given only if unregistered recipient ask for</td></tr>
<tr><td>6</td><td colspan="2">Name and address of the recipient and the address of delivery, along with the name of State and its code, if such recipient is un-registered and where the value of taxable supply is fifty thousand rupees or more</td></tr>
<tr><td>7</td><td colspan="2">HSN code of goods or Accounting Code of Services</td></tr>
<tr><td>8</td><td colspan="2">Description of goods or services</td></tr>
<tr><td>9</td><td colspan="2">Quantity in case of goods and unit or Unique Quantity Code there of</td></tr>
<tr><td>10</td><td colspan="2">Total value of supply of goods or services or both</td></tr>
<tr><td>11</td><td colspan="2">Taxable value of supply of goods or services or both, taking into account the discount or abatement, if any</td></tr>
<tr><td>12</td><td colspan="2">Rate of tax (Central tax, State tax, Integrated tax, union territory tax or cess)</td></tr>
<tr><td>13</td><td colspan="2">Amount of tax charged in respect of taxable goods or services (Central tax, State tax, Integrated tax, union territory tax or cess)</td></tr>
<tr><td>14</td><td colspan="2">Place of supply along with the name of State, in case of a supply in the course of inter-State trade or commerce</td></tr>
<tr><td>15</td><td colspan="2">Address of delivery where the same is different from the place of supply</td></tr>
<tr><td>16</td><td colspan="2">Whether the tax is payable on reverse charge basis</td></tr>
<tr><td>17</td><td colspan="2">Signature or digital signature of the supplier or his authorized representative (Not required in case of Electronic Invoice issued as per IT Act 2000 .Notification No 74/2018 dated 31.12.2018</td></tr>
</table>

- A registered person may not issue a Tax Invoice if: Value of the goods/services/both supplied < Rs.200, the recipient is unregistered; and the recipient does not require such invoice.
- Instead such registered person shall issue a **Consolidated Tax Invoice** for such supplies at the close of each day in respect of all such supplies. Signature or digital signature of the supplier or his authorized representative (Not required in case of Electronic Invoice issued as per IT Act 2000. Notification No 74/2018 dated 31.12.2018

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. This rule is notwithstanding anything contained in rule 46 or rule 49 or rule 54 of CGST Rules. ***[Notification No. 45/2017 CT dated 13.10.2017]***

Invoice in case of export of goods or services [Third proviso to rule 46]

- In the case of the export of goods or services, the invoice shall carry an endorsement "SUPPLY MEANT FOR EXPORT ON PAYMENT OF INTEGRATED TAX" or "SUPPLY MEANT FOR EXPORT UNDER BOND OR LETTER OF UNDERTAKING WITHOUT PAYMENT OF INTEGRATED TAX, as the case may be
- Particulars of an Export Invoice are same as a Tax Invoice. However, where recipient is unregistered and value of supply is Rs.50,000 or more, instead of name of State and its code, in case of an export invoice, name of the country of destination is to be mentioned

Particulars of Revised Tax Invoice Rule 53(1) : Notification No. 03/2019 CT dated 29.01.2019] from 01.02.2019

The word "Revised Invoice", wherever applicable, indicated prominently;
Name, address and GSTIN of the supplier;
~~Nature of the document~~; (no longer required WEF 01.02.2019)
A consecutive serial number not exceeding 16 characters, in one or multiple series, containing alphabets or numerals or special characters -hyphen or dash and slash and any combination thereof,
Date of issue of the document;
Name, address and GSTIN or UIN, if registered, of the recipient;
Name and address of the recipient and the address of delivery, along with the name of State and its code, if such recipient is un-registered;
Serial number and date of the corresponding tax invoice or, as the case may be, bill of supply;
~~Value of taxable supply of goods or services, rate of tax and the amount of the tax credited/debited to the recipient~~ (no longer required WEF 01.02.2019)
Signature/digital signature of the supplier/his authorized representative not required in case of electronic invoice

Particulars/Contents of Delivery Challan	
1	Date and number of the delivery challan
2	Name, address and GSTIN of the consigner, if registered
3	Name, address and GSTIN or UIN of the consignee, if registered
4	HSN code and description of goods,
5	Quantity (provisional, where the exact quantity being supplied is not known)
6	Taxable value
7	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

8	Place of supply, in case of inter-state movement
9	Signature

Particulars of Bill of Supply
Name, address and GSTIN of the supplier;
A consecutive serial number not exceeding 16 characters, in one or more multiple series, containing alphabets or numerals or special
characters -hyphen or dash and slash and any combination thereof, unique for a FY;
Date of its issue;
Name, address and GSTIN or UIN, if registered, of the recipient;
HSN Code for goods or services;
Particulars of Refund Voucher
Particulars of Receipt Voucher
Signature/digital representative. not required in case of electronic bill of supply

Particulars of Payment Voucher
Name, address and GSTIN of the supplier if registered;
A consecutive serial number not exceeding 16 characters, in one or multiple series, containing alphabets or numerals or special characters -hyphen or dash and any combination thereof, unique for a FY
Date of its issue;
Name, address and GSTIN of the recipient;
Description of goods or services;
Amount paid;
Rate of tax (central tax, State tax, integrated tax, Union territory tax or cess);
Amount of tax payable in respect of taxable goods or services (central tax, State tax, integrated tax, Union territory tax or cess);
Place of supply along with the name of State and its code, in case of a supply in the course of inter-State trade or commerce; and
Signature/digital signature of supplier/his authorized representative

Provisions for issuance of invoice/debit note/credit note by registered taxable person (having same PAN and State code as ISD) to ISD to transfer the credit of common input services [Notification No. 3/2018 CT dated 23.01.2018]

A new sub-rule (1A) has been inserted in rule 54 of CGST Rules. The new sub-rule provides as under:

A registered person, having the same PAN and State code as an input service distributor (ISD), may issue an invoice/credit note/debit note to transfer the credit of common input services to the ISD, which shall contain the following details :-

(i)name, address and GSTIN of the registered person having the same PAN and same State code as the ISD;

(ii)a consecutive serial number not exceeding 16 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)GSTIN of supplier of common service and original invoice number whose credit is sought to be transferred to the ISD;

(v)name, address and GSTIN of the ISD;

(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.

Person-in-charge of the conveyance to carry a copy of the tax invoice/ bill of supply where such person is not required to carry an e-way bill [Notification No. 3/2018 CT dated 23.01.2018]

A new rule 55A - Tax invoice or bill of supply to accompany transport of goods, has been inserted in the CGST Rules. The new rule lays down that 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 rules 46, 46A or 49 in a case where such person is not required to carry an e-way bill under these rules.

Clarification on issues wherein the goods are moved within the State or from the State of registration to another State for supply on approval basis

- Where 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.

❖ It is further clarified that all such supplies, where the supplier carries goods from one State to another and supplies them in a different State, will be inter-state supplies and attract integrated tax in terms of section 5 of the IGST Act.

❖ It is also clarified that this clarification would be applicable to all goods supplied under similar situations. [Circular No. 10/10/2017 GST dated 18.10.2017]

The new Rule 53(1A) sets out the contents of credit and debit note. Notification No. 3/2019-Central Tax Dt.29.01.2019 from 01.02.2019 as under-

(a) name, address and GSTIN of the supplier;

(b) nature of the document;

(c) a consecutive serial number not exceeding 16 characters, in one or multiple series, containing alphabets or numerals or special characters-hyphen or dash and slash symbolised as "-" and "/" respectively, and any combination thereof, unique for a financial year;

(d) date of issue of the document;

(e) name, address and GSTIN or UIN, if registered, of the recipient;

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

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

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

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

Special provisions pertaining to tax invoice for services by way of admission to exhibition of cinematograph films in multiplex screens [Rule 46 and 54 of the CGST Rules] Notification No. 33/2019 CT dated 18.07.2019

- Section 31(3)(b) of the CGST Act read with fourth proviso to rule 46 of the CGST Rules, provides A registered person has an option to issue consolidated tax invoice for supplies at the close of each day where the value of goods or services supplies is less than Rs. 200; recipient is unregistered and does not require tax invoice
- With effect from 01.09.2019, a new sub-rule (4A) has been inserted in rule 54[5]. Accordingly, a registered person who is supplying services by way of admission to exhibition of cinematograph films in multiplex screens shall be required to issue an electronic ticket.

- The said electronic ticket is deemed to be a tax invoice, even if such ticket does not contain the details of the recipient of service but contains the other information as mentioned under rule 46.
- Moreover, supplier of such services in a screen other than multiplex screens also has been given an option to follow above procedure.

Clarification with regard to issue of invoice in respect of goods sent/ taken out of India for exhibition or on consignment basis for export promotion. Circular No. 108/27/2019 GST dated 18.07.2019]

- Such goods do not constitute supply except such activity satisfied the tests laid in Schedule I of CGST Act.
- The specified goods sent/taken out of India are required to be either sold or brought back within the stipulated period of 6 months from the date of removal as per the provisions contained in section 31(7) of the CGST Act.
- The supply would be deemed to have taken place, on the expiry of 6 months from the date of removal, if the specified goods are neither sold abroad nor brought back within the said period.

If the specified goods are sold abroad, fully or partially, within the specified period of 6 months:

- The supply is effected, in respect of quantity so sold, on the date of such sale.
- Further, the sender shall issue a tax invoice in respect of such quantity of specified goods which has been sold abroad, in accordance with the provisions contained in section 12 and section 31 of the CGST Act read with rule 46 of the CGST Rules.

Illustration

M/s. ABC sends 100 units of specified goods out of India. The activity of merely sending/ taking such specified goods out of India is not a supply. No tax invoice is required to be issued in this case but the specified goods shall be accompanied with a delivery challan issued in accordance with the provisions contained in rule 55 of the CGST Rules.

In case the entire quantity of specified goods is brought back within the stipulated period of 6 months from the date of removal, no tax invoice is required to be issued as no supply has taken place in such a case.

In case, however, the entire quantity of specified goods is neither sold nor brought back within 6 months from the date of removal, a tax invoice would be required to be issued for entire 100 units of specified goods in accordance with the provisions contained in section 12 and section 31 of the CGST Act read with rule 46 of the CGST Rules within the time period stipulated under section 31(7) of the CGST Act.

Debit notes and Credit Notes Sec 34 CGST ACT 2017

Registered Supplier of goods or services or both shall issue Credit or Debit notes to Recipient of goods or services or both

Credit notes When to be issued 34(1)

tax invoice has been issued For supply of goods or services or both

- Taxable value in invoice > Taxable value in respect of such supply
- Tax charged in invoice > 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

Debit notes When to be issued Sec 34(3)

tax invoice has been issued For supply of goods or services or both

- Taxable value in invoice < Taxable value in respect of such supply or
- Tax charged in invoice < Tax payable in respect of such supply or

The registered person to issue one (consolidated) or more debit notes in respect of multiple invoices issued in a financial year <u>without linking the same to individual invoices. Sec 34(1) and 34(3) WEF 01.02.2019</u>

Debit note shall include a supplementary invoice.

Particulars of the Debit and Credit Notes are same as the particulars of revised tax invoices.

Details of Debit Note/Credit Note to be declared in monthly Return in the month they issued

Credit note Sec 34(2)

Maximum time to disclose

- September following the end of the financial year in which such supply was made, or
- the date of furnishing of the relevant annual return, Which ever is earlier

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.

Debit note Sec 34(4)

In the month which it is issued

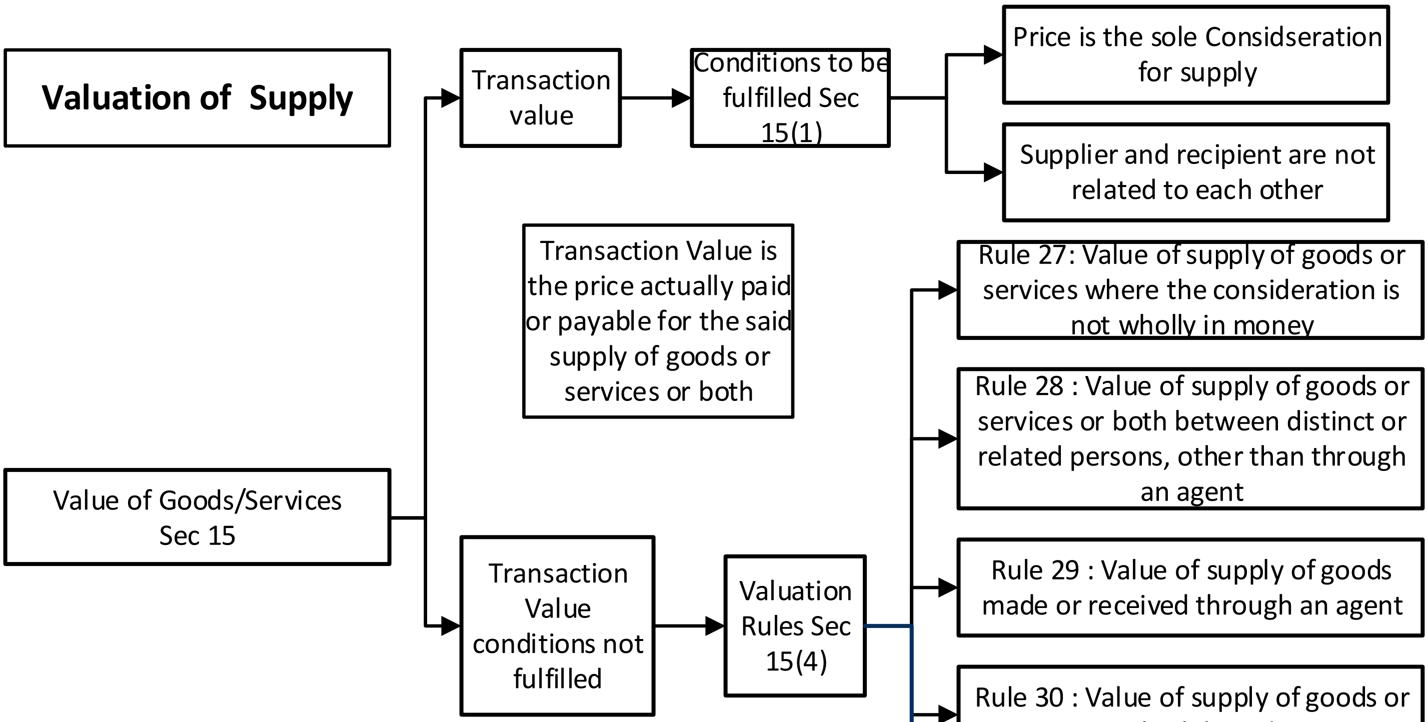
Delivery Challan

Rule 55 : Specifies the cases where at the time of removal of goods, goods may be removed on delivery challan and invoice may be issued after delivery

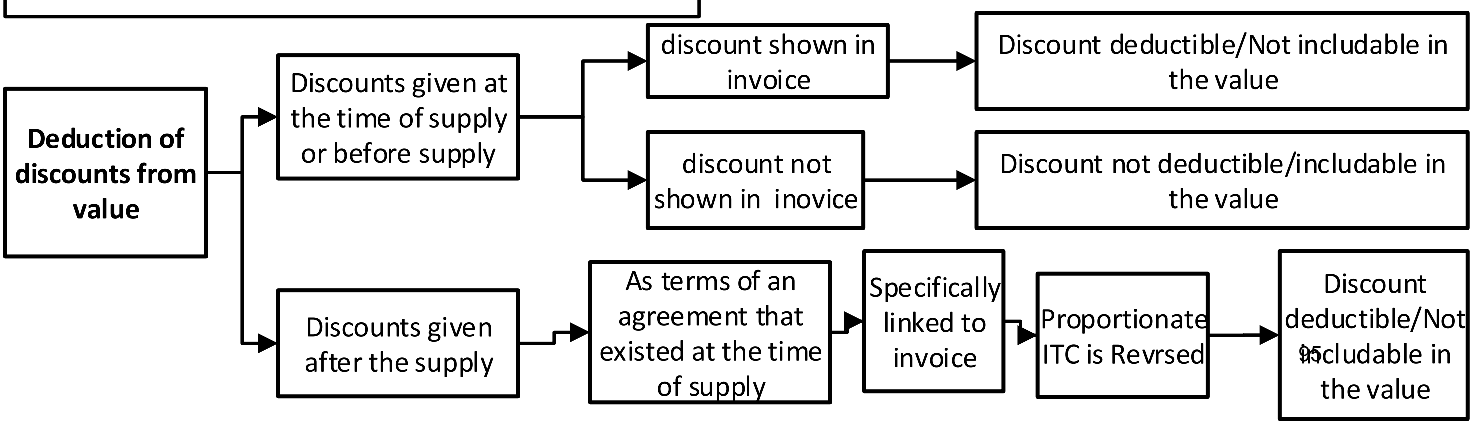
Delivery Challan Procedure

- **Nature and type of supply need to issue Delivery Challan**
  - Supply when the goods involve movement
  - Supply of liquid gas when qty not know at the time of removal from place of business
  - Tranportation of goods for job work
  - transaporation of goods for other than supply
  - Other supplies if any notified
- **Manner of issue**
  - The delivery Challan shall be prepared in TRIPLICATE
    Original for Consignee
    Duplicate for Transporter
    Triplicate for Consignor
- **Declaration in E-way Bill**
  - Where goods are being transported on a delivery challan in lieu of invoice, the same shall be declared in E-Way Bill1
- **Tax invoice to be issued after delivery of goods**
  - tax invoice could not be issued at the time of removal of goods for the purpose of supply to receipient the supplier shall issue a tax invoice after delivery of goods.
- **Goods transported in SKD/CKD condition**
  - Complete invoice before dispatch of the first consignment
  - Delivery Challan for each consignment with reference to invoice
  - Corresponding delivery Challan shall accompany each consignment along with a duly certified copy of the invoice
  - original copy of the invoice shall be sent along with the last consignment

Particulars/Contents of Delivery Challan
Date and number of the delivery challan
Name, address and GSTIN of the consigner, if registered`
Name, address and GSTIN or UIN of the consignee, if registered
HSN code and description of `,
Quantity (provisional, where the exact quantity being supplied is not known)
Taxable value
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
Place of supply, in case of inter-state movement
Signature



Value of Supply Sec. 15(1)	
Price/Sale consideration of goods/Services	XXX
Add: If not included in the above	
Sec. 15(2)(a): • Any taxes (other than taxes levied under CGST/SGST/UTST/compensation cess ACTS), • Duties, • Cesses, • Fees and charges	XX XX XX XX
Sec. 15(2)(b): Supplies made by the recipient on behalf of supplier	XX
Sec. 15(2)(c): Commission and packing or incidental expenses	XX
Sec. 15(2)(d): Interest or late fee or penalty for delayed payment	XX
Sec. 15(2)(e): Subsidy directly linked to the price (other than Govt. subsidy)	XX
Less:	
Sec. 15(3): Discount	XX
Transaction Value	XX



GST Valuation rules

RULE 27: Consideration not wholly in money

Value shall be either of the following in the given order:

- open market value
- total of consideration in money + amount equal to the consideration not in money
- value of supplies of like kind and quality
- consideration in money + money value of non- monetary consideration computed as per rule 30 or 31 in that order.

RULE 28: Supply between distinct/ related persons, other than agent

Value shall be either of the following in the given order:

- open market value
- value of supplies of like kind and quality
- value as per rule 30 or 31 in that order.
- Option to supplier to value goods sold as such by recipient Value= 90% of price charged by recipient to its unrelated customer
- Recipient eligible for ITC invoice value = open market value (taxable value)

RULE 29: Supply made/received through an agent

Value shall be either of the following in the given order:

- open market value or 90% of price charged by recipient to his unrelated customer for supplies of like kind and quality;
- value as per rule 30 or 31 in that order

RULE 30: Value based on cost

Value shall be 110% of cost of production/acquisition/ provision of goods or services

RULE 31: Residual method (Best Judgement Method)

Value shall be determined using reasonable means consistent with the principles and general provisions of section 15 & valuation rules. For services, rule 31 can be adopted before rule 30.

RULE 33: Supply as a pure agent

Value =Costs incurred by the supplier as a pure agent of recipient shall be excluded from value

RULE 34: Rate of exchange for determination of value

Goods = Rate notified by CBEC under Customs Act on the date of time of supply of such goods;

Services = Rate as per GAAP on the date of time of supply of such services

Rule 35: Value inclusive of taxes

Where value of supply is inclusive of CGST, SGST/UTGST or IGST, the tax amount is calculated by making back calculations. Tax amount = (Value inclusive of GST x GST rate in % of IGST or CGST, SGST/UTGST)/100 + sum of applicable GST rates in %)

Board Clarification in Valuation

Amount of TCS collected Under Income tax ACT not in includable in Valuation as it is an interim levy not having the character of tax. Circular No. 76/50/2018 GST dated 31.12.2018

Valuation in case of Services of Business Facilitator (BF)/Business Correspondent (BC) to Banking Company.

The Entire value of amount collected by bank from their Customs in respect of services of BC/BF is includible in the value for the purpose of payment of GST ***Circular No. 86/05/2019 GST dated 01.01.2019]***

Classification on discounts and exclusion in the value [Circular 92/11/2019 GST dated 07.03.2019]

S No		
	A. Discounts including 'Buy more, save more' offers	
	Type of Discount	Treatment
1	Volume discount for bulk purchases. Example 5% discount up to Volume Rs.20000/- and 10% discount above Rs.20000/	This discount normally shown in invoice. Excluded in determining the Value.
2	Periodic and year end discounts	These are post supply discounts and usually given as per agreement. Discounts are passed through credit notes. Proportionate ITC is to be reversed to allow discount as deduction.
	B. Secondary Discounts	
	Discounts given after the time of supply. Ex. Reduction in values, discounts for prompt payments to debtors	Excludible from valuation only when The Benefit of discount passed on to buyer. Credit notes are issued for the discount Proportionate ITC is reverse.

Determination of value in respect of certain supplies -Rule 32

This rate is optional. The supplier can also value under normal valuation rules

Special provision relating to determination of value of service of purchase or sale of foreign currency including money changing [Sub-rule (2)]

Method-1 Rule 32(2)(a)

Case 1: Transaction where one of the currencies exchanged is Indian Rupees

- The value of supply is difference between buying rate or selling rate of currency and RBI reference rate for that currency at the time of exchange multiplied by total units of foreign currency
- However, if RBI reference rate for a currency is not available then value of supply is **1%** of the gross amount of Indian Rupees provided/ received by the person changing the money

Example

Mr.Amit sha converted USD $ 100 into Rs. 7600 @ Rs. 76 per USD through Western Money Changers. RBI reference rate 20th October for US $ is Rs.74 per US $. The value of supply in this case is (Rs. 74 – Rs. 76)* $ 100 = Rs. 200 and GST will be levied on this amount. If the RBI reference rate is not available, then 1% of Rs. 7,600 i.e., Rs. 76 will be the value of supply of service.

Case 2: Transaction where neither of the currencies exchanged is Indian Rupees

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 two currencies in Indian Rupees.

Example

US $ 9,000 are converted into UK £ 4,500. RBI reference rate at that
time for US $ is Rs. 74 per US dollar and for UK £ is Rs. 90 per UK Pound. In this case, neither of the currencies exchanged is Indian Rupee.
Hence, in the given case, value of taxable service would be 1% of the lower of the following: -
(a)US dollar converted into Indian rupees = $ 9,000 × Rs. 74 = Rs. 6,66,000
(b)UK pound converted into Indian rupees =£ 4,500 × Rs. 90 = Rs. 4,05,000
Value = 1% of Lesser amount = 4,05,000 x1% = Rs. 4050

Method-2 Rule 32(2)(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:

S.N	**Currency exchanged**	**Value of supply**
1.	Up to Rs. 1,00,000	*1%* of the gross amount of currency exchanged OR *Rs. 250* whichever is higher
2.	Exceeding Rs. 1,00,000 and up to Rs. 10,00,000	*Rs. 1,000 + 0.50%* of the (gross amount of currency exchanged)
3.	Exceeding Rs. 10,00,000	*Rs. 5,500 + 0.1%* of the (gross amount of currency exchanged) OR *Rs. 60,000* whichever is lower

Example

Mr. X, a money changer, has exchanged US $ 10,000 to Indian rupees @ Rs. 74 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 supply, made by Mr. X, under rule 32(2)(b) of CGST Rules is computed as under as per slab basis

Particulars	Rs.	Rs.
Value of currency exchanged in Indian rupees [Rs.74 x US $ 10,000]	7,40,000	
Up to First Rs. 1,00,000	1,000	
For the next Rs.6,40,000 [0.50% x Rs.6,40,000]	3,400	
Value of supply		4,400

Special provision relating to determination of value of service of booking of tickets for air travel by an air travel agent [Rule 32 (3)]

Rule	Service	Value
32(3)	Air travel agent's service (Domestic Bookings)	0.5% of the basic Fare
	Air travel agent's service (International Bookings)	10 % of the basic Fare

Note: Other charges like commission, taxes shall be ignored in calculating the value

Special provision relating to determination of value of service in relation to life insurance business Rule 32(4)

Value of life insurance service varies with nature of insurance policy. The details are as follows:

SN	Nature of the Policy	Taxable value
1	Policy with dual benefits of risk coverage and investment	Gross premium charged less amount allocated for investments/savings if such allocation is intimated to the policy holder at the time of collection of premia
2	Single premium annuity policy	10% of the single premium charged from the policy holder where allocation for investments/savings is not intimated to the policy holder
3	Other cases	25% of premium charged from the policy holder in the first year and 12.5% of premium charged for subsequent years
4	Policy with ONLY risk cover	Entire premium charged from the policy holder

Special provision relating to determination of value of second-hand goods – Margin Scheme [Rule 32(5)]

SN	Particulars	Value
1	When ITC is not availed [Margin Scheme]	Value = Selling price - Purchase price Selling price < Purchase price : Ignore negative value
2	When ITC is availed	Normal valuation as per Valuation Rules

Note:

❖ the CGST leviable on intra-State supplies of second-hand goods received by a registered second-hand goods dealer [who pays CGST on the value of outward supply of such second-hand goods under margin scheme] from any unregistered supplier, has been exempted vide Notification No. 10/2017 CT (Rate) dated 28.06.2017. Similar exemptions are also there in respective SGST Acts.

Purchase value of supply of goods repossessed from a defaulting borrower

SN	Particulars	Value
1	Purchase value of goods repossessed from unregistered borrower	Purchase price minus 5% per quarter or part thereof from date of purchase till the date of disposal by the person making repossession
2	Purchase value of goods repossessed from registered borrower	The repossessing lender agency will discharge GST at the supply value without any reduction from actual/notional purchase value

Coupon/vouchers/stamps/tokens rule 32(6): Value = money value of supplies redeemable against such voucher/ coupon

New rule 31A introduced in CGST Rules to provide for valuation of supply of lottery Notification No. 3/2018 CT dated 23.01.2018]

Supply	Value
Supply of lottery run by State Governments	<u>Higher of the two amounts to be deemed as the value</u> 100/112 of the face value of ticket OR 100/112 of the price as notified in the Official Gazette by the organizing State
Supply of lottery authorised by State Governments	<u>Higher of the two amounts to be deemed as the value</u> 100/128 of the face value of ticket OR 100/128 of the price as notified in the Official Gazette by the organising State
Supply of actionable claim in the form of chance to win in betting, gambling or horse racing in a race club	100% of the face value of the bet or the amount paid into the totalisator

- "lottery run by State Governments" means a lottery not allowed to be sold in any State
    - other than the organizing State;
- "lottery authorised by State Governments" means a lottery which is authorised to be
    - sold in State(s) other than the organising State also; and
- "Organising State" has the same meaning as assigned to it in clause (f) of sub-rule of rule 2 of the Lotteries (Regulation) Rules, 2 0 1 0 .

Clarification on issue of GST on airport levies [Circular No. 115/34/2019 GST dated 11.10.2019

- Passenger service fee (PSF), User development fee (UDF) changed and collected as per Aircraft rules 1937, by the airport operators from the passengers for providing the services to passengers. PSF and UDF charged by airport operators are consideration for providing services to passengers. And are falls within the definition of Consideration. u/s 2(31).
- Since, the airport operators are collecting PSF and UDF inclusive of GST, there is no question of their not paying GST collected by them to the Government.
- airport operator and airlines shall be liable to pay GST on the same under forward charge. ITC of the same will be available with the airport operator.

When airlines act as pure agent airport levies will not be includible in value subject to conditions: Circular No. 115/34/2019 GST dated 11.10.2019

Airlines may act as a pure agent for the supply of airport services in accordance with rule 33 of the CGST rules. Rule 33 of the CGST rules provides that the expenditure or costs incurred by a supplier as a pure agent of the recipient of supply shall be excluded from the value of supply.

Accordingly, the airline acting as pure agent of the passenger should separately indicate actual amount of PSF and UDF and GST payable on such PSF and UDF by the airport licensee, in the invoice issued by airlines to its passengers.

The airline shall not take ITC of GST payable or paid on PSF and UDF.

The airline would only recover the actual PSF and UDF and GST payable on such PSF and UDF by the airline operator.

The amount so recovered will be excluded from the value of supplies made by the airline to its passengers. In other words, the airline shall not be liable to pay GST on the PSF and UDF (for airport services provided by airport licensee), provided the airline satisfies the conditions prescribed for a pure agent under rule 33 of the CGST Rules.

The registered passengers, who are the ultimate recipient of the airport services, may take ITC of GST paid on PSF and UDF on the basis of pure agent's invoice issued by the airline to them

Registration under GST

Important Definitions

Agriculturist Sec 2(7) → Individual/HUF who undertakes cultivation of land—
- by own labour
- by the labour of family,
- by servants on wages payable in cash or kind or
- by hired lab our under personal supervision or the personal supervision of any member of the family

Place of Business Sec 2(85)
- a place from where the business is ordinarily carried on
- Ware house godown any other place goods are stored
- Place where the goods/services are received supplied
- a place where a taxable person is engaged in business through an agent, by whatever name called
- Plalce where the books of accounts are kept

Principal place of business: means the place of business specified as the principal place of business in the certificate of registration [Section 2(89)].

Agent: means a person, including a factor, broker, commission agent, arhatia, del credere agent, an auctioneer or any other mercantile agent, by whatever name called, who carries on the business of supply or receipt of goods or services or both on behalf of another [Section 2(5)].

Casual Taxable Person Sec 2(20) → person who occasionally undertakes transactions involving supply of goods or services or both → in the course or furtherance of business, → whether as principal, agent or in any other capacity → in a State/UT where he has no fixed place of business

Non-Resident Taxable Person Sec 2(77) → Person who occasionally undertakes transactions involving supply of goods or services or both → whether as principal, agent or in any other capacity → who has no fixed place of business or residence in India

Fixed establishment: means a place (other than the registered place of business) which is characterised by a sufficient degree of permanence and suitable structure in terms of human and technical resources to supply services, or to receive and use services for its own needs [Section 2(50)].

Registration Under GST

- Persons liable to get registered when turnover crosses Threshold limit Sec 22
- Person require Compulsory Registration irrespective of turnover limit Sec 24.
- Voluntary Registration by Person to boost their business Sec 25(3)
- Persons does not require Registration Sec 23

Registration Statutory Provisions

Persons liable to get registered when turnover crosses Threshold limit Sec 22

- Person whose taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds Rs. 20 lakhs
- Government may, at the request of a special category State (SCS) and on the recommendations of the Council, enhance the aggregate turnover limit to Rs. 20 lakhs from 01.02.2019
- SCS states for the purpose of Sec 22 are Mizoram, Tripura, Manipur and Nagaland
- In case of transfer of business the transferee should get registered from the date of transfer/succession.
- Legal heir should obtain fresh registration in case of succession of business by death of sole proprietor Circular 96/215/2019 dated 28.03.2019

Person require Compulsory Registration irrespective of turnover limit Sec 24

- Persons making any inter-State taxable supply (Some notified goods exemption from Registration up to Rs. 20 lakhs is available)
- Casual taxable persons/Non resident taxable person making taxable supply
- A person receiving supplies on which tax is payable by recipient on reverse charge basis
- Ecommerce operators who is required to collect TCS from 01.02.2019
- Person who supplies goods/services through ECO who liable to collect TCS
- Persons who are required to deduct tax under section 51 (TDS) whether or not separately registered under this Act
- Agents who supply taxable supplies on behalf of other taxable person
- Input Service Distributor, whether or not separately registered under this Act
- 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;
- Such other person or class of persons as may be notified by the Government on the recommendations of the Council

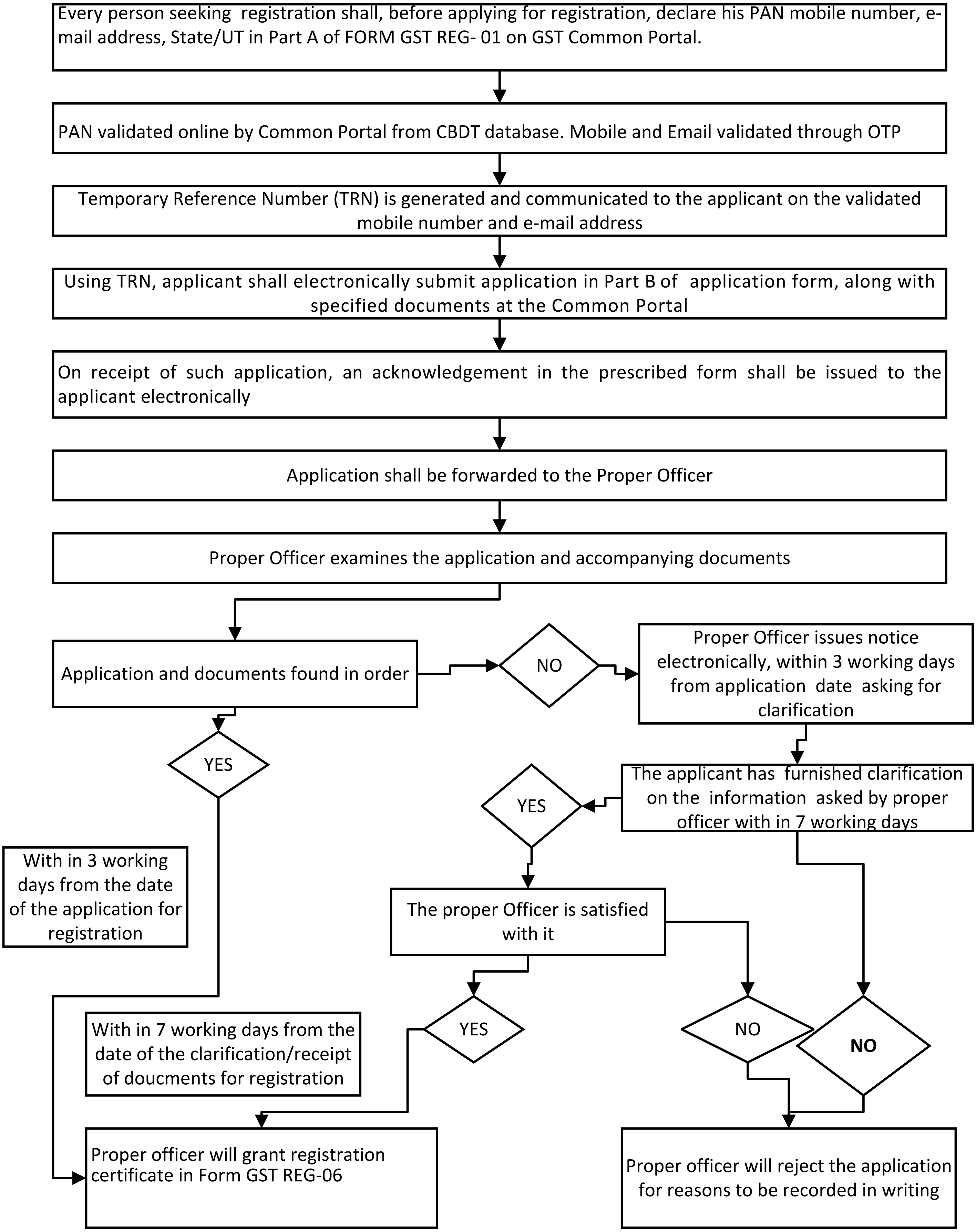
Voluntary Registration by Person to boost their business Sec 25(3)

- A person who is not liable to be registered under section 22 or section 24 may get himself registered voluntarily
- Voluntary registration is advantageous for the persons which supply of goods / services or to registered persons
- Once he get registered he is liable to pay GST irrespective of his turnover

Registration Procedure Sec 25 and 26

- **Apply for Registration Sec 25(1)**
  - Person liable for registration based on turnover limit or compulsory registration shall apply in every state/UT with in 30 days from the date of person liable
  - casual taxable person or a non-resident taxable person shall apply for registration at least five days prior to the commencement of business.
- **Separate registration In each state or UT Sec 25(2)(4) and (5).**
  - Persons having units in SEZ/SEZ developers need separate registration for their outside SEZ place of business in the same state or UT Sec 25(1) Provisio
  - Person has multiple ~~business verticals~~ Place of Business in a State or Union territory may be granted a separate registration for each ~~business vertical~~ Place of Business, subject to such conditions as may be prescribed. One state three places of business three registration required. Notification No 3/2019 dated 29.01.2019
  - Person who acquired more than one registrationin respect of each such registration, be treated as distinct persons for the purposes of this Act
- **PAN/TAN mandatory Sec 25(6) (7)**
  - Every person shall have PAN in order to be eligible for grant of registration:
  - In respect of person required to deduct tax under section 51 in Lieu of PAN , TAN/TCS No, order to be eligible for grant of registration.
  - non- resident taxable person may be granted registration under on the basis of such other documents as may be prescribed
- **Suo-motu registration by the proper officer Sec 25(8) / rule 16**
  - Proper officer finds that a person liable to registration has failed to apply for such registration, such officer may register the said person on a temporary basis and issue an order in prescribed form
  - Such person submit an application for registration in prescribed form within 90 days from the date of grant of temporary registration.
- **Unique Identity Number (UIN) [Section 25(9) & (10) / rule 17]**
  - Any specialized agency of the United Nations Organization or any Multilateral Financial institution and organization, any other person notified by commissioner shall obtain UIN from GSTN Portal
  - This UIN is needed for claiming refund of taxes paid on notified supplies of goods and/or services received by them,
  - Such person shall file an application in a different prescribed form
  - UIN shall be assigned on Centralised basis and registration certificate shall be issued within 3 working days from the date of submission of application
  - UIN assigned and allotted to under state Act shall be deemed to be assigned under CGST ACT (Sec 26)
  - UIN application rejected for registration is deemed to rejected under CGST Act.

Procedure for Registration Covered under Rules 8, 9 and 10



Deemed Approval of Application

If the proper officer fails to take any action -

within **3 working days** from the date of submission of application, or

within **7 working days** from the date of receipt of clarification, information or documents furnished by the applicant,

the application for grant of registration shall be deemed to have been approved.

Special Provision for grant of Registration in case of certain persons

Spl Provision for grant of Registration in case of certain persons

- **Non-Resident Taxable Person (NRTP) and Casual Taxable Person (CTP) [Sections 25 & 27 read with rules 13 & 15]**
  - (Both CRTP and NRTP have to compulsorily get registered under GST irrespective of the threshold limit, at least 5 days prior to commencement of business.
  - CTP will submit the application for registration in the normal form for application for registration i.e. Form GST REG 01 and his registration of CTP will be a PAN based registration.
  - Application will be submitted by NRTP in a different prescribed form along with valid passport/ TIN UIN of other country
  - CTP/NRTP are required to make an advance deposit of tax in an amount equivalent to the estimated tax liability of such person for the period for which the registration is sought.
  - Registration Certificate granted to CTP/NRTP will be valid for (Period specified in the registration application, or 90 days from the effective date of registration/ can be extended for further period by making an application
  - CTP and NRTP will make taxable supplies only after the issuance of the certificate of registration
  - CTP and NRTP will make taxable supplies only after the issuance of the certificate of registration
- **Persons require to deduct Tax(TDS) and collect TCS Sec 51 and 52**
  - Application for registration has to be submitted by such persons in a different prescribed form at GST Common Portal.
  - When a Person applying for registration to collect TCS in a state/UT does not have physical presence he should mention name of state in part A in state/UT and name of state/UT where place of business is located in Part BNotification 74/ 2018 dated 31.12.2018
  - They would be granted registration within 3 working days from the date of submission of application after due verification.
  - Registration will be cancelled if proper officer is satisfied that such person is no longer liable to deduct tax at source or collect tax at source
- **Special Economic Zone (SEZ) [First proviso to rule 8(1)**
  - SEZ/SEZ developer will make a separate application for registration as a business vertical distinct from his other units located outside SEZ
  - Where two units of a tax payer are located in same State - one in SEZ and another outside SEZ. Separate registrations have to be obtained for each of the two units as separate business vertical
- **Input Service Distributor ISD [Second proviso to rule 8(1))**
  - Every person being an ISD shall make a separate application for registration as such ISD
  - There is no threshold limit for registration for an ISD.
  - An ISD is required to obtain a separate registration even though it may have registered as supplier

Other than the above, the procedure for registration like verification, asking for clarification and granting registration is same as like , in case of any other person

Persons does not require Registration Under GST Sec 23

- Person engaged exclusively in supplying goods/services/both not liable to tax
- Person engaged exclusively in supplying goods/services/both wholly exempt from tax
- Agriculturist to the extent of supply of produce out of cultivation of land
- Persons making <u>only</u> reverse charge supplies /Persons supplies notified goods up to turnover Rs. 20 lakhs (Handicraft goods)
- All the service providers whether supplying intra-State, inter-State or <u>through e-commerce operator,</u> provided their aggregate turnover does not exceed Rs.20 lakh (Rs. 10 lakh in special category States except Jammu & Kashmir *Notification No. 65/2017 CT dated 15.11.2017]*

Amendment of registration Sec 28 and Rule 19

If is any change in the particulars furnished in registration application/UIN application, registered person shall submit an application in prescribed manner, within 15 days of such change, along with documents relating to such change at the Common Portal.

Amendment of RC

- Change relates to core fields of information
  - Change in Legal name of business
  - Change of Address of place of business
  - Addition, deletion of partners/ directors, board of trustees karta, CEO Etc
- Change relates to non-core fields of information like mobile No. email id
  - RC will be amended after validating through OTP

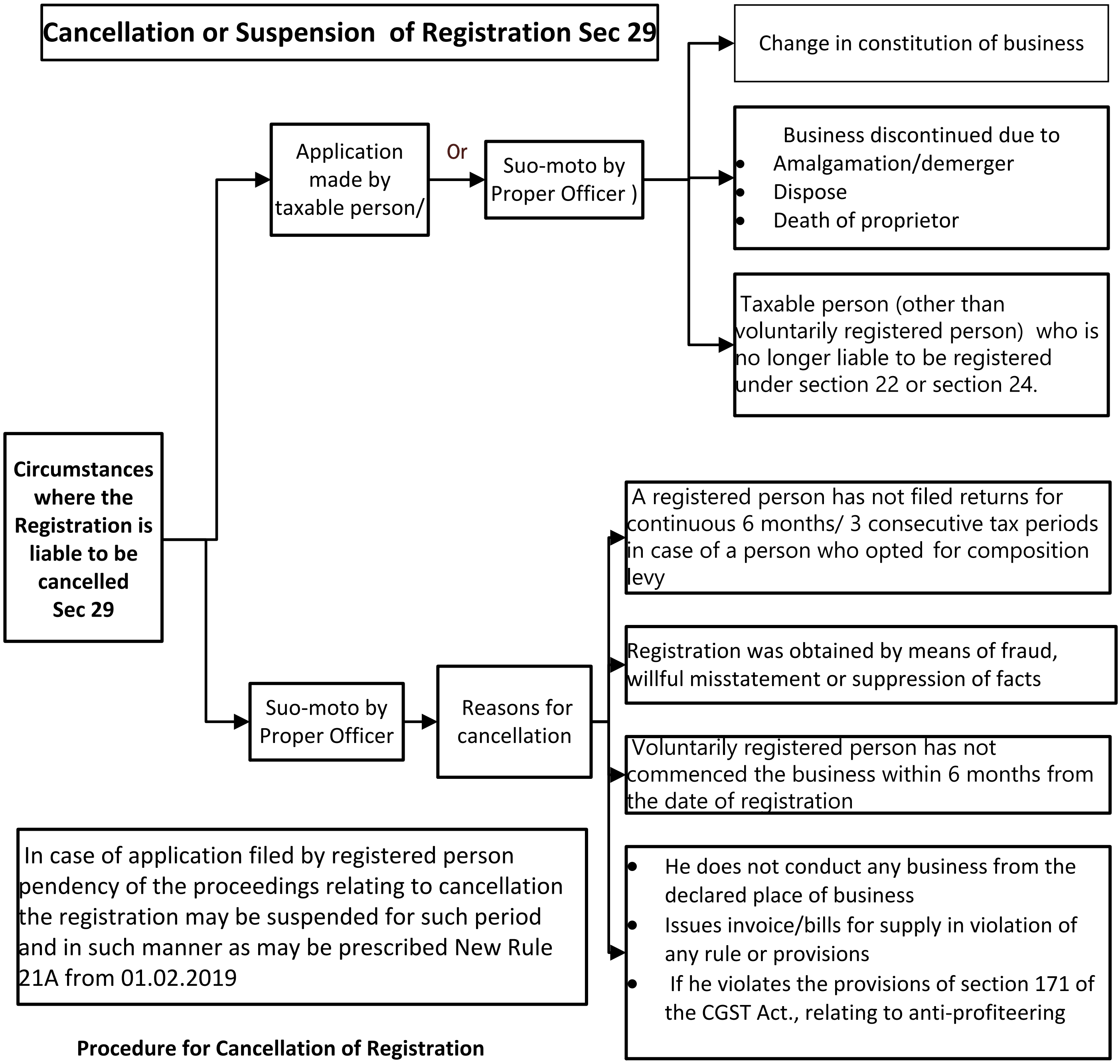
Supporting Documents Should be submitted

- If the documents and particulars are correct, the RC will be amended within 15 working days
- If PO is of the opinion that amendment is unwarranted or documents furnished are incomplete/ incorrect, PO will serve a SCN why application for amendment should not be rejected
- Registered person should reply to the notice within 7 working days.
- If the reply is satisfied RC will be amended. If not satisfied application for amendment will be rejected

If the proper officer fails to take any action,-
(a)within a period of fifteen working days from the date of submission of the application, or
(b)within a period of seven working days from the date of the receipt of the reply to the show cause notice,
the certificate of registration shall stand amended to the extent applied for and the amended certificate shall be made available to the registered person on the common portal.

Amendment of RC effective <u>earlier than date of submission of application</u>:

- Amendment order of RC from the date <u>earlier than the date of submission of application</u> is made only with the order of the Commissioner for reasons to be recorded in writing and subject to such conditions as the Commissioner may, in the said order, specify. **Notification No. 75/2017 CT dated 29.12.2017**



Procedure for Cancellation of Registration

- Application for Cancellation through common portal with in 30 days of occurrence of event
- Details of stock of inputs,WIP, FG and Capital goods along with details of tax liability on the date of application should be furnished
- A registered person whose registration is cancelled will have to debit the electronic credit or cash ledger by an amount equal to credit availed on inputs, WIP, finished goods, and capital goods or output tax payable whichever is higher
- The registered person continues to liable for taxes due period prior to the date of cancellation
- in respect of capital goods, credit is to be reversed by taking useful of capital goods is 60 months
- Where the proper officer cancels the registration Suo-moto, SCN is to be issued, if registered person given reply within 7 working days and if is satisfactory, the cancellation proceedings should be dropped
- ~~A voluntarily registered person cannot seek cancellation before the expiry of a period of 1 year from the effective date of registration [Proviso to rule 20] Notification No. 3/2018 CT dated 23.01.2018~~] this condition was omitted
- A person to whom a UIN has been granted under rule 17 cannot apply for cancellation of registration [Rule 20]
- The cancellation of registration shall be effective from a date to be determined by the proper officer.
- The cancellation of registration under either SGST Act/UTGST Act shall be deemed to be a cancellation of registration under CGST Act [Section 29(4)].

The proper officer will direct the taxable person to pay arrears of any tax, interest or penalty including the amount liable to be paid under section 2

The Registered person during the period of suspension shall not make any taxable supply ie shall not issue any tax invoice and shall not charge tax during the period of suspension and shall not be required to furnish any return under section 39.

Suspension of Registration New Rule 21 A From 01.02.2019

Application for Cancellation made by Registered Person

Registration deemed to be suspended

from the date of submission of the application or the date from which the cancellation is sought, whichever is later,

Cancellation initiation by Dept. on its own. PO reason to believe registration is liable to cancelled

Po will give reasonable opportunity being heard

suspend the registration of such person with effect from a date to be determined by him

Pending Completion of proceedings for cancellation of registration

where any order having the effect of revocation of suspension of registration has been passed, the provisions of section 31(3)(a) [revised tax invoices] and section 40 [first return] in respect of the supplies made during the period of suspension and the procedure specified therein shall apply. 21A(5) *Notification No. 49/2019 CT dated 09.10.2019]*

Revocation of Cancellation of license sec 30, Rule 23

Registration of a person is cancelled suo-motu by the proper officer

The registered person may apply for revocation of the cancellation to such proper officer, within 30 days from the date of service of the order of cancellation of registration, at the GST Common Portal

Registration was cancelled for failure of registered person to furnish returns

NO

YES

All the pending returns to be filed , Tax interest penalty and late fee should be paid

Proper officer (P.O) is satisfied that there are sufficient grounds for revocation of cancellation

PO before passing an order issue SCN why application for revocation should not be rejected and applicant should furnish reply to the notice.

P.O may revoke the cancellation of registration, by an order within 30 days of receipt of application and communicate the same to applicant.

The Registered person should file all returns from the date or order of cancellation till the date of order of revocation of license with in 30 days from the date of order WEF 23.04.2019

Threshold limit for Registration Notification 10/2019 dated 07.03.2019			
SN	States with threshold limit of Rs. 10 lakh for both goods and services (SCS states)	States with threshold limit of Rs. 20 lakh for both goods and services	States with threshold limit of Rs. 20 lakh for services and Rs. 40 lakh for persons exclusively supplying goods
1	Manipur	Arunachala Pradesh	Jammu and Kashmir
2	Mizoram	Meghalaya	Himachal Pradesh
3	Nagaland	Sikkim	Assam
4	Tripura	Uttarakhand	All Other states
5	--	Puducherry	
6	---	Telangana	

Aggregate Turnover All India Basis of same PAN of all Branches for calculation of threshold limit					
SN	Inclusions		SN	Exclusions	
1	Taxable supplies	xxxx	1	CGST/SGST/UTGST/IGST	xxxx
2	Exempt supplies	xxxx	2	Compensation cess	xxxx
3	Outward supplies on which tax is payable under reverse charge	xxxx	3	inward supplies on which tax is payable under reverse charge/ Job worker supply to principal after completion of Job worker (it will be considered for Principal)	xxxx
4	Inter-State supplies	xxxx	Aggregate turnover to include all supplies made by the taxable person, whether on his own account or made on behalf of all his principals		
5	Inter-State supplies of branch Ho transfers	xxxx			
6	Exports	xxxx			
	Total	xxxx			

Liability to register in respect of services provided by the commission agent for sale/ purchase of agricultural produce Circular No. 57/31/2018 GST dated 04.09.2018,

Mr. A sells agricultural produce by utilizing the services of Mr. B who is a commission agent as per the Agricultural Produce Marketing Committee Act (APMC Act) of the State[7]

Mr. B identifies the buyers and sells the agricultural produce on behalf of Mr. A for which he charges a commission from Mr. A. In cases where the invoice is issued by Mr. B to the buyer,

Since the services provided by the commission agent for sale or purchase of agricultural produce are exempt from GST vide Notification No. 12/2017 CT (R) dated 28.06.2017. Such commission agents (even when they qualify as agent under Schedule I) are not liable to be registered in accordance with provisions of section 23(1)(a)

commission agent will be liable to get mandatorily registered under this provision only when both the following conditions are satisfied:

(a)the principal should be a taxable person; and

(b)the supplies made by the commission agent should be taxable

commission agent is liable to pay tax under reverse charge, such an agent will be required to get registered compulsorily

Bank Account details may be furnished after obtaining registration certificate [New rule 10A inserted and rule 21 of the CGST Rules amended

While applying for registration on GST portal, a person is required to furnish the details of his bank account. This requirement has now been relaxed to a limited extent, by inserting a new rule 10A to the CGST Rules

A registered person has an option to give his bank account details after obtaining registration, within 45 days from the date of grant of registration or the due date of furnishing return, whichever is earlier.

This relaxation is not available for those who have been granted registration as TDS deductor/ TCS collector under rule 12 or who have obtained suo-motu registration under rule 16.

However, if a person violates the provisions of rule 10A, his GST registration is liable to be cancelled [Rule 21].

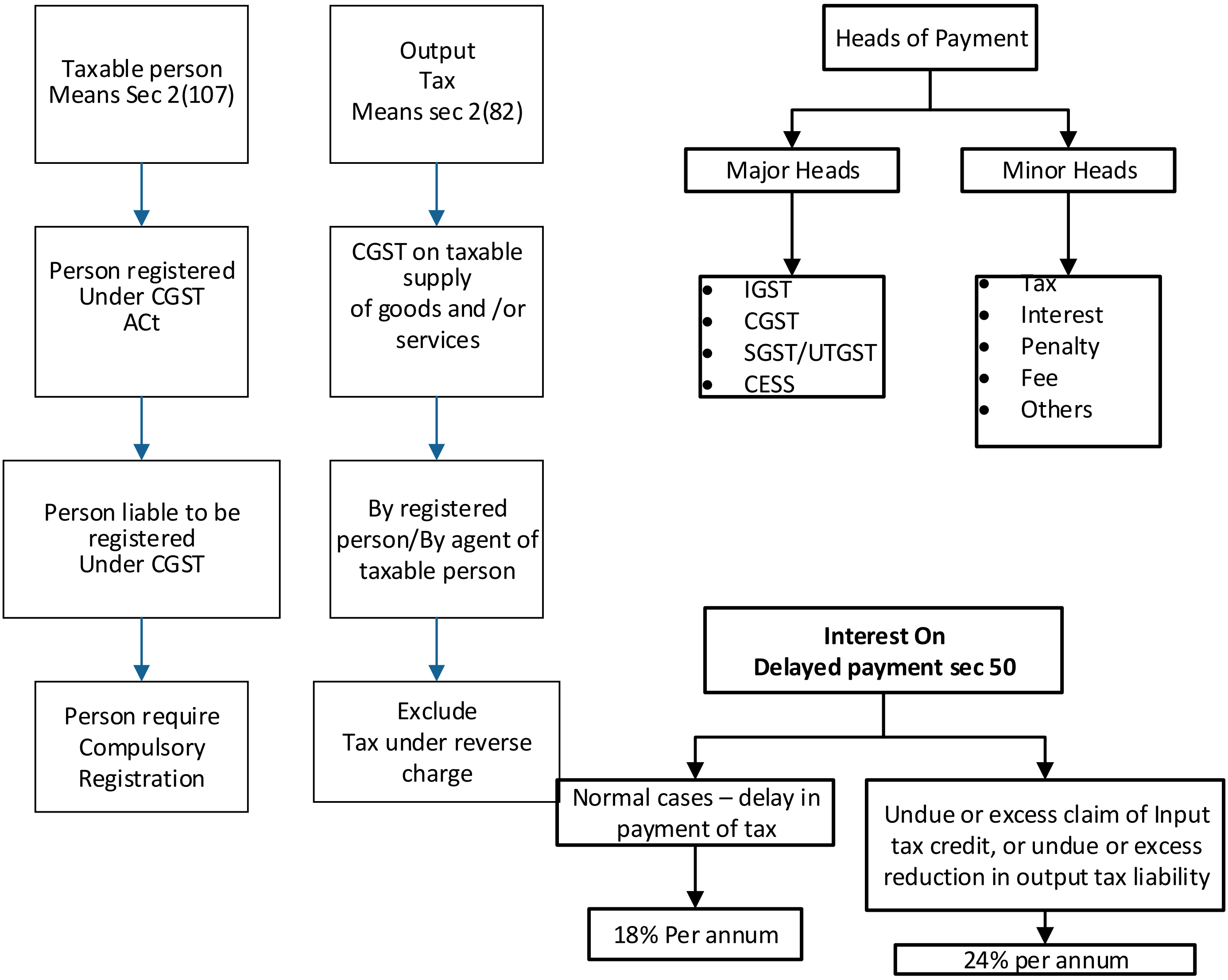
Manner of furnishing the details of State/UT in application for registration by a TDS deductor in a State/UT where he doesn't have a physical presence [Rule 12(1A) of the CGST Rules

The existing rule applicable to TCS persons now made applicable to TDS deductor also

When a person is applying for registration to deduct TDS in a State/UT where he does not have a physical presence, he shall mention name of said State/UT in Part A of prescribed application form for registration.

Further, the name of the State/UT in which his principal place of business is located is to be mentioned in Part B of the application form. States/UTs mentioned in Part A and Part B of the application form may be different.

Definitions in payment of tax



- The payment of interest in case of belated payment of tax should be made voluntarily i.e. even without a demand.
- The interest payable under this section shallbe debited to the Electronic Liability Register.
- The liability for interest can be settled by adjustment with balance in Electronic Cash Ledger but not with balance in electronic credit ledger.

TAX WRONGFULLY COLLECTED AND PAID TO CENTRAL GOVERNMENT OR STATE GOVERNMENT [SECTION 19 OF IGST ACT]

Payment of tax based on erroneous determination of ‘nature of supply’ is not permitted to be adjusted because of the above appropriation of payments. Remedy lies in refund.

Taxable person who has paid tax in error is entitled to refund by first restoring the discharge of the correct tax due so that the incorrect tax paid reflects on the common portal as ‘paid in excess’ and

- IGST paid in error will be refunded subject to conditions prescribed

•IGST payable due to payment of CGST & SGST/UTGST is exempted from payment of interest on IGST due.

PAYMENT OF TAX, INTEREST, PENALTY AND OTHER AMOUNTS [SECTION 49)

Payment of Tax Sec 49

(1) Mode of payment of tax dues and other dues

- Internet banking or by using credit or debit cards or NEFT or RTGS
- Up to Rs.10,000 over the counter in approved banks per Challan per tax period by cash/ Cheque/DD
- Limit of Rs 10,000 not applicable in case of tax recovery proceedings under sale/attachment enforcement/ in case of govt. Persons authorised by Commissdioner
- Date of credit to CG is the date of payment

(2) Credit of input tax to Electorinic Credit ledger

- The input tax credit as self-assessed in the return of a registered person shall be credited to his electronic credit ledger

(3) Usage of amount in electronic Cash ledger

- Towards payment towards tax, interest, penalty, fees or any other amount payable under the provisions of this Act or the rules

(4) Usage of amount in electronic Credit ledger

- Used for making any payment towards output tax and IGST

(6)Refund of amount in Electronic Cash Ledger

- The balance in the electronic cash ledger or electronic credit ledger after payment of tax, interest, penalty, fee and any other amount shall be refunded

(7)All liabilities of a taxable person recorded in Electronic liabilities register

(8)Manner of discharge of tax liability

- self-assessed tax, and other dues as per return of previous tax period
- self-assessed tax, and other dues as per return of current tax period
- any other amount payable under this Act or the rules and demand determined u/s 73/74

(9) It is assumed that tax paid by Taxable Person deemed to have passed the incidence of tax to recipient

- tax dues" means the tax payable tax dues" means the tax payable under this Act and does not include interest, fee and penalty
- "other dues" means interest, penalty, fee or any other amount payable under this Act or the rules made there under.

Manner of Utilisation of ITC of IGST. CGST, SGST/UTGST Sec 49, Sec 49A, 49B and Rule 88A. From 01.02.2019

Input Tax Credit	Can be utilized against	Order of utilization
IGST	IGST, CGST, SGST & UTGST	1. IGST
		2.CGST / SGST/UTGST Ie Remaining ITC of IGST can be first utilized either against CGST or SGST in any proportion in any manner.
SGST	SGST & IGST	1. SGST
		2. IGST
UTGST	UTGST & IGST	1. UTGST
		2. IGST

Relevant Amendments

Sec 49(5) Proviso 1 and 2: Input tax credit on account of SGST/UTGSTshall be utilised towards payment of IGST only where the balance of the ITC on account of CGST not available for payment of IGST

<u>New Section 49A: (Overriding section of section 49)</u> <u>Utilisation of input tax credit subject to certain conditions</u> <u>(Relevant Rule 88A)</u>

ITC on account of CGST/ SGST or UGST shall be utilised towards payment of IGST CGST, SGST or UGST, as the case may be, only after the ITC available on account of IGST has first been utilised fully towards such payment.

<u>New Section 49B: (Overriding section of section 49)</u> <u>Order of utilisation of input tax credit</u> <u>(Relevant Rules 88A)</u>

The Government may, on the recommendations of the Council, prescribe the order and manner of utilisation of the input tax credit on account of IGST CGST, SGST or UGST, as the case may be, towards payment of any such tax

Rule 88A

The newly inserted rule 88A allows utilization of ITC of IGST towards the payment of CGST and SGST/UTGST in any order subject to the condition that the entire **<u>ITC of IGST is completely exhausted first before the ITC of CGST or SGST/UTGST can be utilized.</u>**

The new rule provides as under:

- ITC of IGST should first be utilized towards payment of IGST.
- Remaining ITC of IGST, if any, can be utilized towards the payment of CGST and SGST/UTGST in any order, i.e. ITC of IGST can be first utilized either against CGST or SGST.
- ITC of CGST, SGST/UTGST can be utilized towards payment of IGST, CGST, SGST/UTGST only after the ITC of IGST has first been utilized fully.
  [Notification No. 16/2019 CT dated 29.03.2019 read with Circular No. 98/17/2019 GST dated 23.04.2019**]**

Clarification in respect of utilization of ITC under G S T

CBIC has clarified that after the insertion of new rule 88A in the CGST Rules, 2017, the order of utilization of ITC will be as per the order (of numerals) given below:

ITC of	Output IGST liability	Output CGST liability	Output SGST/ UTGST liability
IGST	(I)	(II) – In any order and in any proportion	
(III) ITC of IGST to be completely exhausted mandatorily			
CGST	(V)	(IV)	Not permitted
SGST/UTGST	(VII)	Not permitted	(VI)

Illustration:

Amount of ITC available and output tax liability under different tax heads

Head	Output tax liability	ITC available
IGST	1000	1300
CGST	300	200
SGST/UTGST	300	200
Total	**1600**	**1700**

Solution

Option 1:

ITC of	Discharge of output IGST liability	Discharge of output CGST liability	Discharge of output SGST/UTGST liability	Balance of ITC
IGST	1000	200	100	0
ITC of IGST has been completely exhausted				
CGST	0	100	-	100
SGST/UTGST	0	-	200	0
Total	**1000**	**300**	**300**	**100**

Option 2:

ITC of	Discharge of output IGST liability	Discharge of output CGST liability	Discharge of output SGST/UTGST liability	Balance of ITC
IGST	1000	100	200	0
ITC of IGST has been completely exhausted				
CGST	0	200	-	0
SGST/UTGST	0	-	100	100
Total	**1000**	**300**	**300**	**100**

[Circular No. 98/17/2019 GST dated 23.04.2019]

Electronic Ledgers (E ledger under GST)

Electronic Cash Ledger Rule 87 FORM GST PMT-05

- It will reflect all deposits made in cash, and TDS/TCS made on account of the tax payer.
- Challan *FORM GST PMT-06* generated in common portal along with details of payments to be made. Challan valid for 15 days
- This ledger can be used for making ANY PAYMENT towards tax, interest, penalty, fees or any other amount on account of GST.

Electronic liability register Rule 85 FORM GST PMT-01

- Electronic Liability Register will Contain the total tax liability of a taxpayer (after netting) for the particular month.

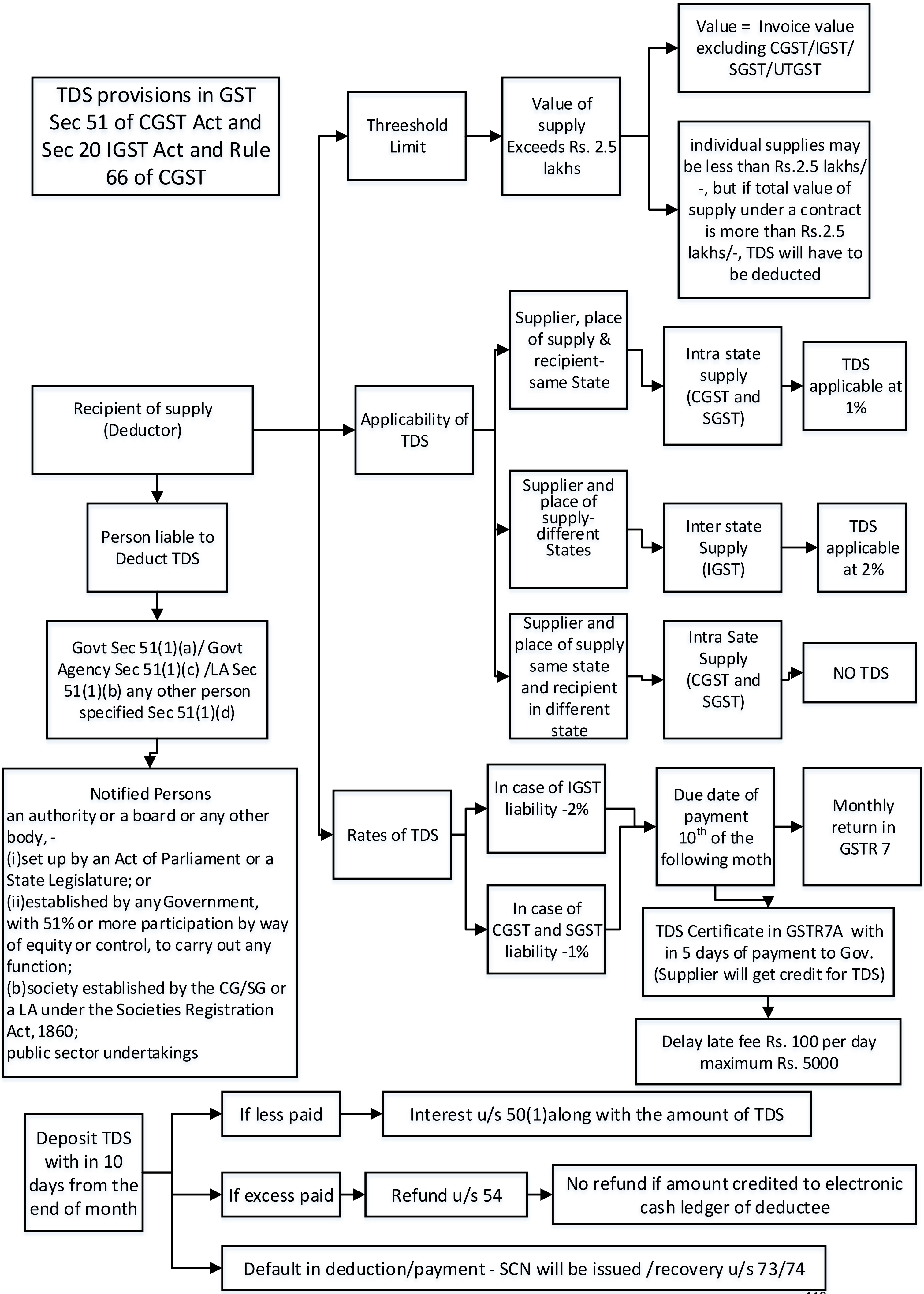
Electronic credit ledger Rule 86 FORM GST PMT-02

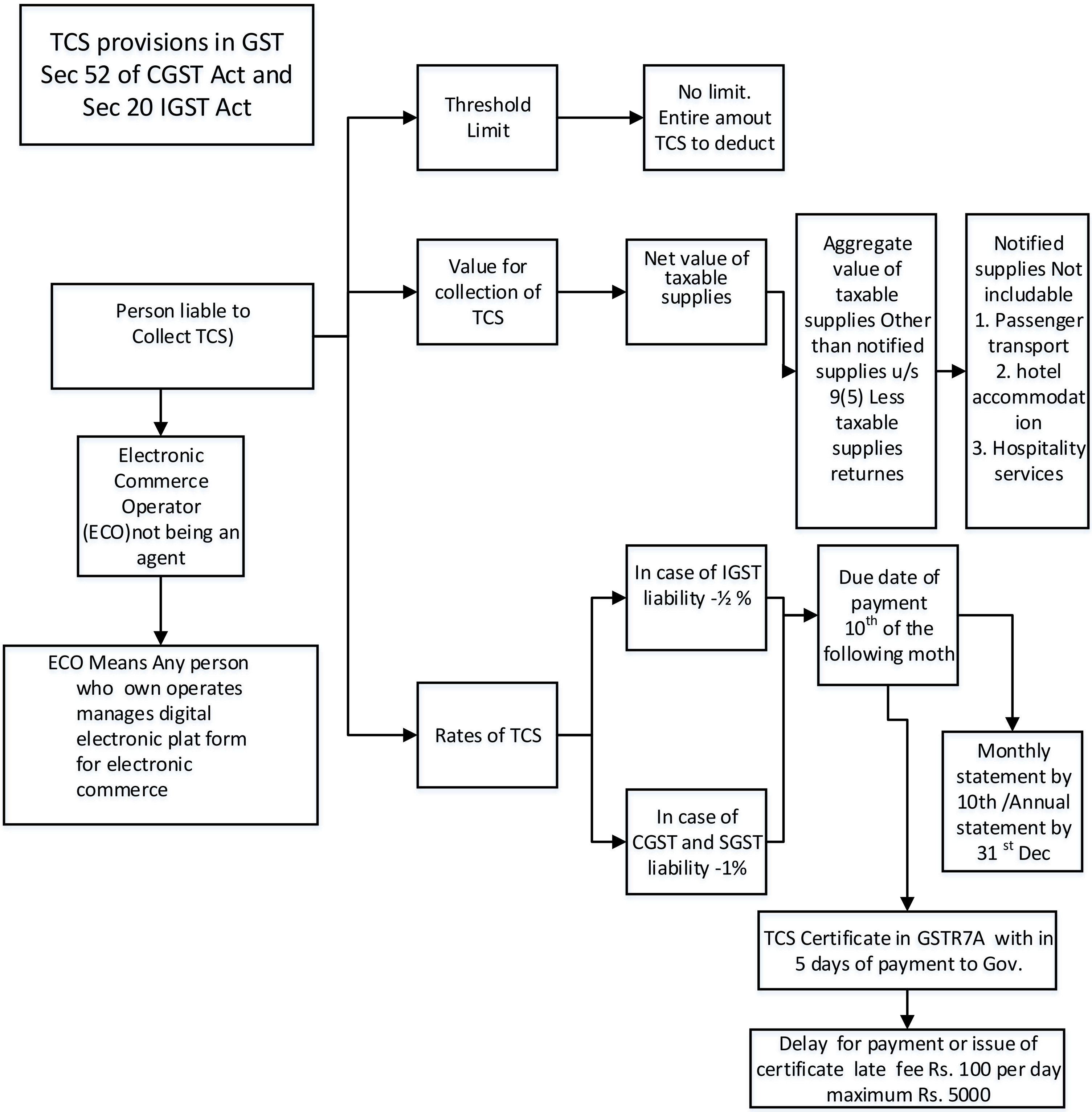
- It will reflect Input Tax Credit as self-assessed in monthly returns.
- The credit in this ledger can be used to make payment of TAX ONLY i.e. output tax and not other amounts such as interest, penalty, fees etc.

Electronic Credit ledger	
Debit Amount (DR)	**Credit Amount (CR)**
Credit amount of this ledger may be used for payment of output tax viz IGST, CGST, SGST, UTGST in the prescribed order.	Input Tax credit as self-assessed in the return in the form of IGST, CGST, SGST, UTGST

Electronic Cash Ledger	
Debit Amount (DR)	**Credit Amount (CR)**
Credit amount of this ledger may be used for payment of tax, interest, fees etc.	Any deposit made towards tax, interest, penalty, late fee etc. via internet banking, RTGS, fund transfer etc.
Remaining credit balance amount after payment of above tax etc. will be refunded to taxable person	TDS/TCS claimed

Electronic Liability Register	
Debit Amount (DR)	Credit Amount (CR)
❖ Tax and Other dues as per return ❖ Tax and other dues determined by proper officer; ❖ Tax or interest payable due to mismatch ❖ Any other dues	Amount as per Electronic Cash Ledger
Amount payable towards output tax	Amount as per Electronic Cash Ledger


TDS provisions in GST Sec 51 of CGST Act and Sec 20 IGST Act and Rule 66 of CGST
Threeshold Limit
Value of supply Exceeds Rs. 2.5 lakhs
Value = Invoice value excluding CGST/IGST/ SGST/UTGST
individual supplies may be less than Rs.2.5 lakhs/-, but if total value of supply under a contract is more than Rs.2.5 lakhs/-, TDS will have to be deducted
Recipient of supply (Deductor)
Applicability of TDS
Supplier, place of supply & recipient- same State
Intra state supply (CGST and SGST)
TDS applicable at 1%
Supplier and place of supply- different States
Inter state Supply (IGST)
TDS applicable at 2%
Supplier and place of supply same state and recipient in different state
Intra Sate Supply (CGST and SGST)
NO TDS
Person liable to Deduct TDS
Govt Sec 51(1)(a)/ Govt Agency Sec 51(1)(c) /LA Sec 51(1)(b) any other person specified Sec 51(1)(d)
Notified Persons
an authority or a board or any other body, -
(i)set up by an Act of Parliament or a State Legislature; or
(ii)established by any Government, with 51% or more participation by way of equity or control, to carry out any function;
(b)society established by the CG/SG or a LA under the Societies Registration Act, 1860;
public sector undertakings
Rates of TDS
In case of IGST liability -2%
In case of CGST and SGST liability -1%
Due date of payment 10th of the following moth
Monthly return in GSTR 7
TDS Certificate in GSTR7A with in 5 days of payment to Gov. (Supplier will get credit for TDS)
Delay late fee Rs. 100 per day maximum Rs. 5000
Deposit TDS with in 10 days from the end of month
If less paid
Interest u/s 50(1)along with the amount of TDS
If excess paid
Refund u/s 54
No refund if amount credited to electronic cash ledger of deductee
Default in deduction/payment - SCN will be issued /recovery u/s 73/74



- Any person who liable to deduct TDS/Collect TCS should require compulsory registrsation.
- Any amount shown as TDS/TCS will be reflected in the electronic cash ledger of the concerned supplier.
- He can utilize this amount towards discharging his liability towards tax, interest fees and any other amount.

Accounts and Records under GST

- **Records to be maintained by every registered Person Sec 35(1) Rule 56(1)(2)**
  - Production or manufacture of goods;
  - Inward and outward supply of goods or services or both;
  - Stock of goods;
  - Input tax credit availed;
  - Output tax payable and paid; and
  - such other particulars as may be prescribed
  - the goods/services imported/exported,
  - supplies attracting payment of tax on **reverse charge** along with relevant documents like invoice, vouchers, debit credit notes, DCs
  - Quantitative details of stock like receipt, supply, lost, stolen destroy, write of, free sample and balance of inputs, WIP, FG
- **Records by Agent Rule 56(11)**
  - Particulars of authorization received by him on behalf of <u>each principal</u> separately in respect of supply or receipt of goods or services
  - Particulars including description, value and quantity (wherever applicable) of goods or services received/Supplied on behalf of every principal;
  - details of accounts furnished to every principal; and
  - Tax paid on receipts or on supply of goods or services effected on behalf of every principal.
- **Records 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 so manufactured including the waste and by products thereof.
- **Records by a supplier of services [Rule 56(13)]**
  - Accounts showing quantitative details of goods used in the provision of services,
  - Details of input services utilized and supplied.
- **Records by Works Contract supplier Rule 56(14)**
  - The names and addresses of the persons on whose behalf the works contract is executed;
  - Description, value and quantity (wherever applicable) of goods or services received/Utilized for the execution of works contract;
  - The details of payment received in respect of each works contract; and
  - 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)]**
  - 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.
- **Records to be maintained by owner or operator of godown or warehouse and transporters [Section 35(2) read with rule 58**
  - **Owner or operator of WH**
    - Particular of period of goods remain in the warehouse, including the particulars relating to dispatch, movement, receipt, and disposal of such goods.
    - Should store the goods in such a manner like item wise, owner wise for easy physical verification by proper officer on demand
  - **Tranproter of goods**
    - Records of goods transported, delivered and goods stored in transit by him alongwith GSTIN of the registered consignor and consignee for each of his branches.

Records other Provisions

- Place of Records Rule 56(16)
  - At Principle place of business
  - Where more than one place of business, the accounts relating to each place of business shall be kept at such places of business
- Manner of maintinng Records Rule 56(7), (8), (9), (15), (16) and (18) and rule 57
  - **In case of electronic form**
    - authenticated by means of a digital signature
    - Proper backup to prevent loss of data, back up should be stored such that they can restore data with reasonable time
    - Should provide pass word, codes to access and print files to proper office on demand.
    - a log of every entry edited or deleted shall be maintained.
  - **In other cases**
    - Each volume of books is serially numbered
    - No entry to be over written/ erase.
    - All incorrect entries, otherwise than those of clerical nature, shall be scored out under attestation and there after correct entry shall be recorded.
- Period of Retention of accxounts Sec 36
  - shall retain them until the expiry of 72 months from the due date of furnishing of annual return for the year pertaining to such accounts and records.
  - Example: For the year 2017-2018, the due date of filing the annual return is 31.12.2018. The books & records of 2017-2018 must be maintained for 6 years, i.e., 31.12.2024.
- Records which are not to be maintained by a supplier opting for composition levy [Rule 56(2) and (4
  - Stock of goods in respect of quantity and value
  - Details of tax collected and paid, tax paid under reverse charge input tax claimed,
  - Register of tax invoice/ debit note, credit notes delivery challans
- Produce books on demand rule 56(18)
  - Every registered person shall, on demand, produce the books of accounts which he is required to maintain under any law for the time being in force.
- Failure to maintain records sec 35(6)
  - When a registered person not maintain records u/s 35(1),, the PO determine the tax payable as if such goods/services supplied and issue SCN
- Penalty for not maintaining records sec 122
  - Rs. 10000/ or amount of tax evaded/input tax claimed/ refund claimed which ever is higher

Compulsory audit of accounts Sec 35(5)/ sec 44(2) and rule 80

- When
  - Every Registered person, when P FY annual turnover exceeds Rs, 2 crore
- Who can do Audit
  - Practicing CA/CWA
    - Dept. of Central State government or local authority exempt from compulsory audit, furnishing copy of audit report certified reconciliation statement
    - as their accounts are audited by C& AG or auditor appointed by local authority laws.
- Attaching doc
  - Uploading Audited annual accounts and Reconciliation statement showing the difference between value of supplies in the annual return and audited statement along with filing of Annual return

GST Returns

(Sections 37 to 47 of the CGST Act, 2017 *read with* Rules 59 to 82 of the CGST Rules, 2017)

- The term "return" ordinarily means statement of information (facts) furnished by the taxpayer, tax administrators, at regular intervals.
- The information to be furnished in the return generally comprises of the details pertaining to the nature of activities/business operations of taxpayer and Tax information like sale price, turnover, or value; deductions and exemptions; and determination and discharge of tax liability for a given tax period
- The return, therefore, constitutes a kind of working sheet/supporting document for the tax authorities that can be relied upon as the basis on which the tax has been computed by the taxpayer.
- Under GST, a regular taxpayer needs to furnish monthly returns, quarterly returns and annual return. it mandatory to file all returns electronically.
- The taxpayer is generally required to furnish the return in a specific statutory format
- There are separate returns for each type of taxpayer
- The GST returns can be filed through GSTN portal, or GST Suvidha Providers (GSPs).

The types of various returns are as follows.

Return Form No.	*Applicability and details to be furnished*	*Frequency*	*Prescribed Due Date*
GSTR-1 Sec 37(1) read with rule 59(1)	Details of outward supplies to be filed by every registered person except: - • An Input Service Distributor (ISD), • A non-resident taxable person (NRTP), • A composition taxpayer, • A person required to collect TCS or deduct TDS.	Monthly (Turnover more than Rs. 1.5 crores)	11th of Succeeding Month
		Quarterly (Turnover up-to than Rs. 1.5 crores)	Last day of the month, succeeding such Quarter
~~GSTR-2~~	~~Inward supplies (Purchases)~~ (deferred not to be filed now)–	~~Monthly~~	~~15th of next month~~
~~GSTR-3~~	~~Return summarizing the details of GSTR 1 and GSTR 2~~ (deferred not to be filed now)	~~Monthly~~	~~20th of next month~~
GSTR-3B sec 39(1) read with rule 61(5) (Treated as Return filed u/s 39(1) retrospective from 01.07.2017)	Summary return for payment of taxes to be filed by every registered person, (except an Input Service Distributor (ISD), a non-resident taxable person (NRTP), a composition taxpayer or a person required to collect TCS or deduct TDS).	Monthly	20th of next month
GSTR-4 Sec 39(2) Notification 2 & 21/2019	• Composition taxpayer • Service Providers paying tax at 6% i.e., as per Notification No. 02/2019-Central Tax	Annually	30th April following the end of relevant Financial Year.

GST CMP-08	Payment of self-assessed tax	Quarterly	18th of the month, succeeding such Quarter.
GSTR-5 Sec 39(5) read with rule 63	Return for Non-Resident Taxpayer	Monthly	Earlier of the following dates: ■ 20th of next month ■ Within 7 days expiry of validit registration.
GSTR-5A Rule 64	Return for a person supplying OIDAR services from a place outside India to a non-taxable person in India.	Monthly	20th of next month
GSTR-6 Sec 39(6) read with rule 60(5) & rule 65	Return for Input Service Distributor (ISD)	Monthly	13th of next month
GSTR-7 Sec 39(7) read with rule 60(6) & rule 66	Return for Registered persons deducting tax at source (TDS) (Refer note 2)	Monthly	10th of next month
GSTR-8 Sec 52(4) read with rule 60(7) & rule 67	Return for e-commerce operator to report tax collected at source (TCS) (Refer note 2)	Monthly	10th of next month
GSTR-9 Sec 44	Annual Return (Refer Note 1) Optional for small taxpayers whose aggregate turnover is less than Rs 2 crores and who have not filed the said return before the due date for FY 2018-19 and 2019-20	Annually	31st December following the end of relevant Financial Year
GSTR-9A Sec 52 read with Rule 80	Annual return for Composition taxpayer	Annually	31st December following the end of relevant Financial Year
GSTR-9B Sec 52 read with Rule 80	Annual return for e-commerce operators	Annually	31st December following the end of relevant Financial Year
GSTR-9C Sec 44(2) &35(5) read with Rule 80(3)	Reconciliation Statement and audit certification (Refer Note 1)	Annually	31st December following the end of relevant Financial Year
GSTR-10 Sec 45 read with Rule 81	Final return (to be furnished in the event of cancellation of GST registration)	One time	Within 3 months from the date of cancellation or date of order of cancellation, whichever is later
GSTR-11 Rule 82	Details of inward supplies of a person having Unique Identity No. (UIN)	Transaction based	Return is required to be furnished, if such person claims refund of GST

Note 1: Person supplying online information technology and database access retrieval (OIDAR) not required to file Annual return form GSTR 9 and Reconciliation statement GSRTR 9C [Notification No. 30/2019 CT dated 28.06.2019)

Note 2: Rule 66(2)/67(2) has been amended to lay down that the details of TDS/TCS furnished by the deductor in GSTR-7/GSTR- 8 shall be made available electronically to each of the deductees on the common portal after filing of Form GSTR-7 /GSTR-8 for claiming the amount of tax deducted /collected in his electronic cash ledger after validation.

The due date of filing of the returns in the table mentioned above) may be extended by the Commissioner/Commissioner of State GST/Commissioner of UTGST for a class of taxable persons by way of a notification

Summary -who should file what return

S. No.	*Category of Person*	*Return Applicable*
1.	Every registered person other than: • An Input Service Distributor (ISD), • A non-resident taxable person (NRTP), • A Composition taxpayer, • A person requires to collect TCS or deduct TDS.	GSTR-1 ~~GSTR-2~~ (Suspended/deferred) ~~GSTR-3~~ (Suspended/deferred) GSTR-3B, GSTR-9
2.	Every registered person whose annual turnover exceeds Rs. 2 crores	GSTR-9C
3.	Registered person who opts for Composition Scheme	GSTR-4, CMP-08, GSTR-9A
4.	Non-resident Suppliers	GSTR-5
5.	OIDAR services provided by a person located abroad to a non-taxable person in India	GSTR-5A
6.	Input Service Distributor	GSTR-6
7.	Person required to deduct TDS	GSTR-7
8.	Electronic commerce operators required to collect tax at source	GSTR-8, GSTR-9B
9.	Final return (to be furnished in the event of cancellation of GST registration)	GSTR-10
10.	Person having Unique Identification Number	GSTR-11

First Return Sec 40

- When a person becomes liable to registration after his turnover crosses the threshold limit, he may apply for registration within 30 days of so becoming liable.
- There might be a time lag between a person becoming liable to registration and grant of registration certificate.
- During the intervening period, such person might have made the outward supplies, i.e. after becoming liable to registration but before grant of the certificate of registration.
- The registered person shall declare his outward supplies made during said period in the first return furnished by him after grant of registration.
- The format for this return is the same as that for regular return.
- ITC can be availed by the recipient on such supplies, firstly, the registered person may issue revised tax invoices against the invoices already issued during said period within 1 month from the date of issuance of certificate of registration

Who can opt for quarterly returns?

- Small business entities whose aggregate turnover is up to Rs. 1.5 crore in the preceding financial year or in the current financial year. have been allowed to opt for quarterly filing of GSTR-1
- This option is available only for GSTR-1 and all other applicable returns shall be filed by the taxpayer within the prescribed time limits as applicable to them unless extended.
- For new taxpayers, the limit of Rs. 1.5 crore shall be checked on basis of estimated turnover of

current financial year.

- A person who has opted for monthly/quarterly filing of return, cannot change the periodicity of filing of return in the same financial year.
- He would be required to remain in that category for the remaining part of the financial year. He may change the option at the beginning of next financial year.

Filing of return is mandatory?

- Every registered person who is required to file GSTR-3B or GSTR-4 is required to furnish return for every tax period whether or not any supply of goods or services have been made during such period.
- Thus, even if no goods or services are supplied during the relevant period, taxpayer has to file a *nil* return.
- Other registered persons shall be required to file their relevant returns, only if there is a transaction or supply during the relevant tax period which has to be reported in these returns.

Revision of GST Returns

- GST returns once filed cannot be revised.
- Errors or omissions in GST returns of a particular tax period, which are other than as a result of scrutiny, audit and inspection by tax authorities, can be rectified in the GST return to be filed for the subsequent month. /quarter Sec 39(9)
- Any tax liability due to omission/rectification should be paid along with interest
- Rectification is not allowed after furnishing of annual return or GSTR-3B for the month of September following the end of the financial year to which such error pertains, whichever is earlier.

Consequences of default

Notice to return defaulters Sec 46 and Rule 68

- A notice in prescribed form is issued, electronically, to a registered person who fails to furnish return under section 39 [Normal Return] or section 44 [Annual Return] or section 45 [Final Return] or section 52 [TCS Statement)
- The notice requires the registered person to furnish the return within 15 days, failing which the tax liability will be assessed under section 62, based on the relevant material available with the proper officer.
- In addition to tax so assessed, applicable interest and penalty will also be payable
- If a registered person fails to furnish a return for a particular tax period then he cannot furnish any return for the subsequent tax period. Further, a notice shall be issued by the proper officer to such supplier in Form GSTR-3A requiring him to furnish such return within 15 days.

Levy of late fees Sec 47

- In case a registered person fails to furnish the required return by the due date, then he shall be liable to pay the late fee for every day during which such failure continues.
- The late fees specified in the below table is total late fees levied under the CGST Act and respective State/UT GST Acts.

Return Form No.	*Minimum late fees for **every day of default** (Rs.)*	*Max. late fees (Rs.)*
GSTR-1, GSTR 3B, GSTR-4 GSTR-5, GSTR-5A, GSTR-6	For other than *nil* return: Rs. 50 For *nil* return: Rs. 20	Rs. 10,000
GSTR-7	For failure to furnish return: Rs. 200	Rs. 10,000
GSTR-8	For failure to furnish return: Rs. 200	-
GSTR-9	For failure to furnish return: Rs. 200	0.50% of turnover in State or Union territory
GSTR-9A	For failure to furnish return: Rs. 200	
GSTR-9B	For failure to furnish return: Rs. 200	-
GSTR-9C	For failure to furnish return: Rs. 200	-
GSTR-10	For failure to furnish return: Rs. 200	Rs. 10,000
GSTR-11	-	-

General Penalty

Where any specific penalty is not mentioned then a general penalty of Rs 50,000 shall apply.

GST Practioners Sec 48 and Rule 83 and 83 A

<table>
<tr><th>SNO</th><th colspan="2">Particulars</th></tr>
<tr><td rowspan="4">1</td><td rowspan="4">Eligible persons</td><td>1.Citizen of India, person of sound mind/Not adjusted as insolvent/not convicted in any competent court</td></tr>
<tr><td>2.Retired officer not lower than the rank of a Group-B gazetted officer for a period of not less than two years of
• Commercial tax of SG
• Central board of Indirect taxes and customs
• Department of Revenue Government of India.</td></tr>
<tr><td>3.He has enrolled as a sales tax practitioner or tax return preparer under the existing law for a period of not less than five years. He has to pass the examination conducted by NACIN within 30 months from 1st jul july 2017 to continue as GSTP</td></tr>
<tr><td>4.Passed
• Graduate or post graduate exam of Commerce, law, banking management or administration of recognised Indian University or foreign University recognised by India.
• Examination notified by GST Council (Examination conducted by NACIN)
• Final examination of CA/CWA/CS</td></tr>
<tr><td rowspan="4">2</td><td rowspan="4">Procedure</td><td>Application to be made electronically through common Portal</td></tr>
<tr><td>On receipt of application the authorised officer after making enquiry accept or reject the application if person is not qualified</td></tr>
<tr><td>Enrolment is valid until the period, it is cancelled.</td></tr>
<tr><td>A registered person at his option can authorise GST Practioners in common portal and at any time withdraw authorisation. A confirmation mail and SMS will be forwarded to registered person</td></tr>
<tr><td>3</td><td>Activities of GSTP on behalf of Registered person</td><td>• furnish the details of outward and inward supplies;
• furnish monthly, quarterly, annual or final return;
• make deposit for credit into the electronic cash ledger;
• file a claim for refund; and
• file an application for amendment or cancellation of registration.
• furnish information for generation of e-way bill;
• (furnish details of challan in the prescribed form;
• file an application for amendment or cancellation of enrolment under rule 58 and
• file an intimation to pay tax under the composition scheme or withdraw from the said scheme</td></tr>
<tr><td>4</td><td>Other</td><td>The goods and services tax practitioner shall-
(a) prepare the statements with due diligence; and
(b) affix his digital signature on the statements prepared by him or electronically verify using his credentials.
• If GSTP found any misconduct in proceedings the authorised officer may serve notice and after giving reasonable opportunity and disqualify to act as a GSTP.
• The various forms from GSTPCT 01 to 05 prescribed to follow the procedure.</td></tr>
</table>

Assessments under GST

Assessment means determination of tax liability under this Act and includes self-assessment, re-assessment, provisional assessment, summary assessment and best judgment assessment. [Section 2(11)]

Types of Assessments

- SELF ASSESSMENT [SECTION 59)
- PROVISIONAL ASSESSMENT [SECTION 60]
- SCRUTINY ASSESSMENT [SECTION 61]
- ASSESSMENT OF NON-FILERS OF RETURNS [SECTION 62)
- ASSESSMENT OF UNREGISTERED PERSONS/ BEST JUDGEMENT ASSESSMENT [SECTION 63)
- SUMMARY ASSESSMENT IN CERTAIN SPECIAL CASES [SECTION 64]

Self Assessment-Sec 59

Self Assessment-Sec 59 → Assessee determines classification & Valuation → assess the tax payable by him for a tax period → Files the required Return u/s 39

Provisional Assessment Sec 60

When

taxable person is unable to determine

- Value of goods/ services
- The rate of tax applicable to the goods or services

Procedure

- Taxable person should make application in common portal with supporting documents
- Proper officer may ask additional information/ask personal appearance if so desire
- PO Pass an order allowing PA indicate the rate/ value or both on which PA allowed

Security to furnish

- Proper officer indicate Security by bond not exceed 25% of amount of GST Covered under bond
- Taxable person execute bond with Bank guarantee

Finalisation of P.A.

- PO can issue notice calling for information, records
- Proper officer has to pass final assessment Order determine amount payable with 6 months from the date of ordering for allow of PA
- JC/Addl C extend further 6 months
- Commissioner further not exceeding 4 years
- FA duty > PA duty = tax payable +18% int.
- FA duty < PA duty = refund+6% int.

Release of security

- Taxable person should make an application
- PO release after he satisfy that amount as per FA is paid

SCRUTINY OF RETURNS [SECTION 61]

- **Issue of notice by PO**
  - The return furnished by a registered person may be selected for scrutiny by proper officer to verify its correctness on the basis of information available.
  - If discrepancy, notice will be issued seeking explanation where possible quantify the amount of tax and other amount payable
- **Reply to notice**
  - The registered Person may accept discrepancy pay tax, interest and penalty
  - submit his explanation regarding non-acceptance of discrepancy within 30 days or extended time permitted by PO
- **Action by PO**
  - Explanation furnished by registered person is acceptable to PO, no action is necessary
  - Where the explanation is not acceptable, or registered person fails to take corrective measures in the returns filed, the PO may take any of the following action
    - Undertake procedure of inspection, search, seizure
    - Order special audit/department audit
    - Issue SCN u/s 73 and 74

ASSESSMENT OF NON-FILERS OF RETURNS [SECTION 62]

- **When**
  - Failure to furnish returns u/s 39, 44 or 45
  - Failure to respond a notice to file return u/s 46
- **BOJ**
  - The Proper office may proceed to assess tax liability of the return defaulter to the B to the best of his judgment
  - submit his explanation regarding non-acceptance of discrepancy within 30 days or extended time permitted by PO
- **Order of BOJ**
  - The PO should pass BOJ order with in 5 years from the due date of filing of annual return of that FY
  - Where the registered person files returns and pays tax assessed by him, BOJ Assessment order shall stand withdrawn
  - Interest on tax and late fee should be payable

ASSESSMENT OF UNREGISTERED PERSONS [SECTION 63]

- **On Whom**
  - Person liable to pay GST but fail obtain registration
  - Persons registration has been cancelled on the following grounds
    - Contravening the provisions and rules
    - Registered person fails to furnish return for consecutive 6 months
    - Registered composite tax person fails to furnish return for 3 consecutive tax period
    - Person obtain voluntary registration fails to start business within 6 months.
  - Person obtains registration by means of fraud, willful misrepresentation suppression of facts
- **BOJ**
  - The Proper office may proceed to issue notice, giving opportunity being heard to reply why BOJ cannot be made
  - to assess tax liability of the return defaulter to the best of his judgment
  - The PO should pass BOJ order with in 5 years from the due date of filing of annual return of that FY
  - No order should be passed without giving opportunity being heard

SUMMARY ASSESSMENTIN CERTAIN SPECIAL CASES[SECTION64

When

- the proper officer has evidence that a taxable person has incurred a liability to pay tax under the Act,
- the proper officer has sufficient grounds to believe that delay in passing an assessment order may adversely affect the interest of revenue.
- Summary Assessments can be initiated to protect the interest of revenue with the previous permission of Additional Commissioner/Joint Commissioner

Withdrawal of order BY Addl. Com/J. C

- on his own motion, where he finds such order to be erroneous and may instead follow the procedures laid down in section 73 or section 74 (SCN) to determine the tax liability of such taxable person.
- on an application filed by taxable person for withdrawal of the summary assessment order within 30 days from the date of receipt of order

Example: Deemed taxable person
When goods are under transportation or are stored in a warehouse, and the taxable person in respect of such goods cannot be ascertained, the person in charge of such goods shall be deemed to be the taxable person and will be assessed to tax

The summary of assessment orders under section 62, 63 and 64 of the CGST Act is required to be uploaded on portal electronically in the prescribed forms. ***[Notification No. 16/2019 CT dated 29.03.2019]***

Special Audit by CA/CWA Sec 66

Who can do Order and when

Officer not below the rank of AC with prior approval of Commissioner
- If at any stage of scrutiny, inquiry, investigation or any other proceedings
- nature and complexity of the case and the interest of revenue, is of the opinion
  - the value has not been correctly declared;
  - the credit availed is not within the normal limits

Order for Special audit

- Issue an order to get accounts audited by CA/CWA in form GST-ADT 03
- CA/CWA will be nominated by Commissioner
- Order for special audit will be made even accounts will be audited under provisions of GST/ any other law

Time limit to complete an audit

- The nominated auditor should complete his audit with in 90 days from the and submit report in form GST ADT-04 to AC on the matters specified by him
- The time limit will be extended by Ac for a further period of 90 days on the application made by registered person/auditor for any material sufficient reason

Expenses and remuneration of audit.

Shall be determined and paid by commissioner and it shall be final

Findings of audit report

- The opportunity is being heard given to registered person before taking any action on the findings of audit report
- In case of under payment of taxes, erroneous refunds, input tax wrongly utilised,- Demand and recovery proceedings will be initiated u/s 73 and 74

Audit by Tax Authorities (Dept. Audit) Sec 65

- **Who can do** → Commissioner/ or person authorised by commissioner in general or special order
- **Notice to conduct audit** → When decided to undertake audit, Proper officer should issue notice prior to 15 days before the date of conducting audit
- **Place of conduct of audit** → at the place of business of the registered person or in their office for a financial year, part of financial year or multiples thereof Notification No. 74/2018 CT dated 31.12.2018
- **Commencement of audit.** →
  - the date on which the records/accounts called for by the audit authorities are made available to them,

    Or

  - the actual institution of audit at the place of business of the taxpayer

  Which ever is later
- **Conduct of audit** →
  - The authorised proper officer along with team of officers will conduct audit
  - Audit procedure includes
    - Verification of documents on the basis of books of accounts maintained, returns and statements furnished.
    - Correctness of the turnover, exemptions and deductions claimed, the rate of tax applied
    - Input tax claimed and utilized
    - Other relevant issues
- **Time limit for Completion** → With in 3 months from the date of commencement of audit. Extension further 3 months by commissioner
- **Finalization of audit** →
  - The proper officer may inform the registered person of the discrepancies noticed, and audit observations
  - The registered person may file his reply and the proper officer shall finalise the findings of the audit after due consideration of the reply furnished.
  - the proper officer inform registered person about audit findings and obligations with in 30 days of conclusion of audit,
  - If any tax due the demand and adjudication proceedings will start u/s 73 and 74

Demand (Recovery) of GST- Sec 73 and 74 of CGST

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With effect from 09.10.2019, the proper officer shall, before serving of such a notice, communicate the details of any tax, interest and penalty as ascertained by him, in the prescribed form, to the person chargeable with tax, interest and penalty, tax payer can take advantage fof nil penalty as per Sec 73(5)(6) and (7)

GST

Non Payment (N.P)

Short Payment (S P)

Wrong Availment Utilization of ITC

Erroneously refunded (E R)

Show cause notice (SCN) sec 73(1)/74(1)

Contents, Manner of Issue

Date, Name and address of Taxable person., Amount payable along with calculation, of tax, interest @18%,Penalty, .

Time limit

Sec73(2)(3)(4) Normal Period 2 years 9 months @@

74 (10)-- Extended Period- 4 year 6 months @@

No SCN

Taxable person voluntarily Pays before issue of SCN

Normal cases Sec 73(5)(6) and (7)

N P – Taxable- treat exempt/ Nil
S P-- Lower rate applied
N P/SP- Valuation differences

Extended period applicable
1.Fraud, collusion, willful misstatement, suppression of facts

@@
- from the due date of filing of annual return for the FY which demand pertains
- from the date of erroneous refund

For computation of time limit , period of stay by court, tribunal to be excluded- sec 75

Paid tax+int. before receiving SCN
payment on own ascertainment or ascertainment by PO
No penalty
Intimation to PO in writing
To extent paid, proceeding conclude
Shortfall amount if any PO issue SCN

Sec 73(11) where any amount of self-assessed tax or any amount collected as tax has not been paid within a period of thirty days from the due date of payment of such tax penalty shall be payable @ 10% of tax or Rs. 10000/ WEH.
The Penalty under this section cannot be levied for delay in filing of return GSTR 3B. In such cases general penalty u/s 125 can be levied Circular No. 76/50/2018 GST dated 31.12.2018]

Where a notice has been issued for any period on a person chargeable with tax, if such person commits such default in some other period also, instead of issuing a detailed notice, a mere statement containing the details of tax not paid/short paid/erroneously refunded/ITC wrongly availed/utilised for such periods, can be issued.

(where any amount of self-assessed tax in accordance with a return furnished under section 39 remains unpaid, either wholly or partly, or any amount of interest payable on such tax remains unpaid, the same shall be recovered under the provisions of section 79 (i.e. recovery of tax from various modes). No need to issue SCN Sec 75(12). Recovery of tax u/ 79 can also be made from distinct person of different state/UT wef 01.02.2019

SCN issued after lapse of time limit, it is invalid.
In case of extended period, it is on the part of department to prove fraud, collusion etc., on the part of taxable person
Where the SCN was issued u/s 74(1) for extended period, and if it is not sustainable under tribunal court, it can be deemed as notice issued u/s 73(1) for normal period- sec 75(2)

Demand and adjudication -2

Adjudication orders of PO- Sec 74(9) and(11) of CGST

SCN Received by Assessee with in time limit

- Taxable person accept, do not differ
  - Normal period → Pay tax + Mandatory Interest 18%)+ applicable Penalty
  - Extended Period → Pay Tax + Mandatory Interest 18% + Applicable penality
- Taxable person do not accept,& differ → Representation through AR(CA)
  - Taxable person view fully accepted by PO → SCN Will be dropped by P O
  - Assessee view fully rejected by PO → Amount to be determined - not more than SCN amount. Sec 75(7) Taxable person option-appeal
  - Taxable person view Partly accepted & partly rejected by PO → Accepted portion SCN Will be dropped. Rejected portion Amount to be determined

Max. adjournments 3 Sec 75(5)

Time limit for adjudication orders PO-Sec 73(10)/74(10):
Normal cases- 3 years from the due date of filing of Annual return
Extended period cases- 5 years from the due date of filing of Annual return

Where appellate authority modifies duty , the interest and penalty shall stand modified accordingly sec 75(8)

If SCN amount was increased in appeal, Interest on increased amount is payable from date of order- .

Mandatory Interest in case of Recovery of Tax

Interest on Duty in case of SCN

- Rate → 18%
- Period → Interest shall be calculated from the date on which such Tax becomes due up to the date of actual payment of the amount due.

Payment of interest mandatory even if not specified in the adjudication order [Section 75(9)]

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Time limit For SCN Adj orders Snap shot

- SCN
  - Normal period → 2years 9 months from the due date of filing of Annual return
  - Extended Period → 4 years 6 months from the due date of filing of Annual return
- Order
  - Normal period → 3 years from the due date of filing of Annual return
  - Extended Period → 5 year from the due date of filing of Annual return

There are various forms prescribed under GST for issue of SCN, reply by assesse, issue order, intimation by taxable person for tax paid before SCN.

GST Penalty Under sec 73 and 74

- Penalty Under GST
  - Normal cases
    - Normal penalty → 10% of tax or Rs.10,000 WEH
    - Duty & Interest paid before issue of SCN 73(8) → No penalty
    - Duty & Interest paid with in 30 days of receipt of SCN (before order) → No penalty
    - Duty & Interest paid with in 30 days of receipt of order → 10% of tax or Rs.10,000 WEH
  - Tax determined and Interest on duty payment is mandatory to get the benefit of reduced penalty
  - Fraud cases
    - Normal penalty → Equal to Tax determined
    - Duty & Interest paid before issue of of SCN Sec 74(5) → 15% of penalty payable(85% waiver)
    - Duty & Interest paid with in 30 days receipt of SCN (before order) → 25% of penalty payable(75% waiver)
    - Duty, Interest paid with in 30 days of receipt of order Sec 74(11) → 50% of penalty payable(75% waiver)

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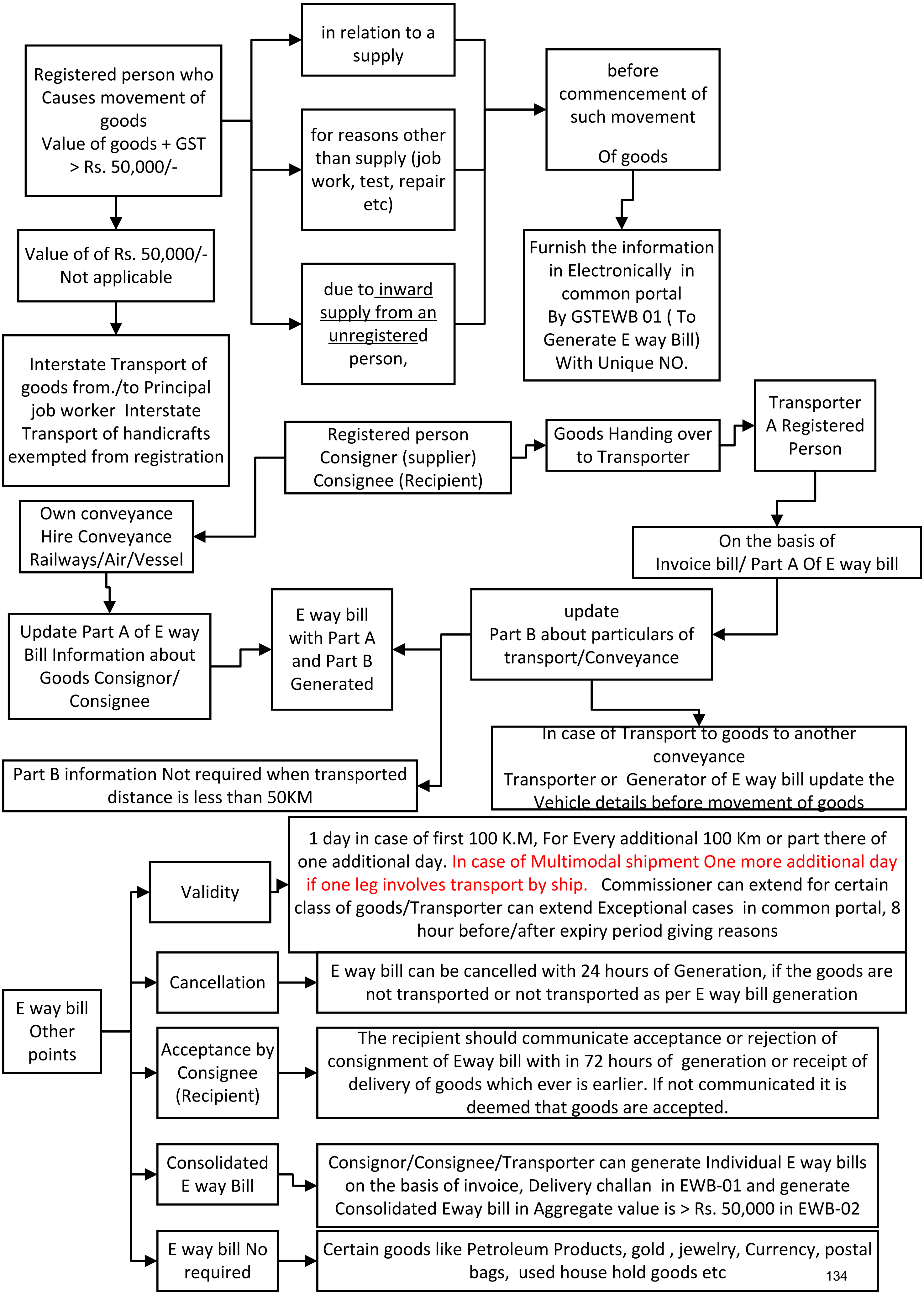
If duty interest and penalty paid by person as per the above sec, the proceedings deemed to be have concluded.

Where any penalty is imposed under as above under section 73 or section 74, no penalty for the same act or omission shall be imposed on the same person under any other provision of this Act. Sec 75(13)

Monetary limits for issuing SCN and orders

	CGST Officer	Monetary Limit for demand of CGST SCN and Order u/s 73/74	Monetary Limit for demand of IGST SCN and Order u/s 20	Monetary Limit for demand of CGST and IGST SCN and Order u/s 73/74 and u/s 20
(1)	(2)	(3)	(4)	(5)
1.	Superintendent of Central Tax	Not exceeding Rupees 10 lakh	Not exceeding Rupees 20 lakh	Not exceeding Rupees 20 lakh
2.	Deputy or Assistant Commissioner of Central Tax	Above Rupees 10 lakh and not exceeding Rupees 1 crore	Above Rupees 20 lakh and not exceeding Rupees 2 crores	Above Rupees 20 lakh and not exceeding Rupees 2 crores
3.	Additional or Joint Commissioner of Central Tax	Above Rupees 1 crore without any limit	Above Rupees 2 crores without any limit	Above Rupees 2 crores without any limit

E Way bill Section 68 & Rule 138



Job Work Under GST Sec 19 and 143, Rule 45

Principal

Sends Inputs, intermediate product (WIP) and Capital goods for further processing No need to pay GST subject to condtions. ITC can be availed.

Job worker

If job worker place is place of additional business of principal

- after Completion of work goods can be sold directly from Job worker place
- Sale customer with in India GST payable by Principal
- Export of goods- No GST
- Waste can also cleared by job worker , principal can pay GST

NO

Returns inputs intermediate product (WIP) with in one years/Capital goods with in 3 years from the date of receipt. Time limit of 1 year and 3 years can be extended by further period of 1 year and 2 years on sufficient cause being shown, by the Commissioner wef 01.02.2019

Not returned with in prescribed time, it is treated as supply GST is payable by principal along with interest

Example:
A Ltd. sends the goods to B & Co job worker for making finished goods on 30.07.2017. What are the tax implications, in the following cases if GST @ 18% is levied:
B & Co. sends the goods back to X Ltd within one year of being sent.
B & Co. sells the goods directly to the customer in behalf of X Ltd. Make suitable assumptions as r e q u i r e d .

Answer

SN	Particulars	Tax implications
1	On supply of goods to B & Co	No GST payable by A Ltd. ALTD can avail ITC. If goods do not return back within one-year GST payable by A Ltd with interest. Assumed no extension of time is granted.
2	B & Co. sells the goods directly to the customer in behalf of X Ltd	No tax liability on job worker B & Co., GST payable by A Ltd at applicable rate of GST. Assumed B & Co is additional place of business of A Ltd.,
3	B& Co sends the finished goods back to A Ltd	there is no tax liability on returning of goods back to the principal i.e. A Ltd within a period of one year

Goods sent from one job worker to another job worker, Notification No 14/2018 dated 23.03.2018

- 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.
- Where the goods are sent by one job worker to another or are returned to the principal, the challan issued by the principal may be endorsed by the job worker, indicating therein the quantity and description of goods.
- Such endorsed challan may be further endorsed by another job worker, indicating therein the quantity and description of goods.

Clarification on issues related to Job Work
Various issues relating to job work have been clarified vide Circular No. 38/12/2018 dated 26.03.2018 . These are more practical oriented. Not relevant for exam.

New Composition Scheme Sec 10 and Notification No 14/2019 dated 07.03.2019
New small service Providers Scheme Notification No 2/2019 dated 07.03.2019
From 01.04.2019

Composition Scheme

Eligible registered Persons

Sec 10(1) Manufacturers or traders engage in Supply of Goods → Rate of GST 1% On state Turnover →

- Turnover Limit Of Previous FY
- Special category status states Rs. 75 Lakhs other than Assam HP
- All other states Rs. 1.50 crores
- On all India PAN Basis

Sec 10(2)(a)

- Supplier of goods and <u>Services Other than restaurant services</u>
- Limit for services 10% of turnover or Rs. 5 lakhs WEH

→ Rate of GST 1% On state Turnover

- Restaurant Services Not serving Alcohol or
- Restaurant Services Not serving Alcohol and Supplies other services
- Limit for Other services 10% of turnover or Rs. 5 lakhs WEH

→ Rate of GST 5% on state Turnover

Other Supplier of Services Or Other Supplier of service With supply of goods/ restaurant services with maximum Rs. 5 lakh limit Notification No 2/2019. (Similar to Composition scheme with same provisions and rules) → Rate of GST 6% → Turnover Limit Of Previous FY Rs. 50 Lakhs On all India PAN Basis

Sec 10(3) Eligibility will be lapsed on the day when the limit exceeds

Not Eligible registered Persons

Sec 10(2)

- Persons having interstate outward supply
- Supplier of goods/Services which are not leviable to tax
- supplier supplying goods services through an electronic commerce operator
- Non Resident taxable person/Casual taxable person
- Manufacturers of ice cream pan masala and tobacco products

Turnover Calculations For Limits

Inclusions

The value of

- exported goods/services inter state and intra state
- Exempted goods/services made with in state/UT
- Nil rate of Goods and services
- Non taxable goods and services
- Inter-State supplies between distinct persons having same PAN Supply on own account and on behalf of principal.

Exclusions

- Reverse charge inward supplies
- CGST,SGST,UGST,IGST
- Compensation Cess
- In case of restaurant services, Exempted supplies, supplies of advances for consideration of interst and discount

- **Composition Scheme Other Provisions**
  - **Conditions**
    - No ITC. Tax invoice should not be issued. Bill of supply is to be used
    - GST should not be collected
    - Word "The Composition Tax Person" should be displayed at Prominent Places Goods should not be purchased from unregistered persons in such case reverse charge at normal rates apply
  - **Procedure**
    - Application in common portal opting for CS
    - Details of stock, inward supplies from Unregistered persons Preceding the day of opting scheme furnished with in 90 days
    - Option is available from the first day of FY
    - Person having a same PAN should opt scheme for his branches and HO
    - Option valid till all conditions are satisfied
    - furnish a statement in the prescribed form containing details of payment of self- assessed tax, for every quarter (or part of the quarter), by 18th day of the month succeeding such quarter.
    - furnish a return (GSTR 4) for every financial year (or part of the financial year), on or before 30th day of April following the end of such financial year.
    - Option lapses on the day when the aggregate turnover exceeds the specified limit
    - When option lapses he has file application for intimation of withdrawal of scheme. He can avail ITC after withdrawal
  - **Penalty**
    - If a person not eligible for the scheme ,opt for the scheme, SCN will be issued u/s 73 and 74 of CGST ACT
      Tax and Penalty will be determined after opportunity being heard

Effective date in case of denial of composition option by tax authorities

In case of denial of option to pay tax under composition levy by the tax authorities, it has been clarified that the effective date of such denial shall be from a date, including any retrospective date, as may be determined by tax authorities. However, such effective date shall not be prior to the date of contravention of the provisions of the CGST Act/ CGST Rules ***[Circular No. 77/51/2018 GST dated 31.12.2018]***.

> With effect from 01.10.2019,Manufacturer of aerated water & supplier of aerated water (Tariff item 2202 1010) cannot opt to pay tax under composition levy (6% category) as per *Notification No. 2/ 2019 CT (R) dated 07.03.2019- Notification No. 43/2019 CT dated 30.09.2019 & Notification No. 18/ 2019 CT (R) dated 30.09.2019]*

APPLICATION OF PROVISIONS OF CENTRAL GOODS AND SERVICES TAX ACT [SECTION 20 OF THE IGST ACT]

The following provisions of CGST Act apply to IGST Act also-

(i) scope of supply;

(ii) composite supply and mixed supply;

(iii) time and value of supply;

(iv) input tax credit;

(v) registration;

(vi) tax invoice, credit and debit notes;

(vii) accounts and records;

(viii) returns, other than late fee;

(ix) payment of tax;

(x) tax deduction at source [TDS rate under IGST – 2%];

(xi) collection of tax at source [TCS rate under IGST – not exceeding 2%];

(xii) assessment;

(xiii) refunds;

(xiv) audit;

(xv) inspection, search, seizure and arrest;

(xvi) demands and recovery;

(xvii) liability to pay in certain cases;

(xviii) advance ruling;

(xix) appeals and revision;

(xx) presumption as to documents;

(xxi) offences and penalties;

(xxii) job work;

(xxiii) electronic commerce;

(xxiv) transitional provisions; and

(xxv) miscellaneous provisions including the provisions relating to the imposition of interest and penalty

Where the penalty is leviable under the CGST Act and the SGST/UTGST Act, the penalty leviable under the IGST Act shall be the sum total of the said penalties

Anti-profiteering Sec 171

As per section 171(1) **:** Any reduction in rate of tax on any supply of goods or services or the benefit of input tax credit shall be passed on to the recipient /Consumer by way of commensurate reduction in prices.

Example on reduction in rate

Particulars	Service tax regime	GST regime
Taxable value	100	100
ST rate 15%	15	
GST rate 5%		5%
Total Invoice value	115	105
The Benefit of Rs.10 (115-105) should passed on to recipient by way of reduction in price		

Example on benefit of ITC

Particulars	Service tax regime	GST regime
Output tax liability	25	25
Less ITC ST/GST paid	12	12
Less ITC on VAT paid	NIL	5
Net output tax liability	13	8
The Benefit of Rs.5 (13-8) should passed on to recipient by way of reduction in price		

National Anti-Profiteering Authority [Section 171(2)]

National Anti-Profiteering Authority is being constituted by the Central Government to examine whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods and/or services supplied by him

Anti-profiteering of CGST Rules, 2017 prescribe the provisions relating to constitution of such authority, duties of the authority, orders of the authority etc.

The National Anti-Profiteering Authority shall be a five-member committee consisting of a Chairman who holds or has held a post equivalent in rank to a Secretary to the Government of India; and four Technical Members who are or have been Commissioners of State tax or central tax for at least one year or have held an equivalent post under earlier laws.

Duties & Powers of National Anti-Profiteering Authority -Section 171(3):

It shall be the duty of the authority-

- to determine whether the reduction in tax rate or the benefit of input tax credit has been passed on by the seller to the buyer (hereinafter collectively referred to as 'benefit') by reducing the prices
- to identify the taxpayer who has not passed on the benefit
- to order for reduction in prices/ return to the recipient, an amount equivalent to the amount not passed along with interest @18%
- imposition of penalty/cancellation of registration
- to furnish a performance report to the GST Council by the 10th of the month succeeding each quarter

  Note: Certain amendments amendments made with regard to time limits recently, students may refer icai amendment booklet.

PENALTIES UNDER GST

<u>Sec 122(1) Offences with Penalty Rs. 10,000/- or Tax amount/Refund amount/Input tax credit whichever is higher</u>

1. Supply of any goods/services without issue of any invoice / issue of an incorrect or false invoice
2. Issue of any invoice or bill without supply of goods / services in violation of the provisions of this Act or the rules made thereunder;
3. Collects any amount as tax/ Collects any tax in contravention of the provisions of this Act but fails to pay the same to the Government beyond a period of three months
4. (Fails to deduct/collect the tax as per provisions of Act or less deduction/collection of tax/ fails to pay such tax
5. Takes or utilizes input tax credit without actual receipt of goods / services either fully or partially, in contravention of the provisions of this Act or as per rules
6. Fraudulently obtains refund of tax under this Act;
7. Takes or distributes input tax credit in contravention of section 20, or as per rules
8. Falsifies or substitutes financial records or produces fake accounts or documents or furnishes any false information or return with an intention to evade payment of tax due under this Act;
9. Is liable to be registered under this Act but fails to obtain registration;
10. Furnishes any false information with regard to registration particulars, either at the time of applying for registration, or subsequently;
11. Obstructs or prevents any officer in discharge of his duties under this Act;
12. Transports any taxable goods without the cover of documents as may be specified in this behalf;
13. Suppresses his turnover leading to evasion of tax under this Act;
14. Fails to keep, maintain or retain books of account and other documents as per the Act/Rules
15. Fails to furnish information or documents called for by an officer or furnishes false information or documents during any proceedings under this Act;
16. Supplies, transports or stores any goods which he has reasons to believe are liable to confiscation under this Act;
17. Issues any invoice or document by using the registration number of another registered person;
18. Tampers with, or destroys any material evidence or document;
19. Disposes off or tampers with any goods that have been detained, seized, or attached under this Act

Penalty u/s 122(2)

SN	Nature of Violation	Penalty normal cases	Penalty normal cases
1	who supplies any goods or services or both on which any tax has not been paid or short-paid or erroneously refunded	Rs.10,000/-; or 10% of the tax Whichever is higher	Rs.10,000/-; or 100% of the tax Whichever is higher
2	where the input tax credit has been wrongly availed or utilized		

<u>Sec 122(3) Offences with Penalty Rs. 25,000/- on a person</u>

- Aids or abets (Encourage or help) any of the offences specified in Sec 122(1)
- acquires possession of, or in any way concerns himself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner deals with any goods which he knows or has reasons to believe are liable to confiscation under this Act/rules;
- Receives any goods/services which he knows or reason to believe in contravention of Act/ rules
- fails to appear before the officer of central tax, when issued with a summon for appearance to give evidence or produce a document in an inquiry;
- fails to issue invoice as per provisions/rules or fails to account for an invoice in his books of account,

PENALTY FOR FAILURE TO FURNISH INFORMATION RETURN [SECTION 123]

- Where a person who is required to furnish information return under section 150, has not furnished the same within the time specified, the Commissioner or an officer authorized by him serve notice and in requiring him to furnish the information return within a period not exceeding 90 days from the date of service of notice.
- If the said person still fails to furnish the return within the period specified in notice issued, the penalty will be levied Rs. 100 per day or Rs. 5000 Whichever is higher.

FINE FOR FAILURE TO FURNISH STATISTICS [SECTION 124]

- Commissioner has got power by notification direct that statistic may be collected relating to any matter in connection with the Act. The commissioner or any person authorised by him may call the concerned persons to furnish information or return (sec 151)
- If any person required to furnish any information or return under section 151, fails to furnish without a reasonable cause/ willfully furnishes false information or return
- Penalty Rs. 100 per day or Rs. 25,000/ whichever is higher

GENERAL PENALTY [SECTION 125]

Any person, who contravenes any of the provisions of this Act/Rules for which no penalty is separately provided for in this Act, shall be liable to a penalty which may extend to Rs. 25,000/-

GENERAL DISCIPLINES RELATED TO PENALTY [SECTION 126)

- Penalty shall be imposed on any person only by giving him an opportunity of being heard i.e. Issue of SCN and proper hearing in the matter
- The officer should specify the nature of the breach and the applicable law, regulation or procedure under which the amount of penalty is levied
- No penalty shall be imposed by any officer under this Act for –
    - Minor breaches of tax regulations,
    - Procedural requirements of the law,
    - Any omission or mistake in documentation which is easily rectifiable

POWER TO WAIVE PENALTY OR FEE OR BOTH [SECTION 128]

The Government may, by notification, waive in part or full, any penalty referred to in section 122/123 and 125 o or any late fee referred to in section 47 (for delay in filing of return) for such class of taxpayers and under such mitigating circumstances as may be specified therein on the recommendations of the Council.

PUNISHMENTS FOR CERTAIN OFFENCES CRIMINAL PENALTIES) [SECTION 132]

The following are the major offences under the Act which warrant institution of criminal proceedings and prosecution.

According to the provisions of Section 132(1), whoever commits any of the following offences, namely: —

supplies any goods or services or both without issue of any invoice, in violation of the provisions /RULES with the intention to evade tax;

a) supplies any goods or services or both without issue of any invoice, in violation of the provisions of this Act or the rules made thereunder, with the intention to evade tax;
b) issues any invoice or bill without supply of goods or services or both in violation of the provisions of this Act/Rules leading to wrongful availment or utilisation of input tax credit or refund of tax;
c) avails input tax credit using such invoice or bill referred to in clause (b);
d) collects any amount as tax but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due;
e) evades tax, fraudulently avails input tax credit or fraudulently obtains refund and where such offence is not covered under clauses (a) to (d);
f) falsifies or substitutes financial records or produces fake accounts or documents or furnishes

any false information with an intention to evade payment of tax due under this Act;

g) obstructs or prevents any officer in the discharge of his duties under this Act;

h) acquires possession of, or in any way concerns himself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner deals with, any goods which he knows or has reasons to believe are liable to confiscation under this Act or the rules made thereunder;

i) receives or is in any way concerned with the supply of, or in any other manner deals with any supply of services which he knows or has reasons to believe are in contravention of any provisions of this Act or the rules made thereunder;

j) tampers with or destroys any material evidence or documents;

k) fails to supply any information which he is required to supply under this Act or the rules made thereunder or (unless with a reasonable belief, the burden of proving which shall be upon him, that the information supplied by him is true) supplies false information; or

l) attempts to commit, or abets the commission of any of the offences mentioned in clauses (a) to (k) of this section

shall be punishable with the previous sanction of Commissioner, as under

Section	Amount of tax involved	Quantum of Punishment	Cognizable/ Non-cognizable
132(1)(i)	> Rs. 500 lakhs	Up to 5 years with fine	Cognizable (Non bailable)
132(1)(ii)	> Rs.200 lakhs ≤ Rs. 500 lakhs	Up to 3 years with fine	Non-cognizable (Bailable)
132(1)(iii)	> Rs. 100 lakhs ≤ Rs. 200 lakhs	Up to 1 years with fine	Non-cognizable (Bailable)
132(1)(iv)	Offence specified in clauses (f),(g) or (j) of Section 132(1) of the CGST Act, 2017	Up to 6 months or with fine or with both	Non-cognizable (Bailable)

Second and subsequent offence:

Section 132(2) of the CGST Act, 2017 where any person convicted of an offence under this section is again convicted of an offence under this section, then, he shall be punishable for the second and for every subsequent offence with imprisonment for a term which may extend to five years and with fine.

Minimum imprisonment is 6 months:

Section 132(3) of the CGST Act, 2017 the imprisonment referred to in clauses (i), (ii) and (iii) of sub-section (1) and sub-section (2) shall, in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the Court, be for a term not less than six months.

Meaning of 'Tax' for the purpose of Section 132

The term "tax" shall include the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or refund wrongly taken under the provisions of this Act, the SGST Act, IGST Act or the UTGST Act and cess levied under the Goods and Services Tax (Compensation to States) Act. [Explanation to Section 132 of CGST Act]

DETENTION, SEIZURE AND RELEASE OF GOODS AND CONVEYANCES IN TRANSIT [SECTION129)
Over riding provision of all other sections

Any person

Transport goods or Stores the goods while in transit

Which are in contravention of ACT or rules

Goods/ Conveyance/ Documents relating to goods

Order of detention On transporter of goods

liable to detention or seizure.

The Goods and/or conveyance after detention or seizure, shall be released

Taxable goods

Tax+ Penalty 100% of tax(50% of tax in case of owner does not come forward to pay) Or Bond Equivalent

Exempted Goods

2% of the value of goods (5% of Value in case of owner does not come forward to pay)or Rs. 25,000 which ever is less Or Bond Equivalent

Goods will be released on provisional basis after payment/ Security

SCN For tax+ penalty Final order for release of goods Will be made after hearing From the person

Owner of goods means Consignor or Consignee in case of invoice accompany the goods. Other cases PO will determine who is owner of goods. Circular No. 76/50/2018 GST dated 31.12.2018]

Failure to pay by owner/transporter with in ~~7 days~~ 14 days from the date of detentionThe goods will be confiscated u/s 130

CONFISCATION OF GOODS OR CONVEYANCES AND LEVY OF PENALTY [SECTION 130]
Over riding provision of all other sections

- Supplies or receives goods in Which are in contravention of ACT or rules
- Does not account goods
- Supplies taxable goods without applied for registration
- contravenes any of the provisions of this Act or the rules with intention to evade tax
- Uses any conveyance in contravention of act/ rules

Such goods are liable to confiscation and penalty Will be levied u/s 122

Adjudication officer will give an Option to owner To pay redemption fine In lieu of Confiscation

Maximum redemption fine = Market value of goods less tax on goods Fine and penalty should not be less than the amount leviedwhen the goods are detained

Failure to pay Redemption fine

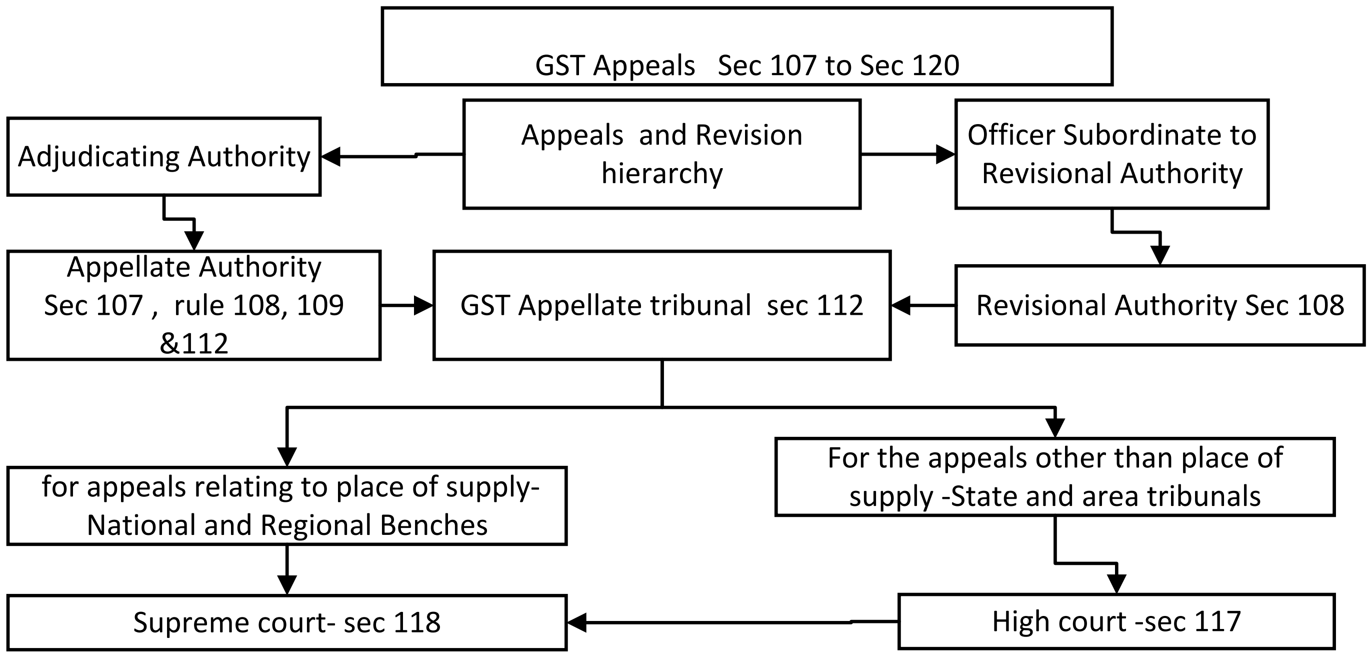
Opportunity being heard Is given and Oder for confiscation for goods/ Conveyance is made

The goods will become the property of Government The proper officer take the possession of goods

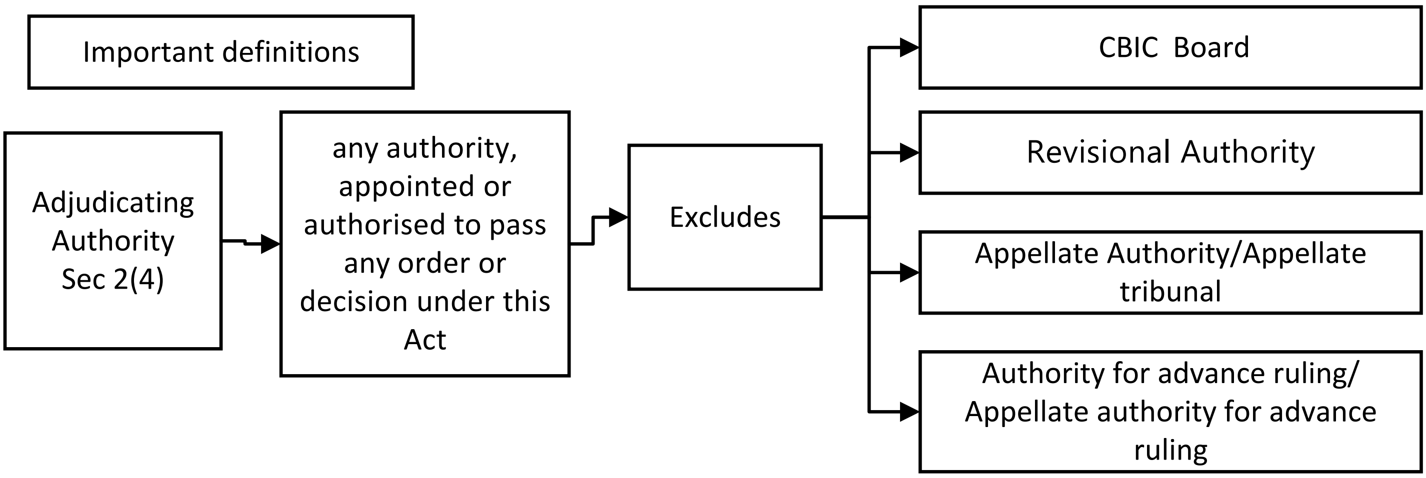
Proper officer is after satisfying himself that the confiscated goods or conveyance are not required in any other proceedings under this Act

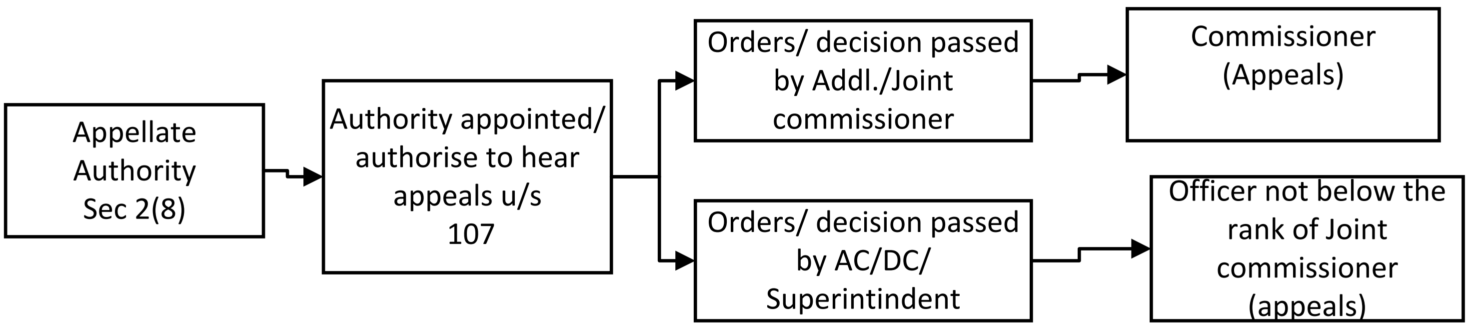
Reasonable opportunity being heard to owner pay redemption fine with in 3 months

Dispose of goods/Conveyance and sale proceeds will be credited to Government



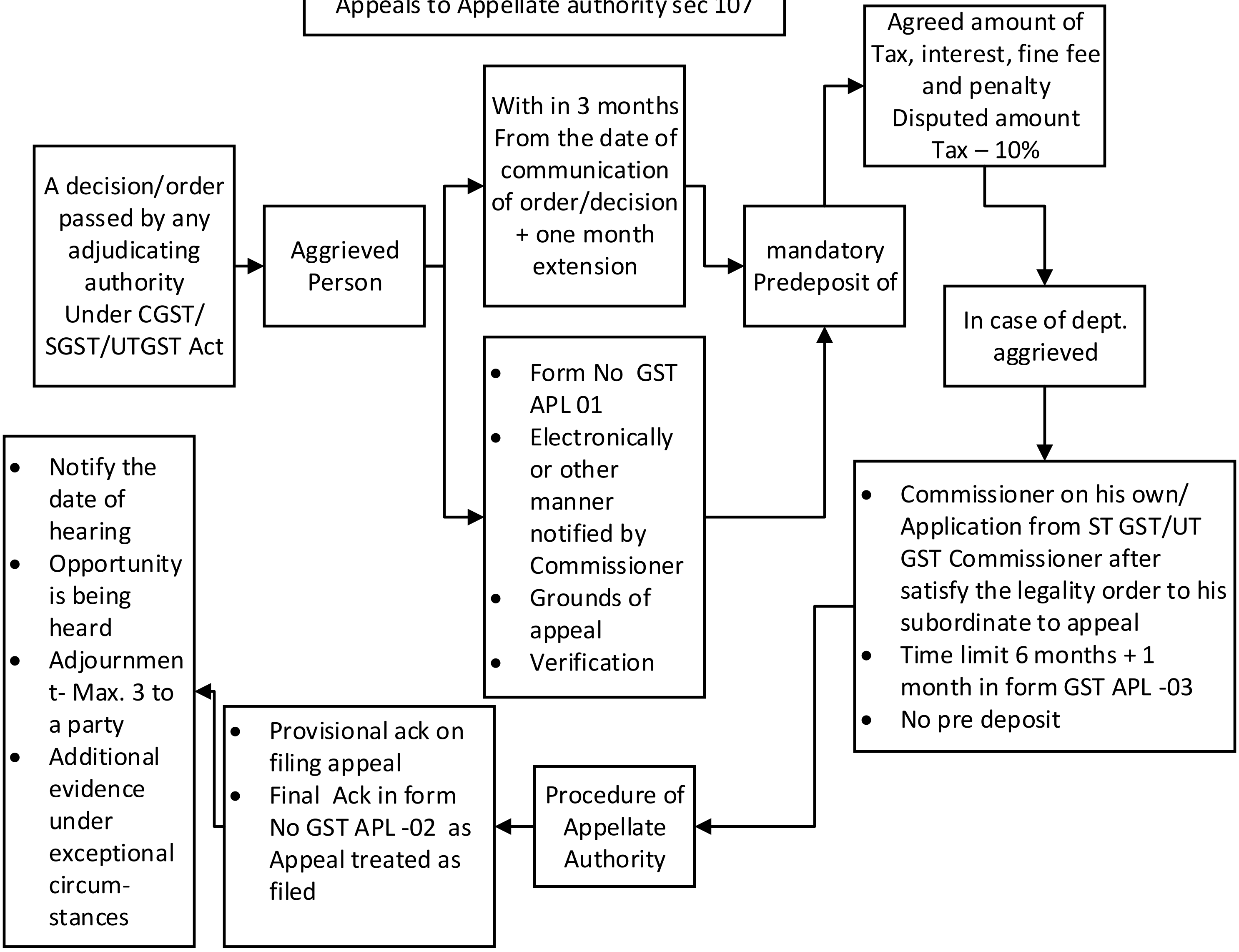
Important definitions

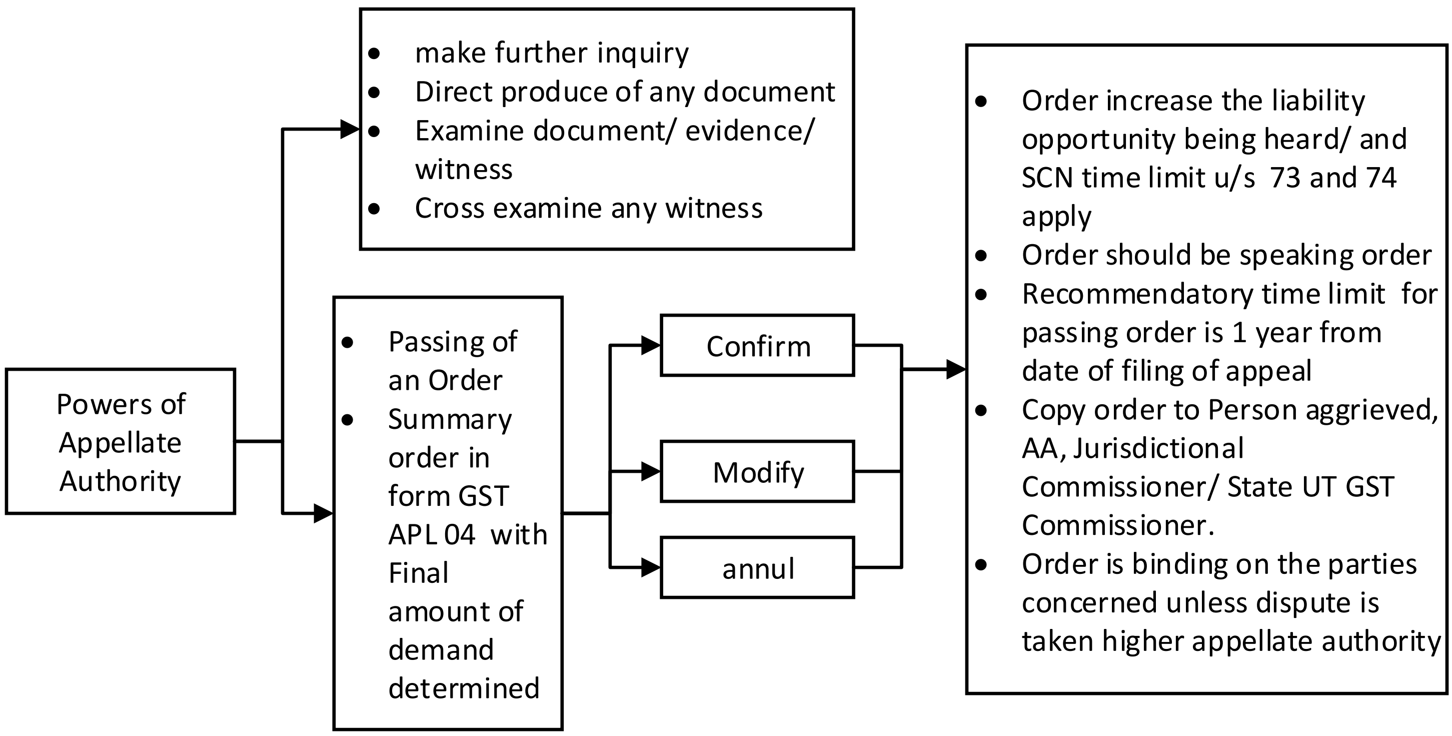




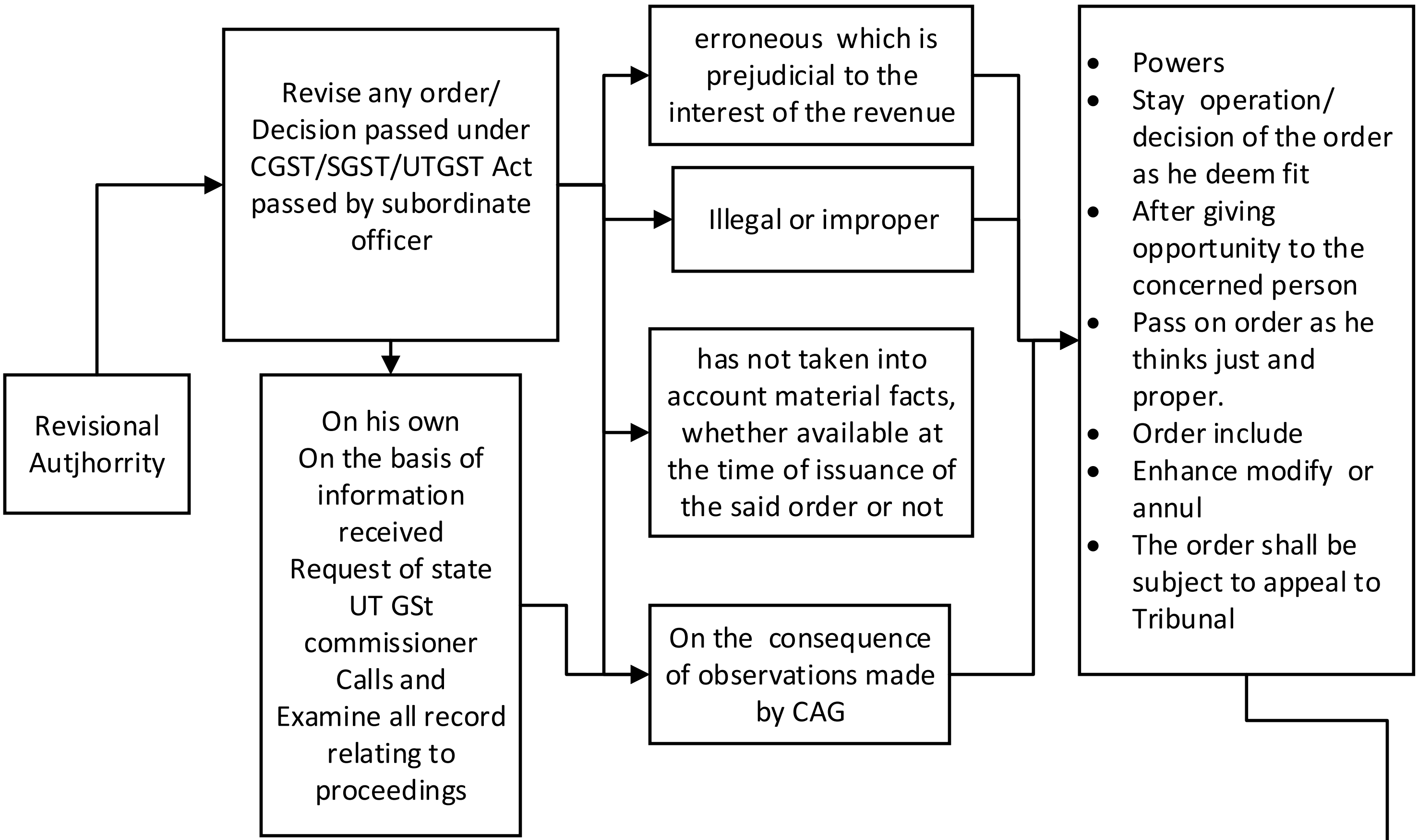
Commissioner means the Commissioner of central tax and includes the Principal Commissioner of central tax appointed under section 3 and the Commissioner of integrated tax appointed under the Integrated Goods and Services Tax Act [Section 2(24)].

Appeals to Appellate authority sec 107





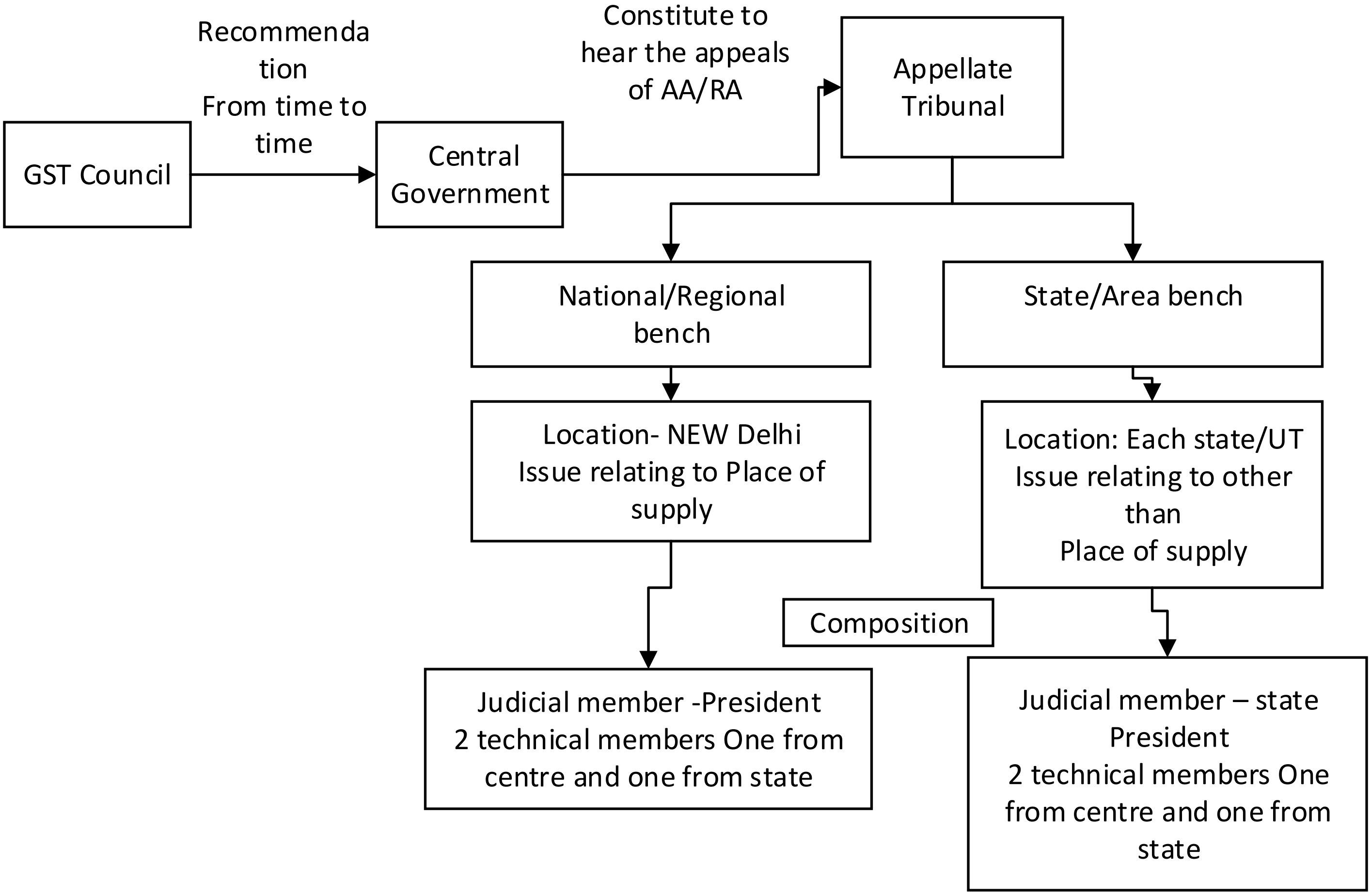
Revision of Orders by Revisional Authority Sec 108



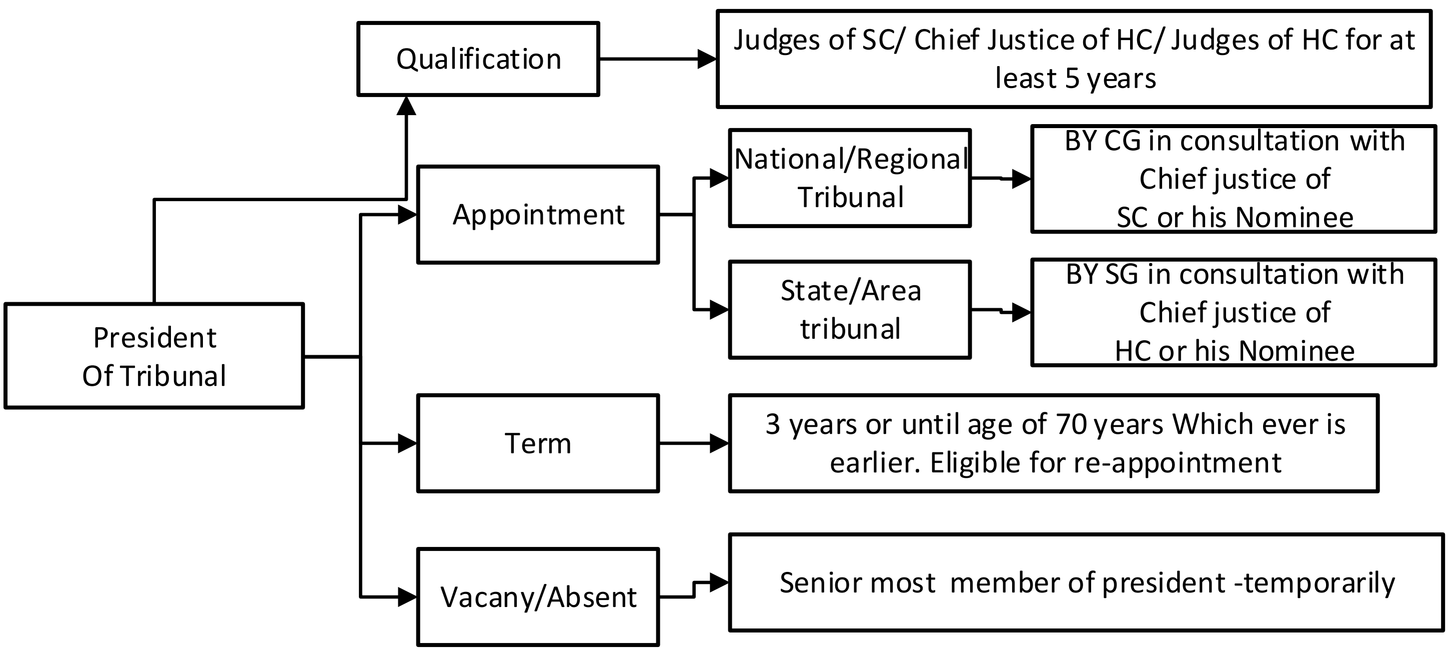
Order cannot be revised

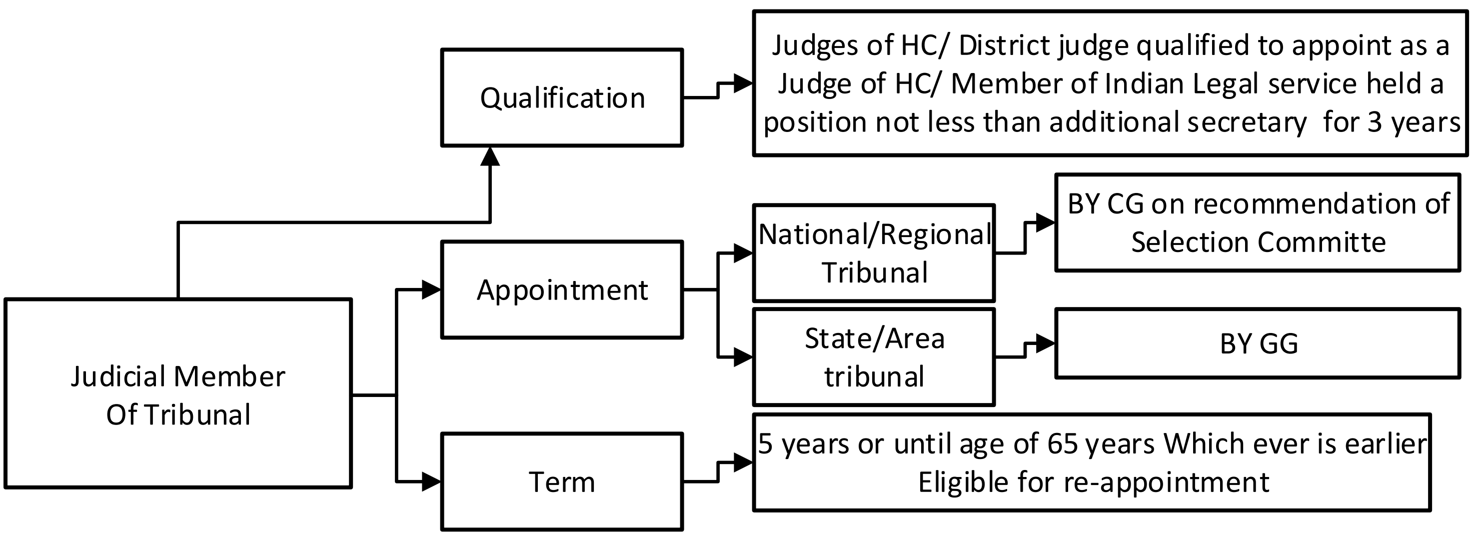
- Time limit 6 months not elapsed and 3 years elapsed from the date original order.
- Exclusion of period of limitation: Where the order has to pass to give effect of the order of tribunal/HC/ SC
- The period spent between the date of decision of Tribunal and High court/ High court and supreme court
- The order has been subject matter of appeal.
- The RA may pass an order on any point which has not been raised and decided in an appeal before AA/ Tribunal/High Court/Supreme Court, before the expiry of a period of 1 year from the date of the order in such appeal or before the expiry of a period of 3 years from the date of initial order, whichever is later
- the order has already been taken for revision at an earlier stage
- the order sought to be revised is a revisional order in the first place

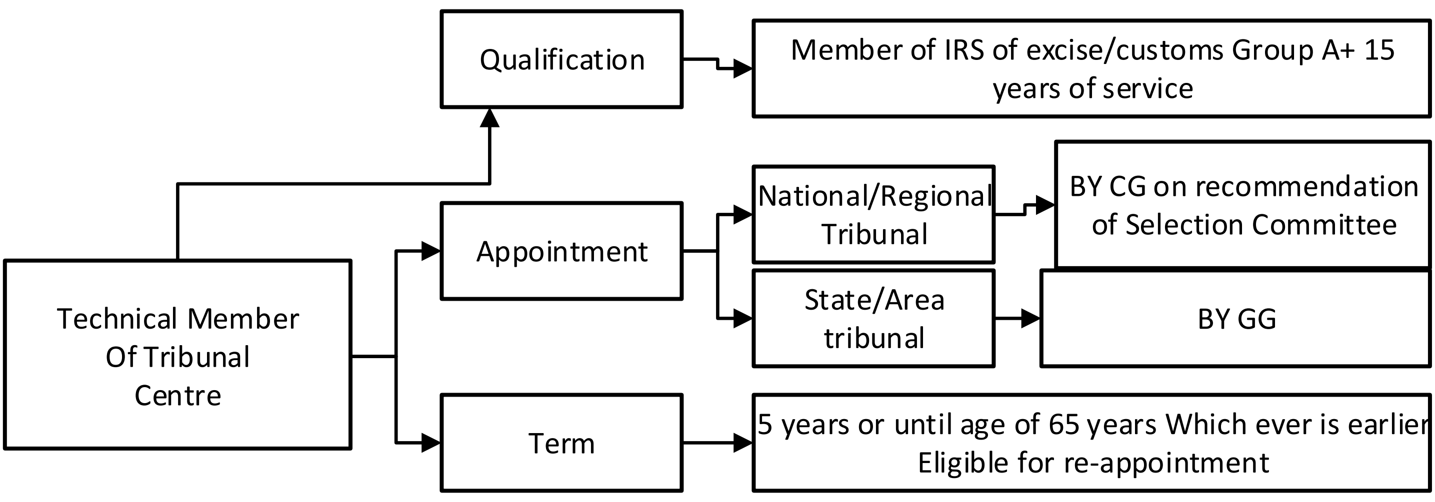
Constitution of Appellate Tribunal and benches Sec 109



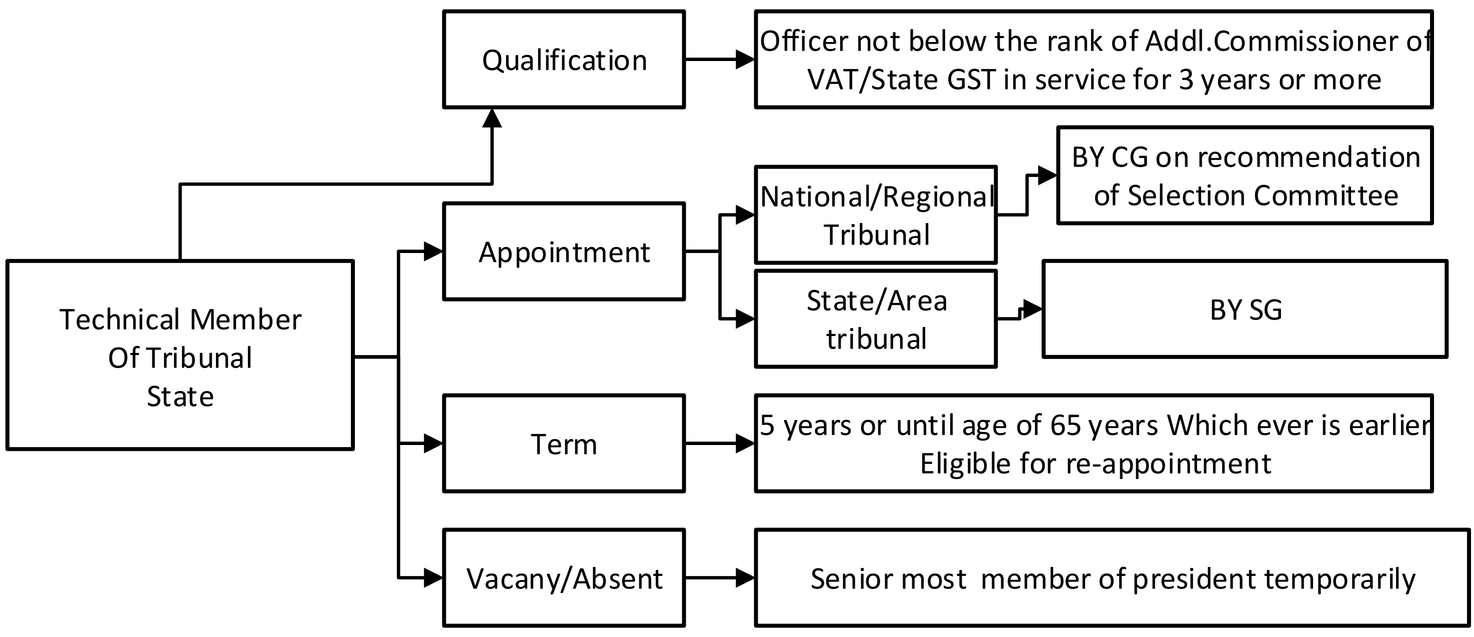
Appointment and qualification of President and Members

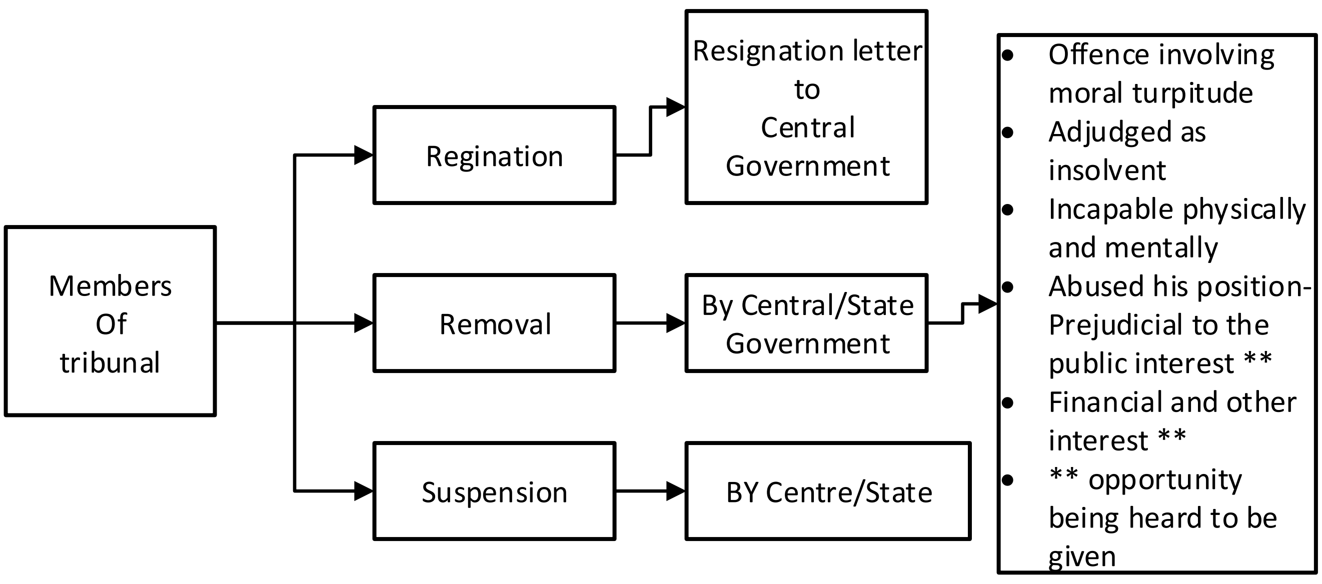






President/members of Tribunal are not eligible to appoint if they had financial and other interests





Appeals to GST Tribunal sec 111 to 113

Order of Appellate Authority/ Revisional Authority

One of the issue relating to Place of supply → National/ Regional Tribunal

Issue relating to Other than Place of supply → State/Area Tribunal

- Appeal in form GST APL 05
- Signed and verified in prescribed manner
- Time limit 3 months + extension
- Pre deposit of tax
- Dept. Appeal form GST APL 07
- Filing in Electronically or otherwise in common portal

Refuse to admit appeal If the amount of Tax, ITC , penalty, fine Does not exceed Rs.50000/-

- Power to regulate its own procedure
- Guided by powers of Natural justice

Procedure before appellate tribunal Sec 111

- Ack for appeal in form NO GST APL 02
- Has the Powers of code of civil procedure code like
- summoning and enforcing the attendance
- requiring the discovery and production of documents
- receiving evidence on affidavits
- issuing commissions for the examination of witnesses
- dismissing a representation for default or deciding it *ex parte*
- setting aside any order of dismissal of any representation for default or any order passed by it *ex parte*
- any other matter which may be prescribed

- Notice to the parties
- Memorandum of cross objections by respondent in in form No.GST Apl 06, with in 45 days
- Hearing of appeal
- Rules of natural justice
- Grant of adjournments max 3
- Disposal of memorandum of cross objections

Admissibility of additional evidence by person in the following circumstances

- AA/RA refuse to admit the evidence which out to have been admit
- Person prevented by producing sufficient cause for producing evidence
- AA/RA passed order by without giving opportunity to produce evidence

Order of tribunal Sec 113

- Confirm
- Annul
- Modify by increase the liability(opportunity being heard, SCN limits apply)
- Decreasing the liability
- Refer back case to AA /RA
- Summary of order in form No. GST APL04
- Copy of order to person, jurisdictional commissioner
- Enforcement of order as it order of the court

Rectification of order on mistake apparent on record Sec 113(3)

- On its own
- Application by Commissioner/person
- Time limit with in 3 months
- No fee
- Increasing the liability opportunity is being heard.

Mandatory Pre-deposit of tax in appeal Sec 107(6) and Sec 112(8)				
SN (1)	Particulars (2)	Agreed amount/undisputed tax (3)	Disputed/ tax subject matter of appeal (4)	Total amount to deposit
1	First appeal before Appellate authority	Full 100% of amount tax + Interest+ penalty+ fee	10% of the disputed tax subject to maximum Rs. 25 Crore	(3) + (4)
2	Second Appeal before Appellate Tribunal	Full 100% of amount tax + Interest+ penalty+ fee	20% of the remaining amount of tax in dispute, in addition to the amount paid in first appeal subject to maximum Rs. 50 crores	(3) + (4)
Note: Pre-deposit can be made through CGST Credit -*Dell International Services* v. *CCT* (2019) 365 ELT 813 (CESTAT). Once the appellant has paid the pre-deposit amount as per sec 112(8) the recovery proceedings for the balance amount shall be deemed to be stayed till the disposal of the appeal -section 112(9) of CGST Act.				

Example:

XYZ Ltd. received a demand notice from the Assistant Commissioner of Central Tax on 1.9.2018 under Section 73 of the CGST Act, 2017 as below

CGST and SGST Due	Rs. 10,00,000
Interest	@ 18% p.a. for number of days till the date of payment
Penalty	10% of tax or Rs. 10,000/- whichever is higher

The assessee went for appeal and filed the case in the Appellate Authority on 20.9.2018. This appeal has been taken up for hearing on 03-10-2018.

Case 1: How much has to pay as pre-deposit of duty under section 107(6) of the CGST Act, 2017 by XYZ Ltd. to entertain appeal by the Appellate Authority (i.e. Commissioner (Appeals)).

Case 2: Whether your answer is different if the assessee appeals only part of the amount say ` 6,00,000 is in dispute arising from the said order.

Answer:

Case 1	10% of disputed tax Rs. 10 lakhs Rs. 1 lakh
Case 2	(Full amount of agreed tax Rs. 4 lakhs+ applicable interest + Penalty Rs.10,000/-) + (10% of disputed tax Rs.6 lakhs = Rs. 60,000)

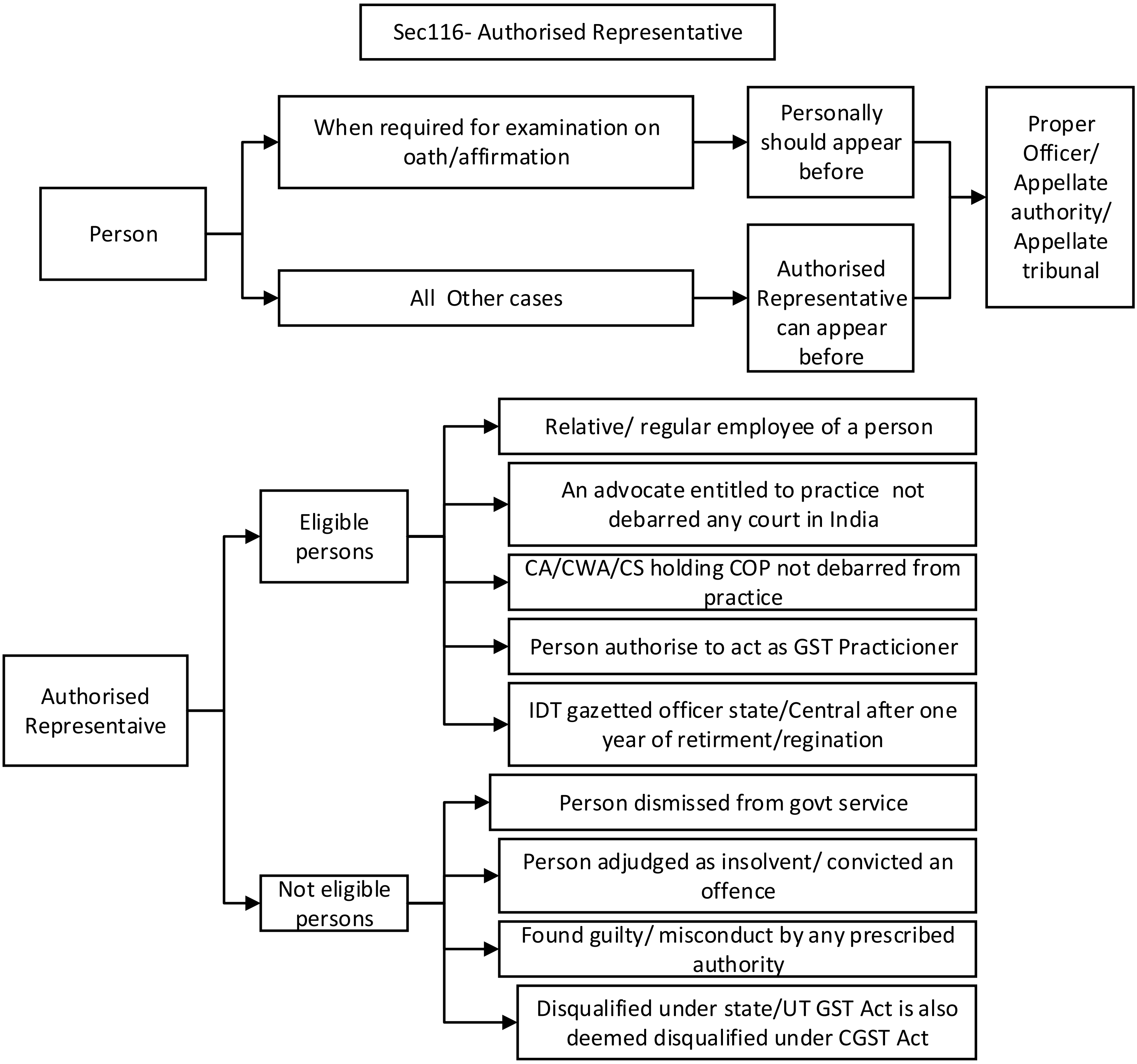
Considered the above example, where Appellate Authority passed the order against the assessee, if so how much has to pay as pre-deposit of duty under section 112(8) of the CGST Act, 2017 to entertain appeal by Appellate Tribunal (GSTAT).

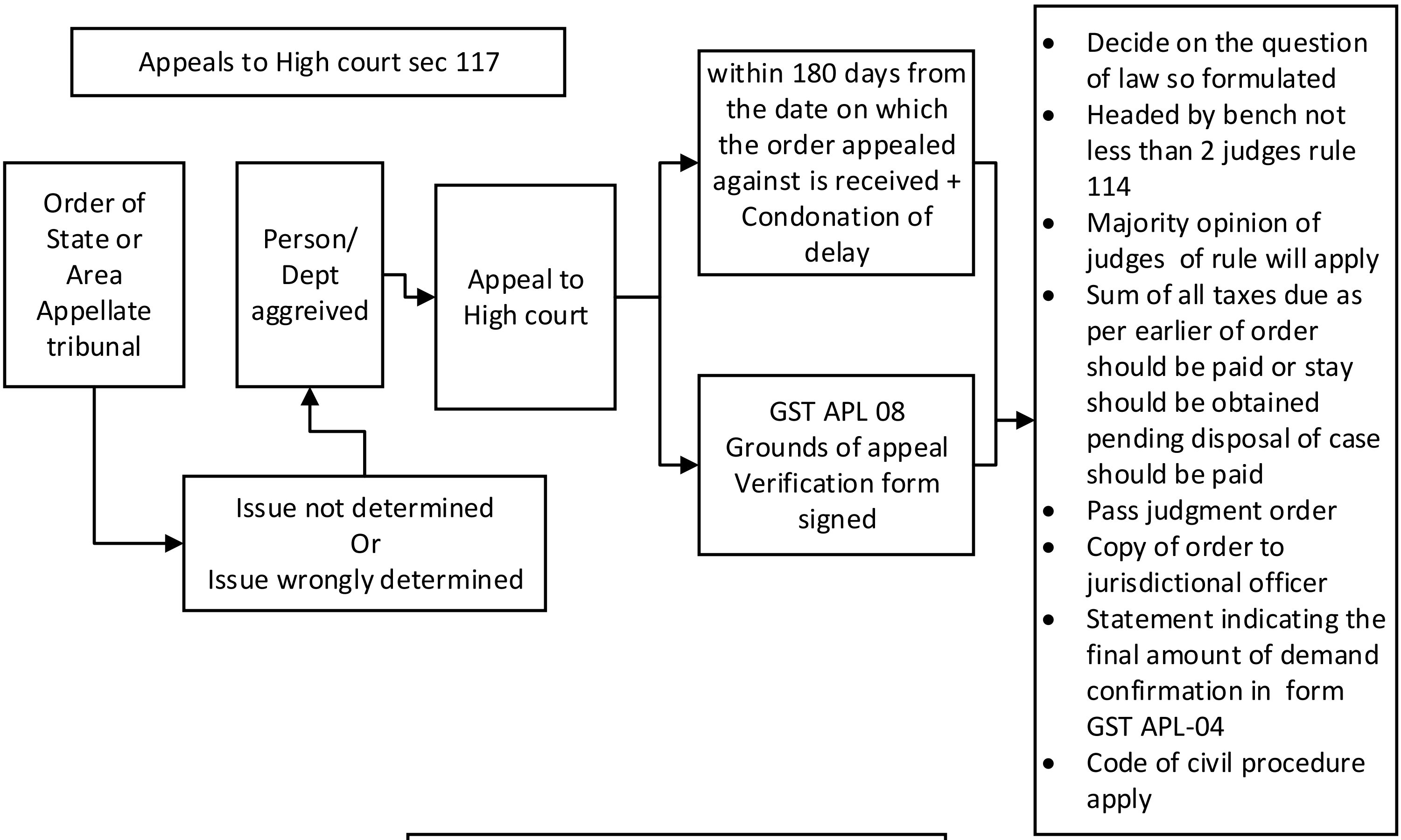
Answer:

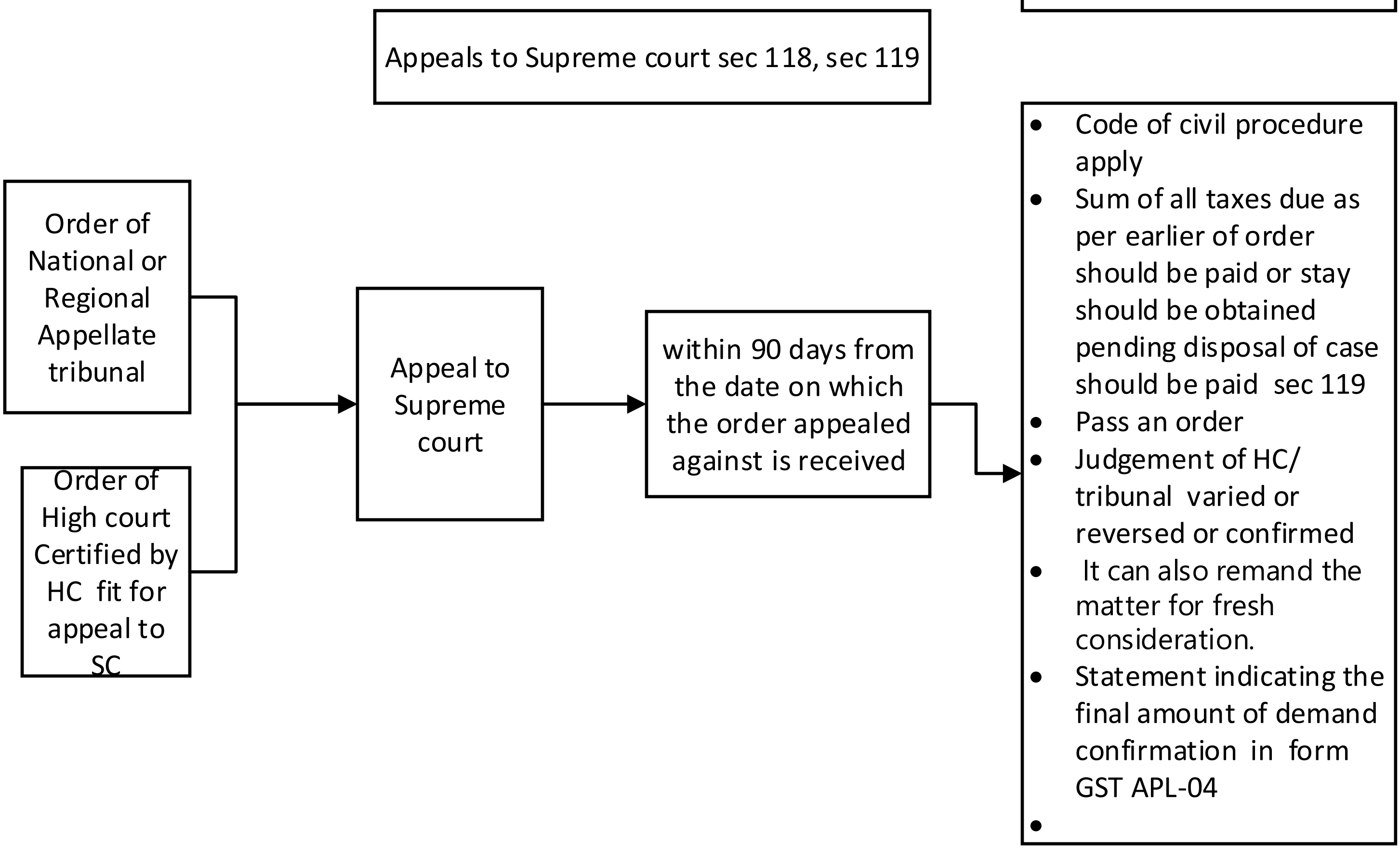
Case 1	20% of disputed tax Rs. 10 lakhs = Rs. 2 lakhs in addition to Pre-deposit tax Rs. 1 lakh paid in the appeal of appellate authority
Case 2	20% of disputed tax Rs.6 lakhs = Rs. 1,20,000 in addition to predeposit of 10% of disputed tax paid Rs. 60,000 in the appeal of appellate authority Note: Full amount of agreed tax Rs. 4 lakhs+ applicable interest + Penalty Rs.10000 already paid in appeal of appellate authority

Refund of Pre- deposit: sec 115

If the pre-deposit made by the appellant before the AA or the Tribunal is required to be refunded consequent to any order of the AA or of the Tribunal, the amount of pre-deposit will be refunded along with interest @6% p.a, from the date of payment of deposit till the date of refund of amount.


Sec116- Authorised Representative
Person
When required for examination on oath/affirmation
Personally should appear before
All Other cases
Authorised Representative can appear before
Proper Officer/ Appellate authority/ Appellate tribunal
Authorised Representaive
Eligible persons
Relative/ regular employee of a person
An advocate entitled to practice not debarred any court in India
CA/CWA/CS holding COP not debarred from practice
Person authorise to act as GST Practicioner
IDT gazetted officer state/Central after one year of retirment/regination
Not eligible persons
Person dismissed from govt service
Person adjudged as insolvent/ convicted an offence
Found guilty/ misconduct by any prescribed authority
Disqualified under state/UT GST Act is also deemed disqualified under CGST Act


Appeals to High court sec 117
Order of State or Area Appellate tribunal
Person/ Dept aggrieved
Appeal to High court
within 180 days from the date on which the order appealed against is received + Condonation of delay
GST APL 08 Grounds of appeal Verification form signed
Issue not determined Or Issue wrongly determined
• Decide on the question of law so formulated
• Headed by bench not less than 2 judges rule 114
• Majority opinion of judges of rule will apply
• Sum of all taxes due as per earlier of order should be paid or stay should be obtained pending disposal of case should be paid
• Pass judgment order
• Copy of order to jurisdictional officer
• Statement indicating the final amount of demand confirmation in form GST APL-04
• Code of civil procedure apply


Appeals to Supreme court sec 118, sec 119
Order of National or Regional Appellate tribunal
Order of High court Certified by HC fit for appeal to SC
Appeal to Supreme court
within 90 days from the date on which the order appealed against is received
• Code of civil procedure apply
• Sum of all taxes due as per earlier of order should be paid or stay should be obtained pending disposal of case should be paid sec 119
• Pass an order
• Judgement of HC/ tribunal varied or reversed or confirmed
• It can also remand the matter for fresh consideration.
• Statement indicating the final amount of demand confirmation in form GST APL-04

APPEAL NOT TOBE FILED IN CERTAIN CASES [SECTION 120]

- The Board (CBIC) may, on the recommendation of the GST Council, from time to time, issue orders or instructions or directions fixing such monetary limits, as it may deem fit, for the purposes of regulating the filing of appeal or application by the tax officer under the provisions of this Chapter
- It shall not preclude such GST officer from filing appeal or application in any other case involving the same or similar issues or questions of law.
- No person, being a party in appeal or application shall contend that the GST officer has acquiesced in the decision on the disputed issue by not filing an appeal or application.
- Thus, non-filing of appeal by department cannot be used as precedent.
- The Appellate Tribunal or court hearing such appeal or application shall have regard to the circumstances under which appeal or application was not filed by the GST Officer in pursuance of the orders or instructions or directions - section 120(4) of CGST Act.

NON-APPEALABLE DECISIONS AND ORDERS [SECTION 121]

Section 121 lays down that no appeals whatsoever can be filed against the following orders:-

An order

- of the Commissioner or other authority empowered to direct transfer of proceedings from one officer to another officer;
- pertaining to the seizure or retention of books of account, register and other documents; or
- sanctioning prosecution under the Act
- passed under section 80 (payment of tax in instalments).

Appeal Provisions snap shot

Description	*Appellate Authority*	*Revisional Authority*	*Appellate Tribunal*
Appeal against order of	Adjudicating Authority - section 107(1)	Suo motu action by Authority under section 108 - (taxable person himself cannot apply for revision)	Appellate Authority or Revisional Authority - section 112(1)
Are fees payable while filing appeal	No	No question arises	Yes - section 112(7)
Can department file appeal	Yes - section 107(2) and 107(3)	No question	Yes - section 112(3) and 112(4)
Time limit for filing appeal	Three months from date of communication of order - section 107(1) - can be extended by one month - section 107(4)	Revisional Authority can initiate action after three months but within three years from date of order, if no appeal was filed before Appellate Authority	Three months from date of communication of order - section 112(1) - can be extended by further three months - section 112(6)
If issue relates to place of supply	Can be filed	Can be taken up	National/Regional bench of Appellate Tribunal
If issue *does not* relate to place of supply	Can be filed	Can be taken up	State/Area bench of Appellate Tribunal
Pre-deposit of tax	10% of tax in dispute and 100% of tax, interest, penalty or fine that is not in dispute - section 107(6)	No question of pre-deposit	20% of tax in dispute and 100% of tax, interest, penalty or fine that is not in dispute - section 112(6) [20% of tax in dispute payable in addition to 10% paid earlier]
Is interest payable to taxable person if pre-deposit refunded if he wins appeal?	Yes - section 115	Question does not arise	Yes - section 115
Can person appear through Authorised Representative	Yes - section 116(1)	Yes - section 116(1)	Yes - section 116(1)

Can matter be remanded to lower authority	No - section 107(11)	Question does not arise	Yes - section 113(1)
Can authority rectify mistake in order apparent from record	Yes - within six months - section 161	Yes - within six months - section 161	Yes - within three months - section 113(3)
Further Appeal before High Court	No - as appeal to be filed before Appellate Tribunal	No - as appeal to be filed before Appellate Tribunal	Against the order of State/Area bench of Appellate Tribunal only on substantial question of law - section 117(1)
Further Appeal before Supreme Court	No - as appeal to be filed before Appellate Tribunal	No - as appeal to be filed before Appellate Tribunal	(a) against the order of National/Regional bench of Appellate Tribunal *or* (b) if High Court certifies it as fit case to further appeal - section 118(1)

Authority for Advance Ruling (AAR)and Appellate Authority for Advance Ruling (AAAR)

Advance Ruling: Sec 95 (a): means a decision provided by the Authority or the Appellate Authority in relation to the supply of goods or services both being undertaken or proposed to be undertaken by the applicant; Appellate Authority for Advance ruling (AAR/ Appellate Authority for Advance Ruling AAAR constituted under state/ UT is deemed to be AAR under CGST Act.

Applicant Sec 95(C) → (4 copies, Fees) → Application To AAR- sec 98 → AAR → Officer of applicant jurisdiction

Applicant Sec 95(C): Any person registered or desirous of obtaining registration under this Act; [Section 95(c)].

Application To AAR- sec 98:

1.Determination of liability to Pay GST on goods/services
2. Determination of time and Valuation of Goods (place of supply cannot be determined by AAR)
3.Classification of goods/services
4.Applicability of E/N issued
6.Admissibility of input tax Credit
7.whether applicant is required to be registered

AAR may send copy of appl. And called records records should be returned as soon as possible

AAR → Order of Authority for Advance Ruling → Acceptance/ Rejection order; Final order

Acceptance/ Rejection order:

Appl: Shall not be allowed if Applicant

- Question is pending before Provisions of ACT
- Question already Decided by Provisions of ACT

Rejection Order:

- Order should be speaking order. Opportunity to registered person before rejection

Final order → 90 days → Examine matter, Opportunity to applicant being heard. Copy to Officer and, Applicant

Sec 103 :Order of AAR/AAAR -Binding on
1. Applicant
2.Jurisdictional Officer ie state of applicant.
Binding Till : Law changes

Order is VOID (ab-initio) if subsequently found that it has been obtained by Fraud // Misrepresentation
In such cases it is treated Never made application to AAR
Sec 104

Amendment of order by RECTIFICATION OF MISTAKES [SECTION 102]

- AAR and AAAR to amend their order within a period of 6 months from the date of the order.
- The mistake may be noticed on its own or may be brought to its notice by the applicant or the concerned or the jurisdictional officer.
- If a rectification has the effect of enhancing the tax liability or reducing the quantum of input tax credit, the applicant must be heard before the order is passed

APPELLATE AUTHORITY FOR ADVANCE RULING (AAAR) sec 99/Sec 110/Sec 101

- Appellate Authority for Advance Ruling (AAAR) is constituted under the respective State/Union Territory Act and not the Central Act
- If there is a difference of opinion between the two members of AAR, they shall refer the point or points on which they differ to the AAAR for hearing the issue
- If the members of AAAR are also unable to come to a common conclusion in regard to the point(s) referred to them by AAR, then it shall be deemed that no advance ruling can be given in respect of the question
- If the applicant / Concerned Officer of registered person jurisdiction is aggrieved with the finding of the AAR an appeal will be filed with AAAR
- The Appellate Authority must pass an order after hearing the parties to the appeal within a period of 90 days of the filing of an appeal.
- If members of AAAR differ on any point referred to in appeal, it shall be deemed that no advance ruling is issued in respect of the question under appeal.
- The said authority can either confirm or modify the ruling appealed against.
- The copy of order of appellate authority should be communicated to applicant and officer

Customs Duty liability Sec 12

Sec 12 of customs provides customs duty shall be levied at such rates specified in Customs Tariff Act, 1975, or any other law for the time being in force, on goods imported into and exported from India. Duty payable on goods imported by government also.

India includes territorial waters of India. Consequently, even an innocent entry of a vessel into the territorial waters of India would result in import of goods. It was impossible to determine when exactly the vessel crossed the territorial waters limit Hence taxable event was settled as below

Taxable event for Import goods

Example- Goods imported from USA Port to Chennai port

USA Port
Origination port

12 nautical miles
Territorial waters

Chennai port
Destination port

Garden Silk Mills v. UOI 1999 (113) E.L.T. 358 (S.C.)

Vessel lies
Outside
Territorial waters
No import takes
place

Vessel reaches and crosses Territorial waters

Import of goods commences

- Vessel reaches Chennai port and customs barriers.
- Import complete
- Goods become part of country.
- Importer files bill of entry for home consumption
- Import duty liability will attract.

Duty liability in case of warehouse goods

Kiran Spinning Mills v. Collector of Customs 1999 (113) E.L.T. 753 (S.C.)]

In case of warehoused goods, the goods continue to be in customs bond
Import takes place when the goods are cleared from the warehouse.
Duty payable at the time of removal from warehouse for home comsuption.

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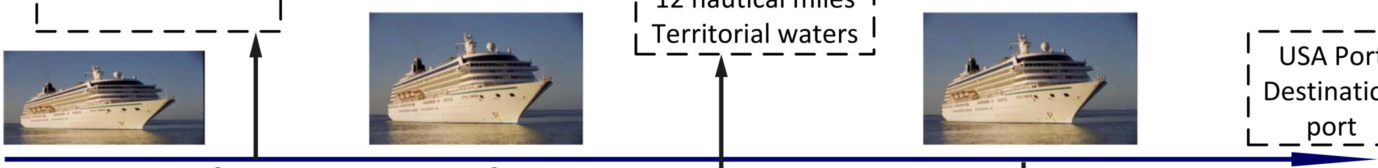
Taxable event for Export goods

Example- Goods Exported from Chenai Port to USA port

Chennai port
Origination port

12 nautical miles
Territorial waters

USA Port
Destination
port



Vessel lies
At Chennai Port
Customs barriers
No export

Vessel is at territorial waters
export Commence

Vessel Crosses territorial waters
export Complete
Duty liability attract.
Eligible for export benefits.

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DUTY LIABILITY IN CERTAIN SPECIAL CIRCUMSTANCES

Re-importation of goods produced/manufactured in India [Section 20]

Goods manufactured or produced in India, which are exported and thereafter re-imported are treated on par with other goods, However, the following concessions are available in this regard:

Concessional duty payable in case of re-importation of goods exported for repairs or exported under duty drawback, rebate etc *Notification no. 94/96 Cus. dated 16.12.1996*

SN	Description of goods exported	Amount of import duty payable if re-imported
1	Goods exported under claim for duty drawback, rebate of excise duty, bond without payment of duty, etc	Amount of incentive availed of at the time of export
2	Goods exported for repairs abroad	Duty payable on fair cost of repairs carried out including cost of materials used in repairs (whether such costs are actually incurred or not), insurance and freight charges, both ways
Conditions to claim concession		
1	The time limit for re-importation is 3 years. This is extendable to 5 years.	
2	The exported goods and the re-imported goods must be the same.	
3	In case of Goods exported for repairs abroad the ownership of the goods should also not have changed.	

Example for SN 2

A machine was originally imported from Japan at Rs. 500 lakhs in July, 2017 on payment of all duties of customs. The said machine was exported (sent-back) to supplier for repairs in December, 2017 and re-imported without any re- manufacturing or re-processing in October next year after repairs. Since the machine was under warranty period, the repairs were carried out free of cost.

However, the fair cost of repairs carried out (including cost of material Rs. 6 lakh) would have been ` 9 lakh. Actual insurance and freight charges (to and fro) were Rs.3 lakh. The rate of basic customs duty is 10% and integrated tax is 12%. Ignore GST compensation cess.

Compute the amount of customs duty payable (if any) on re-import of the machine after repairs. The ownership of the machine has not been changed during the period.

Answer

Value of goods re-imported after exports [`Rs 9 lakh (including cost of materials) + Rs.3 lakh]	12,00,000
Add: Basic customs duty @ 10% **(A)**	1,20,000
Add: Education Cess @ 3% (A) - **(B)**	3,600
Value for computing integrated tax under section 3(7) of CTA 1975	13,23,600
Integrated tax @ 12% (` 13,23,600 x 12%) - **(C)**	1,58,832
Total Customs duty and integrated tax payable [(A) +(B)+(C)]	**2,82,432**

Exported goods re imported

Exemption to re-import of goods and parts thereof for repairs, reconditioning, reprocessing, remaking or similar other process Notification No. 158/1995, dated 14.11.1995

SN	Goods manufactured in India and re- imported for	Time-limit for re-importation from the date of exportation
1	Repairs or for reconditioning	3 years (In case of export to Nepal -10 years)
2	Reprocessing/ Refining/Re-making/similar process	1 year
Conditions to be satisfied		
1	Goods must be re-exported within 6 months (extended to 1 year) of the date of re- importation.	
2	The AC/DC of Customs is satisfied as regards identity of the goods	
3	The importer at the time of importation executes a bond	

<u>Goods derelict, wreck etc. [Section 21]</u>

The concept of 'goods brought into India' is not confined to goods, which are intentionally brought into India, but also extends to derelict, jetsam, flotsam and wreck brought or coming into India.

This implies that apart from goods which are normally imported in the course of international trade, flotsam, and jetsam, which are washed ashore and derelict_and wreck brought into India out of compulsion are also treated on par with trade goods.

SN	Term	Meaning
1	**Derelict**	This refers to any cargo, vessel, etc. abandoned in the sea with no hope of recovery.
2	**Jetsam**	This refers to goods jettisoned from the vessel to save her from sinking
3	**Flotsam**	Jettisoned goods which continue floating in the sea are called flotsam
4	**Wreck**	This refers to cargo or vessel or any property which are cast ashore by tides after ship wreck

All goods, derelict, jetsam, flotsam and wreck brought or coming into India, shall be dealt with as if they were imported into India, unless it be shown to the satisfaction of the proper officer that they are entitled to be admitted duty-free under this Act

<u>Distinguish between Jetsam and Flotsam</u>

Jetsam and Flotsam are goods which are jettisoned (i.e. thrown with speed) from the vessel into the sea to reduce weight of vessel to prevent it from sinking. They are not abandoned goods. Jetsam gets sunk whereas Flotsam does not sink but floats. Duty is payable on both unless they are entitled to be admitted free of duty.

Exemptions/Remissions/Abatement of duty

Exemption of duty on pilfered goods - Section 13

The term 'pilfer' means, "to steal, especially in small quantities; petty theft". Pilfer does not include loss of total package. If any imported goods are pilfered after unloading, before the proper officer has made an order for clearance for home consumption or deposit in a warehouse; the importer shall not be liable to pay the duty leviable on such goods except where such goods are restored to the importer after pilferage. There is no remedy if goods are pilfered after the order for clearance is made but before the goods are actually cleared.

Other points:

- If goods are pilfered after the order of clearance is made but before the goods are actually cleared, duty is leviable
- Section 13 deals only with pilferage. It does not deal with loss/destruction of goods.
- In case of pilferage, only section 13 applies and claim of refund under section 23(1) is not permissible - *Bharat Earth Movers* 2001 (129) ELT 580 (Mad).

Remission of duty on lost destroyed or abandoned goods - Section 23

- If AC/DC satisfied that any imported goods have been lost (otherwise than as a result of pilferage) or destroyed, at any time before clearance for home consumption, remission will be granted.
- The remission of duty is permissible only in the case of total loss of goods, the loss is forever and beyond recovery.
- The loss is generally due to natural causes like fire, flood, etc.
- In case duty has already been paid, refund can be obtained after getting the remission orders.
- Remission will be available even the goods lost/destroyed in goods in warehouse before clearance of home consumption.

Relinquishment of title of goods by Importer

- Importer can relinquish title of goods before an order for clearance of the goods for home consumption or to deposit into a warehouse.
- Even if goods are warehoused, the owner of warehoused goods can relinquish the title of goods any time before order for home clearance is made.
- Owner of any such imported goods shall not be allowed to relinquish his title to such goods regarding which an offence appears to have been committed under this Act or any other law for the time being in force.
- Relinquishment is done by endorsing the document of title, viz. Bill of Lading, Airway Bill, etc. in favour of the Commissioner of Customs along with the invoice. If the importer does so, he will not be required to pay the duty amount.

Reasons for relinquishment

- The goods are in much deteriorated condition and it is not worthwhile to pay duty.
- The assessment of duty is done on much higher side than expected.
- If the importer decides to abandon the goods, he shall not be liable to pay any duty [section 23(2) of Customs Act].
- In case of relinquishment of warehouse goods the importer will be required to pay rent, interest, other charges and penalties that may be payable, but duty will not be payable.

Distinction between section 13 - pilferage and section 23 - remission on damaged goods

Section 13	Section 23(1)
Section 13 deals with pilferage.	Section 23(1) deals with loss or destruction of goods, except pilferage.
No duty is payable at all under Section 13, but duty becomes liable if goods are restored.	Duty is payable under section 23(1), but it is remitted by Assistant Commissioner of Customs. Thus, unless remitted, duty has to be paid under section 23(1).
Importer does not have to prove pilferage.	Burden of proof is on importer to prove loss or destruction.
Pilferage should be before order for clearance is made.	Loss or destruction can be any time before clearance.
Loss must be only due to pilferage.	Loss or destruction may be due to fire, accident etc. but not pilferage; e.g. loss by leakage is covered under section 23.
Under Section 13, duty is normally not paid. However, if duty is paid before examination of goods, refund can be claimed if goods are found to be pilfered during examination but before order for clearance is made.	Under section 23(1), if duty is paid, then refund can be obtained only if remission is granted by Customs Authorities. Thus, remission under section 23(1) is at the discretion of Custom Authorities. [Of course, the discretion has to be exercised judiciously].
Section 13 is not applicable for warehoused goods.	Section 23(1) is applicable for warehoused goods also [as goods transferred to warehouse are not 'cleared for home consumption'].

Abatement of duty on damaged goods - Section 22

Meaning of damage

- The term 'damage' denotes physical damage to the goods. This implies that the goods are not fit to be used for the purpose for which they are meant.

Meaning of deterioration

- Deterioration is reduction in quality of goods due to natural causes

Reduction in duty, if goods are damaged or deteriorated

Reduction in duty will be allowed, if goods are damaged or deteriorated in any of the following cases:

- Damaged before or during unloading in India
- Damaged by accident after unloading but before examination of goods for assessment by Customs Officer
- Damaged by accident in warehouse before clearance of goods
- The accident is not due to willful act, negligence or default of importer, his employee or agent
- The customs duty chargeable will be in proportion to the value of damaged good to value of goods before damage or deterioration
- Amount of duty chargeable after abatement can be explained with help of an example. If the value of goods is Rs. 1,00,000 and rate of duty is 10% and after damage the value is Rs. 70,000, then duty payable is Rs. 7,000, i.e., 10% on Rs. 70,000. Rs. 30,000 i.e., the proportionate abatement is 30% (30,000/1,00,000)

- AC may decide the value of damaged goods, or if the owner agrees, the damaged goods may be sold by auction and gross sale proceeds of the auction will be deemed to be the value of goods.
- Willful negligence on the part of the assessee is not permissible for abatement, as held in *Super Chemical Corporation vs. CC* 2003 (156) ELT 248 (Tri-Chen).
- The remission of duty under section 22 could not be granted if the claim thereof has not been made before the Assessing Authority. Held in *Udayani Ship Breakers Ltd*. 2006 (195) ELT 3 (SC).

Denaturing or mutilation of goods - Section 24

- An importer can request the Central Government to make rules for permitting to denature/mutilate the imported goods, which are ordinarily used for more than one purpose, so as to render them unfit for one or more of such purpose.
- If any imported goods can be used for more than one purpose and duty is leviable on the basis of its purpose of utilisation, than denaturing or mutilation of such goods is useful.
- After denaturing process, goods can be used only for one purpose and accordingly duty can be levied.
- For example, Ethyl Alcohol, which is not denatured, attracts a higher rate of customs duty whereas denatured ethyl alcohol attracts lower rate of duty.

Types of Customs duties

Basic Customs Duty (BCD) → Levied on Imported goods and exported goods Sec 12. → Rate of Duty

Rate of Duty → Sch. I of CTA → Imported goods

Imported goods → Standard rate

Imported goods → Preferential Rate (lower rate) → Specified Counties, Proof as source of origin is to submit at time of clearance

Rate of Duty → Sch. II of CTA → Exported goods

Imported goods / Exported goods → Value= 1. Tariff value 2. transaction value 3. Valuation Rules

Integrated tax Sec 3(7)CTA → Levied on any article goods imported to India → Rate of tax: IGST as leviable under section 5 of IGST Act, 2017 on a like article on its supply in India. Maximum 40% → Value for Calculation of IGST on Import →

Assessable value as per customs	xxxxx
Add: BCD on above	xxxxx
Add: EC- 3% on BCD	xxxxx
Sub total/ Amount for Calculation of IGST	xxxxx
IGST @ --% on above	xxxxx

Clarification regarding leviability of Integrated Goods and Services Tax (IGST) on High Sea Sales of imported goods and point of collection thereof vide *Circular No. 33/2017 Cusdated 01.08.2017*

All inter-State transactions are subject to IGST. High sea sales of imported goods are akin to intere state sales. high sea sale shall form part of the value on which IGST is collected at the time of clearance.

GST Compensation Cess Sec 3(9)CTA → Levied on article goods notified by CG when imported to India → Rate of tax: GST Cess leviable under section 8 of GST Compensation cess Act, 2017 on a like article on its supply in India. → Value for Calculation of GST compensation cess on Imports →

Assessable value as per customs	xxxxx
Add: BCD on above	xxxxx
Add: EC- 3% on BCD	xxxxx
Sub total/ Amount for Calculation of GST. Comp. Cess	xxxxx
GST Compensation ces @ --% on above	xxxxx

GST Compensation cess is compensation paid to Government on intra and inter state supply of goods due to loss of revenue on Implementation of GST The duty or tax or cess chargeable under this section shall be in addition to any other duty imposed under this Act or under any other law for the time being in force.

CVD u/s 3(1)/3(3) and 3(5) On Customs Tariff ACT (CTA) → Levied only on goods which are not covered under GST Like Alcoholic Liquor for Human Consumption → Levied at the rates of goods manufactured/ Produced sold in India

Protective Duties

	Safeguard duty [Section 8B of the Customs Tariff Act]	
1	Circumstances for Impose	Any article is imported into India in increased quantities;
		Such increased importation is causing or threatening to cause serious injury to domestic industry
2	Amount of duty	Equal to Injury margin (IM), IM= Fair SP in domestic market- landed cost of goods in India i.e., AV + Customs duties
3	Exemption from SG duty	Developing County sharing <= 3% Share of Total Imports to India from that country
		More than one Developing County sharing each <=3% & All countries together <= 9% Share of Total Imports to India from that country
		Goods imported by 100% EOU/SEZ if not cleared to DTA
4	Period of duty	Up to 4 years, Extension by CG Max another 6 years
5	Provisional duty	Pending determination of final duty, CG can impose Provisional amount of duty
		Provisional duty in force for maximum 200 days
		Upon final determination of duty, if CG is of opinion , there is no injury to domestic industry, the duty collected will be refunded
	Example	X Ltd imported a chemical from a developing country value about Rs. 50 crores. Whether SG can be imposed. (1) if imports from developing country is (a) 3000 crores (b) Rs. 100 crores
	Answer	(1) Percentage of Imports = 50/3000= 1.67% No SG duty
		(2) Percentage of Imports = 50/100 =50% = SG duty payable.
6	Duty on 100% EOU/unit in a SEZ	Section 8B(2A) of CTA , 1975, provides for levy of safeguard duty on articles imported by an 100% EOU/unit in a SEZ that are cleared as such into DTA. In such cases, safeguard duty shall be levied on that portion of the article so cleared as was leviable when it was imported into India

Countervailing duty on subsidized articles [Section 9 of the Customs Tariff Act]		
1	Circumstances for Impose	Any country or territory, directly or indirectly, pays subsidy for exportation of goods to India. Such subsidy relates to export performance.
		The importation may direct from country or indirect through other country
		The article may be in the same condition or change by manufacture
2	Amount of duty	Up to the amount Equal to subsidy paid
4	Period of duty	Up to 5 years + Extension another 5 years
5	Provisional duty	Same as safe guard duty under sec 8B

Anti-dumping duty [Section 9A of the Customs Tariff Act]	
Circumstances for Impose	When a large manufacturer from abroad may export goods to India at very low prices compared to the prevailing prices in his domestic market.
	Such dumping may be with intention to cripple the domestic industry or to dispose of their excess stock
	Indian industry which produces —like articles when compared to the allegedly dumped imported goods.
Amount of duty	dumping margin or injury margin, whichever is lower
	Dumping margin means - Normal value in the exporting market- Export price
	injury margin means - fair selling price of domestic industry – landed cost of imported goods.
Period of duty	Up to 5 years + Extension another 5 years
Provisional duty	Same as safe guard duty under sec 8B
Other points	The Central Government will make rules and notify the articles liable for duty
	The Central Government will determine and ascertain the margin of dumping from time to time after carrying out necessary inquiry
	If importer proves he pays duty more than the margin , he is entitled to refund of duty

Example:

An importer imported article from People's Republic of China. Assessable Value as per customs is Rs. 8,88,800/-Total customs duty payable including education cess other than anti-dumping duty is Rs. 2,74,639/- The anti-dumping duty will be equal to the difference between amount calculated @ US $ 27.97 per kg and 'landed value' of goods. Compute anti-dumping liability.

Solution

Computation of landed value

Assessable Value Under Customs Act,	Rs.	8,88,800.00
Add: All Duties of Customs	Rs.	2,74,639.00
Landed Value as per Anti-Dumping Notification	Rs.	11,63,439.00

Computation of anti-dumping duty

Rate of article as per Anti-Dumping Notification (US $ 27.97 per kg)	US $	27,970
Value @ Rs. 44 = 1 US $	Rs.	12,30,680.00
Less:		
Landed Value as per Anti-Dumping Notification	Rs.	11,63,439.00
Anti-Dumping Duty payable	Rs.	67,241.00

No levy under section 9 or section 9A in certain cases [Section 9B of the Customs Tariff Act)	
1	No article shall be subjected to both countervailing and anti-dumping duties to compensate for the same situation of dumping or export subsidization.

2	These duties shall not be levied on imports from member country of WTO or from a country with whom the GOI has a most favoured nation agreement. This duties can be levied only if import of article threatens to material injury to established industry.
3	The provisional countervailing and anti-dumping duties shall not be levied on any article imported from specified countries unless preliminary findings injury to domestic industry.

Common points for duties from Sec 8B protective duty to Anti-dumping duty u/s 9A	
1	All the duties will be levied through notification by Central Government in Official Gazette
2	Education cess or higher secondary education cess is not payable on these duties.
3	This duties are not applicable to 100% EOU or SEZ unless specifically mentioned in the notification
4	The Act, rules and regulations made under the Customs Act with regard to, demand, refund, assessment, interest, penalty, offences and appeals will also be applicable to these duties

Note:

- Basic customs duty, all other duties are attracted only on imported goods.
- Basic customs duty is only applicable for export goods.

Section 5 - Levy of a lower rate of duty under a trade agreement

- If Government of India enters into a trade agreement with Government of a foreign country or territory, duty is levied at a rate lower than rate of first schedule for import of goods/ articles which are the produce or manufacture of such foreign country or territory.
- The owner is required to make a claim at the time of importation, supported by such evidence as may be prescribed in the said rules, for assessment at the appropriate lower rate under such agreement.
- If any question arises whether any trade agreement applies to any country or territory, or whether it has ceased to apply to India or any foreign country or territory, it shall be referred to the Central Government for decision, and the decision of the Central Government shall be final and shall not be liable to be questioned in any court of law.

Section 8 - Emergency power of Central Government to increase or levy export duties

- Where, in respect of any article, whether included in the Second Schedule or not, and that circumstances exist which render it necessary to take immediate action, the Central Government may, by notification in the Official Gazette, direct an amendment of the Second Schedule to be made so as to provide for an increase in the export duty leviable or, as the case may be, for the levy of an export duty, on that article.
- The duty will be valid till the date prescribed in the notification.
- The duty can be rescinded, reduced or increased by a notification.
- Such notification should also be placed before Parliament for approval in the next session.

Customs Valuation 1-

Customs Valuation

- Tariff Value Valuation Sec 14(2)
  - Exported goods
  - Imported goods
- Transaction Value Valuation sec 14(1)
  - Exported goods
  - Imported goods

Tariff value is over riding of transaction value. If tariff values fixed, value should be as per tariff value

"Transaction value" Valuation Imported goods

Transaction value of imported goods read with Valuation rules

Rule 10: Transaction value =Price of goods sold at the time and place of importation + costs and services, assists (Ie CIF Value All costs up to destination port)

Rule 3:TV will be accepted only
1.No restrictions on use of goods (except law, geographical use restrictions) Restrictions which do not affect value of goods.
2. Price is not subject to condition where price cannot determine.
3. Buyer and seller not related to each ohter

T V in case of relative is accepted if (i) relation ship does not influence price (ii) Importer demonstrates Price is close approximation to identical/similar goods /deductive value/computed value

Rule 12:When proper officer has doubt about truth and accuracy of TV, he can ask information, still doubt can reject TV by giving opportunity

Cost and services to add Rule 10(1)

(a)(i) Commission & Brokerage Paid in India

(ii) Cost of Containers;

(iii) Cost of Packing *(Labour or Material).*

(b)Value of Assists [4 Types] Place of origin India or Outside India
i)Materials / Components / Parts contained in FP
ii)Tools/ Moulds / Dies / Similar Items *:*
iii)Materials consumed in production of imported goods*:*
iv)Eng. / Development/Art Work/ Design Work / Plans & Sketches *(Place of Origin: Must be Outside India):*
(c)Royalties & License Fees in connection with sale except *"Charges for Right of Reproduction of Imported Goods in India"*
(d)Subsequent Sale Proceeds – accruing to the seller *[But "Dividend Payments" – Not Includible (since payment of dividend can't e equated with accrual of sale proceeds subsequently)]*
(e)All Other Payments made by buyer

--- Payment is made as a condition for sale of imported goods; &

--- Payment is made by buyer to the seller directly or to a third party to satisfy an obligation of seller

Work out problems from RTP May 2020/SM on Valuation. Duty calculation

Cost and services to add Rule 10(2) Notification 91/2017-26.09.2017

(Cost of Transport;
- Actual amount. If not ascertainable 20% of FOB, In case of Air, Actual restricted to 20% of FOB
- Transit Insurance; Actual amount, if Not ascertainable 1.125% of FOB
- (~~c)Landing Charges- flat 1% of CIF~~ . loading and handling charges incurred at the load port) shall now be includible in the transaction value. (Transport and insurance up to place of import)
- ship demurrage charges on charted vessels, lighterage or barge charges.

Cost and services to exclude not to add(post importation costs)

- Charges for Construction, Erection, Assembly, Maintenance or Technical assistance, Undertaken after importation
- The cost of transport after importation
- Duties and taxes in India
- Interest on Delayed Payments
- costs related to transshipment of goods (from ports to ICDs; port to port, port to CFS, Airport to Airport, etc.) within India will be excluded,
- goods imported by sea or air and transshipped to another customs station in India, the cost of insurance, transport, loading, unloading, handling charges associated with such transshipment s

Customs Valuation 2

If transaction vlaue is not determinable under rule 3, the value shall be determined as per following rules in order

Transaction value of Identical goods-Rule 4

identical goods :Goods should be the same in all respects, including physical characteristics, quality and reputation, except for minor differences in appearance which do not affect value . Import from same country/same manufacturer or Brand name. reputation is comparable

AV=transaction value of Identical goods+ Cost and Services as per Rule 10

Transaction value of similar goods Rule 5

Similar goods :Identical goods may have all characteristics but not like the same in all respects, they Perform same function and commercially interchangeable

AV=transaction value of Similar goods+ Cost and Services as per Rule 10

Rule 6: If value canot be determine under rule 3, 4 and 5 value will be determined as per rule 7, 8

Deductive Value method Rule 7

Deductive Value means Sale Price of Identical/Similar goods less Deductions for general exp., post import costs and local taxes

AV=Deductive value

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Computed Value method Rule 8

Cost of production of imported goods+ Profit + Cost and services as per rule 10

Residual Value method Rule 9

AV is calculated with the data available in India for imported goods with reasonable means

Factors not to consider in value:
Selling price of Indian goods produced in India, price of domestic market of export country, highest price of two alternatives, price of goods export to country other than India, arbitrary or fictitious values.

Meaning of relative Rule 2 (2)

1.They are
- Officer/Director in each other's business
- Legally Recognized partner
- Employer & Employee;
- Members of same family;

2.Both of them
- Are controlled by a third person;
- Control a third person;

ONE OF THEM
- Control the other

3.Any person
- Owns/controls 5% or more of voting power/ shares in both of them;
-

Explanation:
1. Person include legal person
*2.*Sole Distributor/ Sole Selling Agent – shall not be treated as RP unless they fall under any of the above criteria

Customs Valuation 3

"Transaction value" Valuation Export goods

Transaction value of Export goods

- : Transaction value =Price of goods sold at the time and place of Exportation (Ie FOB Value) All costs up to origination port
- T V in case of relative is accepted if (i) relation ship does not influence price
- Rule 8:When proper officer has doubt about truth and accuracy of TV, he can ask information, still doubt can reject TV by giving opportunity

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If transaction vlaue is not determinable under rule 3, the value shall be determined as per following rules in order

Transaction value of goods of kind and Quality -(Determination of Export Value by Comparison-Rule 4

Goods of kind and Quality -similar to that Identical goods/ similar goods

AV=transaction value of goods of kind and Quality-

Computed Value method Rule 5

AV= Cost of production of export goods+ Design charges+ Profit

Residual Value method Rule 6

AV is calculated with the data available in India for export goods with reasonable means

Rule 7: **Declaration by the exporter:** The exporter shall furnish a declaration relating to the value of export goods.

Rule 7: **Declaration by the exporter:** The exporter shall furnish a declaration relating to the value of export goods.

Rule 8: **Rejection of value of proper officer:** If the Proper officer is of the doubt about truth and accuracy of the value, may ask information give opportunity to the exporter and determine the value

Import Procedures

Procedure By Person in-charge PIC

((Provisions relating to clearance of Imported Goods)

Sec 29

- Arrival of Conveyance only at Customs Port / Airport in India)
- Arrival at other place is possible: -
- Forced landing or calling due to Accident // Stress of Weather // Other Unavoidable reason
- Duty of PIC : shall report the arrival to nearest Police/ Customs Officer. No unloading. Not allow departure of passenger (Exception health safety, preservation of life property

Sec 30: Delivery of IGM/IR by PIC of Conveyance/ Other Notified person

- PIC file IGM Before arrival of Vessel, air Craft, Import report in case of vehicle with in 12 hours after arrival
- Belated filing --- Penalty up to Rs 50,000

PASSENGER AND CREW ARRIVAL MANIFEST AND PASSENGER NAME RECORD INFORMATION. [SECTION 30A]

- PIC Before arrival of Vessel, air Carft, Vehicle should file passenger and crew arrival manifest AND the passenger name record information in such form as may be prescribed
- Failure with out sufficient cause Penalty Rs.50,000

Sec 31 Imported goods not to be unloaded unless Entry inwards granted

- In case of import by Vessel --- unloading of goods only subsequent to grant of Entry Inward
- Entry Inward is granted only subsequent to filing of IGM.
- For unloading of baggage nails, perishables, hazardous material Entry Inward is not required:

UNLOADING of goods

- Sec 32 : Imported goods not to be unloaded unless mentioned in the Import Manifest (IGM) / Import Report (IR)
- Sec 33 : Imported goods shall be unloaded at approved landing places approved by Commissioner only r]
- Sec 34 : Imported goods shall be unloaded under supervision of customs officer
- Sec 35 : Restrictions on goods being water-borne (Boat Note is must --- which is obtained from PO)
- Restrictions on unloading of goods on holidays etc. – Unloading only upon payment of Merchant Overtime Fees)

Procedure By Importer

(Provisions relating to conveyance carrying Imported Goods

Sec 46 : Entry of goods on Importation

- Importer should file BOE for Home consumption/ Warehouse Electronic filing with integrated declaration / ware house to home consumption on the Customs automated system
- BOE can be file after filing of IGM/IR before the end of next following day of arrival of conveyance excluding holidays. Charges will be levied for late filing. PO allow advance filling of BOE in 30 days advance before expected arrival vessel, aircraft, vehicle
- PO allow if no fraudulent intention/interest of revenue substitute BOE substitute home consumption to warehouse or vice versa
- PO allow amendment change in IGM/IR/BOE if no fraudulent intention/clerical error, mistake
- Date of filing of substituted B/E shall be considered as "relevant date" for the purposes of Sec 15 (i.e., for determination of applicable rate of duty and assessable value)
- Amendment of BOE after clearance is allowed based on proof of documents.
- Importer shall produce all other documents for the purpose of assessment to PO
- Sec 45 unloaded in a customs area shall remain in the custody of Port/airport Until they are cleared.
- person having custody of any imported goods in a customs area shall keep a record and send copy to proper officer or such other manner as may be prescribed
- person shall not permit such goods to be removed from the customs area without the written permission of the Proper Officer
- **Sec 47: Clearance of goods for Home Consumptio**n
- B/E filed for H/C will be assessed and returned – Assessed Duty & other charges
- Importer pay duty on the day of presentation of BOE in case of self assessment or with in 1 working day in other cases. CG got power to allow deferred payment of duty to any class of importers.

Time limit to pay duty and deferred payment of duty [SECTION 47]

The importer shall pay the import duty—

- ❖ on the date of presentation of the bill of entry in the case of self- assessment; or
- ❖ within one day (excluding holidays) from the date on which the bill of entry is returned to him by the proper officer for payment of duty in the case of assessment, reassessment or provisional assessment;

MANDATORY ELECTRONIC PAYMENT OF DUTY

- ❖ The Central Government has notified that Importers registered under Accredited Clients Programme, Importers paying customs duty of Rs. 1 lakh or more per bill of entry has to make mandatory electronic payment.

Deferred payment of duty

- ❖ Central Government may permit certain class of importers to make deferred payment of said duty or any charges in such manner as may be provided by rules
- ❖ Central Government has permitted importers certified under Authorized Economic Operator programme as AEO (Tier-Two) and AEO (Tier-Three) to make deferred payment of import duty (eligible importers).
- ❖ Directorate General of Performance Management under CBEC makes an order, which is popularly known as "pass out of customs charge order" the bill of entry (duplicate) copy is produced to the custodian who delivers the goods to the importer.
- ❖ An eligible importer intending to avail the benefit of deferred payment shall intimate to the Principal Commissioner/Commissioner of Customs, having jurisdiction over the port of clearance, his intention to avail the said benefit who on being satisfied with the eligibility of the importer allow him to pay the duty by due dates.

Due dates of deferred payment of duty

SN	Goods corresponding to Bill of Entry returned for payment from	Due date of payment of duty, inclusive of the period (excluding holidays) as mentioned in section 47(2)
1	1st day to 15th day of any month	16th day of that month
2	16th day till the last day of any month other than March	1st day
3	16th day till the 31st day of March,	31st March

- ❖ The Importer fails to pay the duty either in full or in part within the time so specified, shall pay interest on the duty not paid or short-paid @ 15% p.a. till the date of its payment.
- ❖ <u>Electronic payment of duty</u>: The eligible importer shall pay the duty electronically: However, the Assistant/Deputy Commissioner of Customs may for reasons to be recorded in writing, allow payment of duty by any mode other than electronic payment.
- ❖ Deferred payment not to apply in certain cases: If there in default in payment of duty by due date more than once in three consecutive months, this facility of deferred payment will not be allowed unless the duty with interest has been paid in full.
- ❖ The benefit of deferred payment of duty will not be available in respect of the goods which have not been assessed or not declared by the importer in the entry.
- ❖ The benefit of deferred payment of duty is also applicable when duty is payable in case of exports.

PASSENGER AND CREW DEPARTURE/ARRIVAL MANIFEST AND PASSENGER NAME RECORD INFORMATION

SN	Particulars	Imports Sec 30A	Exports Sec 41A
1	Who should file	Person in charge or specified Person	Person in charge or specified Person
2	When to file	Before arrival of vessel/air craft Upon arrival in case of Vehicle	Within such time prescribed (before leaving the conveyance)
3	Failure to deliver without a proper sufficient cause	Penalty Rs. 50,000	Penalty Rs. 50,000

Disposal if goods are not cleared within 30 days [Section 48]

- Goods must be cleared within 30 days after unloading.
- Customs Officer can grant extension.
- If not cleared, goods can be sold after giving notice to importer.
- There is no time limit on clearance thereof for sensitive goods like animals, perishable goods and hazardous goods.
- Arms and ammunition can be sold only with the permission of CG.

Sec 37: Power to Board Conveyance

Proper officer may, if he thinks it necessary, board any conveyance carrying imported goods.

Sec 38: Power to require production of documents and ask questions

Any document may be demanded from PIC --- Questions may also be asked by the Proper officer

Relinquishment of title of goods by Importer

- Importer can relinquish title of goods before an order for clearance of the goods for home consumption or to deposit into a warehouse. /In case of WH goods before order for H/C
- Owner of any such imported goods shall not be allowed to relinquish his title to such goods regarding which an offence appears to have been committed under this Act or any other law for the time being in force.
- Relinquishment is done by endorsing the document of title, viz. Bill of Lading, Airway Bill, etc. in favour of the Commissioner of Customs along with the invoice. If the importer does so, he will not be required to pay the duty amount.

Reasons for relinquishment

- goods are in much deteriorated condition and it is not worthwhile to pay duty. /assessment at higher side

- ❖ If the importer decides to abandon the goods, he shall not be liable to pay any duty [section 23(2) of Customs Act].
- ❖ In case of relinquishment of warehouse goods, the importer will be required to pay rent, interest, other charges and penalties that may be payable, but duty will not be payable

Exemption of goods manufactured in India and re-imported for repairs / reconditioning / reprocessing / refining / remaking etc. Notification No. *60/2018 Cus dated 11.09.2018*

<table>
<tr><td>SN</td><td>Particulars</td><td>Time limit for re importation</td><td>Other conditions</td></tr>
<tr><td>1</td><td>Goods manufactured in India and re-imported for Repairs or for reconditioning</td><td>3 years., In case of export to Nepal -10 years.</td><td rowspan="2">• Goods must be re-exported within six months (extendable till one year) of the date of re-importation.
• The Assistant Commissioner/Deputy Commissioner of Customs is satisfied as regards identity of the goods.
• The importer at the time of importation executes a bond.</td></tr>
<tr><td>2</td><td>Goods manufactured in India and re-imported for
(a)reprocessing
(b)refining
(c) re-making
(d) Subject to any process similar to the process referred in (a),(b) and (c)</td><td>1 year</td></tr>
</table>

EXEMPTION FROM CUSTOMS DUTY ON IMPORTED GOODS USED FOR INWARD PROCESSING OF GOODS [SECTION 25A] new Section FA 2018

Power to exempt	CG by notification in the interest of public whole or part customs duty
Type of goods	Goods imported for purposes of repair, further processing or manufacture, as may be specified
Conditions for exemption	Goods re-exported after repair/further processing within one year from the date of order of clearance of import
	Goods are identifiable at the time of export
	Any other conditions as may be prescribed

EXEMPTION FROM CUSTOMS DUTY ON RE-IMPORTED GOODS USED FOR OUTWARD PROCESSING. Overriding section of Sec 20 [SECTION 25B] FA 2018

Power to exempt	CG by notification in the interest of public whole or part customs duty
Type of goods	Goods which are re-imported after being exported for the purposes of repair, further processing or manufacture, as may be specified therein
Conditions for exemption	goods shall be re-imported into India after such repair, further processing or manufacture within one year the date of order of clearance for export
	Goods are identifiable at the time of import
	Any other conditions as may be prescribed

51A. Payment of duty, interest, penalty, etc. through electronic Cash Ledger New section FA 2018

Every deposit made towards duty, interest, penalty, fee or any other sum payable by a person under Customs ACT/CTA 1975 or under any other law/rules and regulations authorised mode of payment shall, be credited to the electronic cash ledger of such person, to be maintained in such manner, as may be prescribed.

Electronic Cash Ledger (ECL)	
Debit Amount (DR)	**Credit Amount (CR)**
Credit amount of this ledger may be used for payment of tax, interest, fees etc.	Any deposit made towards tax, interest, penalty, late fee etc. via internet banking, RTGS, fund transfer etc.
Remaining credit balance amount after payment of above tax etc. will be refunded to taxable person	

If the Board is satisfied and it is necessary may exempt all or any conditions of ECL to any class of persons/class of goods by notification.

Se 99A. Audit of assessment of goods Notification No 39/2018 dated. 11/05/2018 and 45/2018 dated. 24/05/2018

- The proper officer may carry out the audit of assessment of imported goods or export goods or of an auditee under this Act either in his office or in the premises of the auditee in such manner as may be prescribed.
- Explanation. ''For the purposes of this section, 'auditee' means a person who is subject to an audit under this section and includes an importer or exporter or custodian approved under section 45 or licensee of a warehouse and any other person concerned directly or indirectly in clearing, forwarding, stocking, carrying, selling or purchasing of imported goods or export goods or dutiable goods.

Sec 109A Power to undertake controlled delivery New section FA 2018. Overriding provision of Customs Act

'Controlled delivery' means the procedure of allowing consignment of such goods to pass out of, or into, the territory of India with the knowledge and under the supervision of proper officer for identifying the persons involved in the commission of an offence or contravention under this Act.'

the proper officer or any other officer authorised by him in this behalf, may undertake controlled delivery of any consignment of such goods and in such manner as may be prescribed, to''

(a) any destination in India; or

(b) a foreign country, in consultation with the competent authority of such country to which such consignment is destined.

153. Modes for service of notice, ordered. Amended Section 153 FA 2018
(1) An order, decision, summons, notice or any other communication under this Act or the rules made thereunder may be served in any of the following modes, namely:'

(a) by giving or tendering it directly to the addressee or importer or exporter or his customs broker or his authorised representative including employee, advocate or any other person or to any adult member of his family residing with him;

(b) by a registered post or speed post or courier with acknowledgement due, delivered to the person for whom it is issued or to his authorised representative, if any, at his last known place of business or residence;

(c) by sending it to the e-mail address as provided by the person to whom it is issued, or to the e-mail address available in any official correspondence of such person;

(d) by publishing it in a newspaper widely circulated in the locality in which the person to whom it is issued is last known to have resided or carried on business; or

(e) by affixing it in some conspicuous place at the last known place of business or residence of the person to whom it is issued and if such mode is not practicable for any reason, then, by affixing a copy thereof on the notice board of the office or uploading on the official website, if any.

(2) Every order, decision, summons, notice or any communication shall be deemed to have been served on the date on which it is tendered or published or a copy thereof is affixed or uploaded in the manner provided in sub-section (1).

(3) When such order, decision, summons, notice or any communication is sent by registered post or speed post, it shall be deemed to have been received by the addressee at the expiry of the period normally taken by such post in transit unless the contrary is proved.'

Import procedures -3

Import and export through courier

- Import/export through courier is permitted only through specified cities Mumbai, Delhi, Calcutta, Chennai, Bangalore, Hyderabad, Ahmedabad, Jaipur, Trivandrum and land customs station.
- Courier Agency should register with the Commissioner of customs and should be financially viable.
- Courier Agency should execute a bond/security, if any.
- Registration can be cancelled for misconduct or failure to comply with regulations.
- Agency should advise the client about rules and regulations.
- Agency should disclose all the information to the Assessing Officer.
- It is not necessary that the goods should carry by the Courier Agency itself. The person-in-charge can carry the goods.
- Some goods like animals, pets, maps perishables, chemicals, depicting boundaries etc. should not be imported/exported.
- Weight of each packet in courier should not exceed 70 kg.
- All goods should be classified into documents, free gifts, samples and dutiable goods.
- The Authorized Courier also has to file 'Courier Bill of Entry'/Courier Shipping bill in a prescribed form.
- The courier bags should be kept separately and shall be dealt with only as per directions of the Commissioner of Customs.
- Dutiable goods should be packed separately with appropriate labels.
- These goods must be accompanied by a declaration by the sender with respect to the contents of the package and its value.
- Samples upto `Rs. 50000 in respect of exports and ` Rs.10000 for imports and free gifts upto `Rs. 25000 in respect of exports and ` 10000 for imports per consignment is allowed.
- Import/export of Jewellery/diamond, each consignment should not exceed Rs. 25 lakh.
- Authorized Courier has to submit a declaration in the prescribed form.
- If imported goods are not cleared within 30 days, these will be disposed of.
- Goods brought in customs area must be exported within 7 days.
- If not exported within 7 days, these will be disposed of. The period can be extended by Assistant Commissioner in deserving cases.

Import and export through post

- Separate provisions are given for import/export through post.
- Label and declaration are the entry for purpose of postal articles. (section 82)
- Filing of separate Bill of Entry or Shipping Bill is not necessary for import/export.
- Regulations for import/export by post – section 84
- Board makes regulations for procedures for examination and assessment of duty and transit/transshipment of goods imported by post.

Accordingly, CBEC has made rules as follows:

  - The parcel bill/letter mail bill will show details like Serial number assigned by office of posting, name of office of posting, Destination, weight, local number, contents as ascertained by Customs; Declared value in foreign currency, rupee value, rate of duty, amount of duty and remarks;

- Postal parcels will be allowed to pass from port/airport to Foreign Parcel Department of Post Offices without payment of customs duty;
- Postmaster will hand over the packets to the Principal Appraiser;

- The mailbag will be opened and scrutinized by the Postmaster under supervision of the Principal Postal Appraiser of Customs;
- Customs Appraiser will mark the parcels that are required to be detained as
  - necessary particulars are not available or
  - misdeclaration or under-valuation is suspected or
  - goods are prohibited for import;
- Other parcels will be assessed without opening on the basis of details given in the parcel bill or dispatch notes;
- The duty will be assessed and will be entered on parcel bill;
- These will be audited and returned to the Postmaster;
- The Postmaster will hand over the parcel to the addressee only after collecting the customs duty;
- Customs duty collected by the postal department will be periodically credited to Customs department.

***Boat Notes/Restrictions on goods being water-borne* [*Section 35*]**

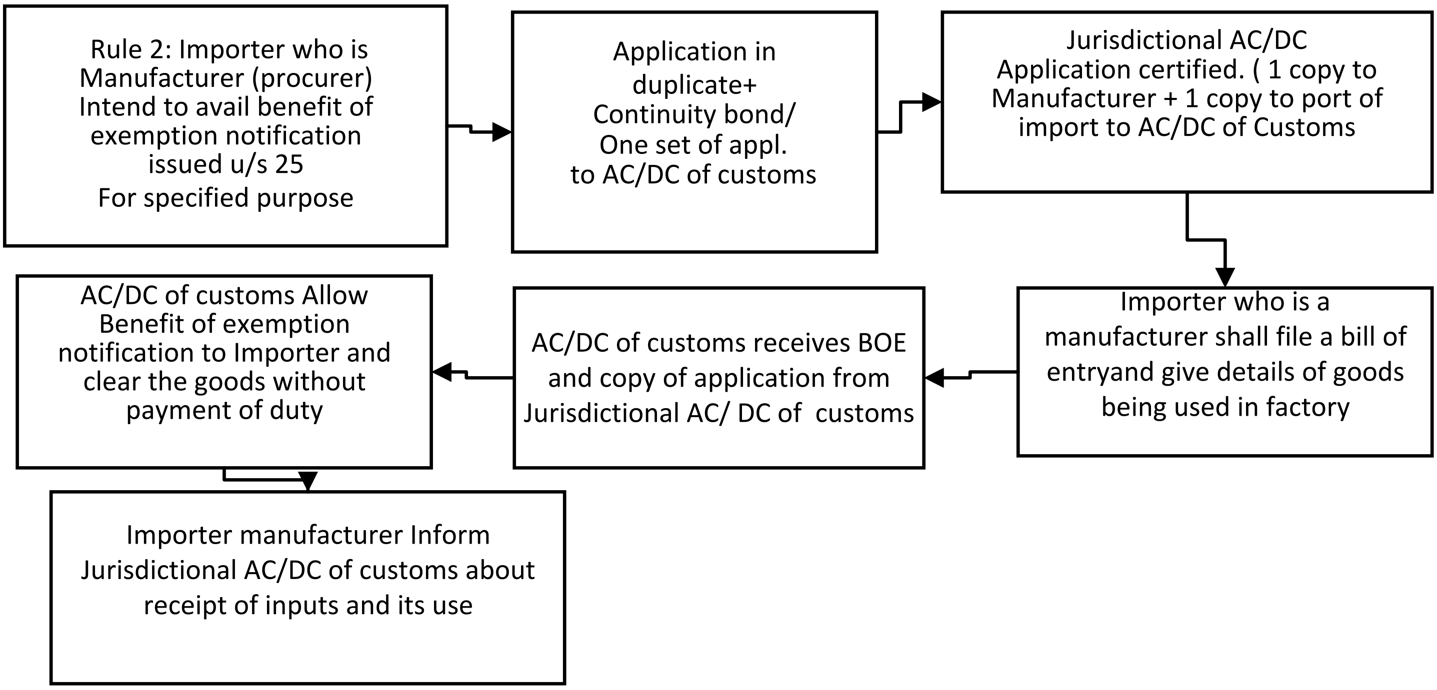
- There are certain customs ports where the ships cannot come to the shore for unloading or loading. In these places the cargo is ferried from the ships anchored at mid-sea to the port in boats, otherwise known as lighter.
- Sometimes if a vessel has to unload only a small cargo, it may not spend time in having berth in the port.
- In some cases not all ships arriving in the port get a berth. They have to wait for some time before they get allotment of berth. At times the ships have tight itinerary. In such cases the import cargo is taken from the ship to the shore and the export cargo is taken from the shore to the ship in boats.
- If the small cargo is to be sent to shore, it may be loaded in a small boat and sent to shore.
- Such small boat must be accompanied by a 'Boat Note'.
- Boat Notes Regulations provide that Customs Officer will issue such Boat Notes.
- It will be maintained in duplicate and should be serially numbered.
- Boat Note should be in a prescribed form.
- Loading in to a small boat from a ship should be done only when such a small boat is carrying a boat note.
- Unloading from a small boat to a ship for export should not require a boat note, when a small boat is carrying shipping bill. Otherwise a boat note is required.
- Board may, by notification, relax these conditions to any class of goods.

Boat Note is also required for transshipment of cargo, i.e. transfer from one ship to another or for re-shipment

Import procedures -4

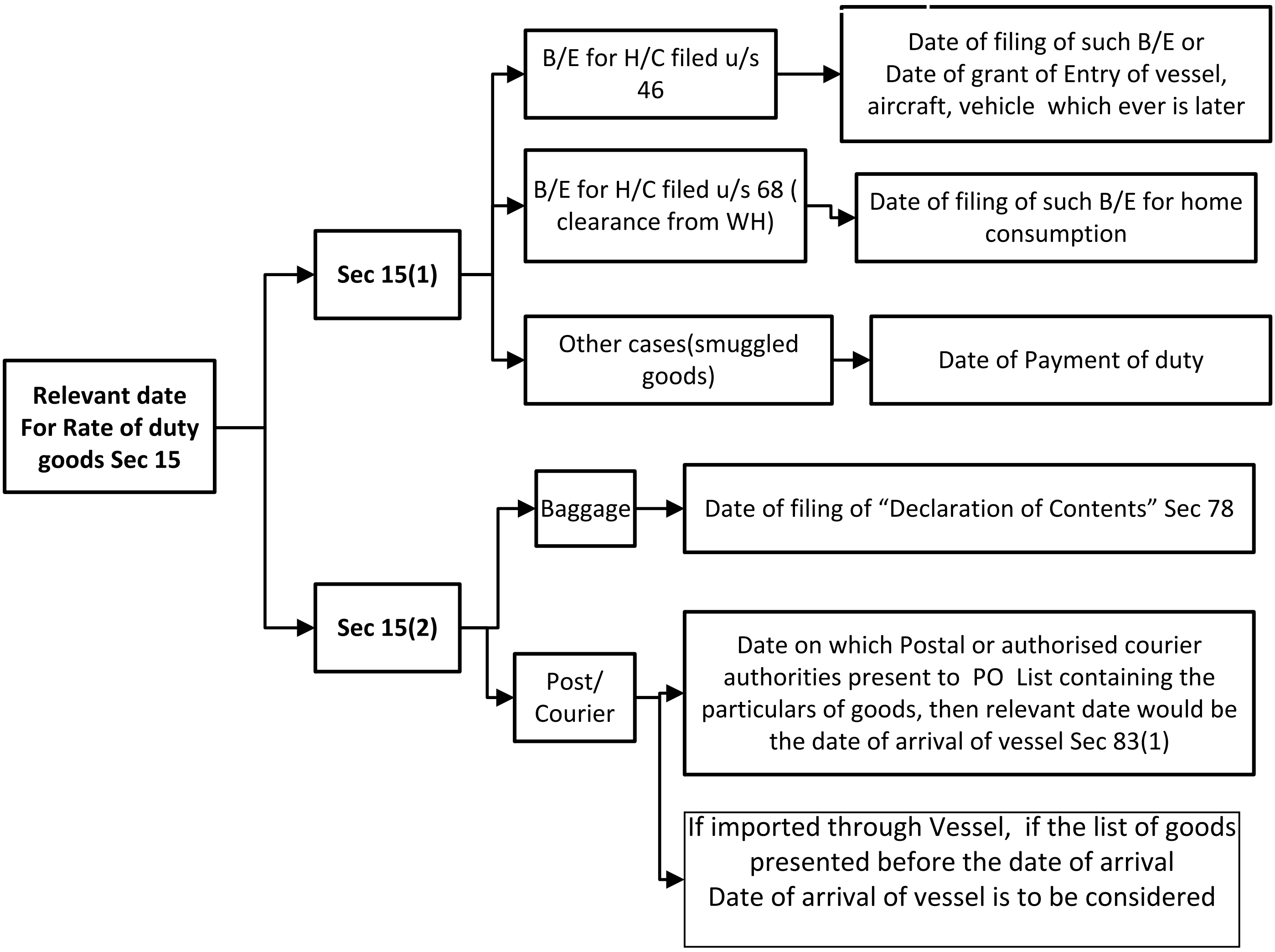
Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2017
Notification No. 68/2017 Cus (NT) 30.06.2017 /Circular No. 25/2017 Cus dated 30.06.2017

These rules will apply to an importer, being a manufacturer, who intends to avail the benefit of an exemption notification issued under section 25(1) of the Customs Act, 1962 granting exemption of duty to **imported goods used for the manufacture of any goods or provision of output service. The new rule has been introduced due to implementation of GST from 01.07.2017**.

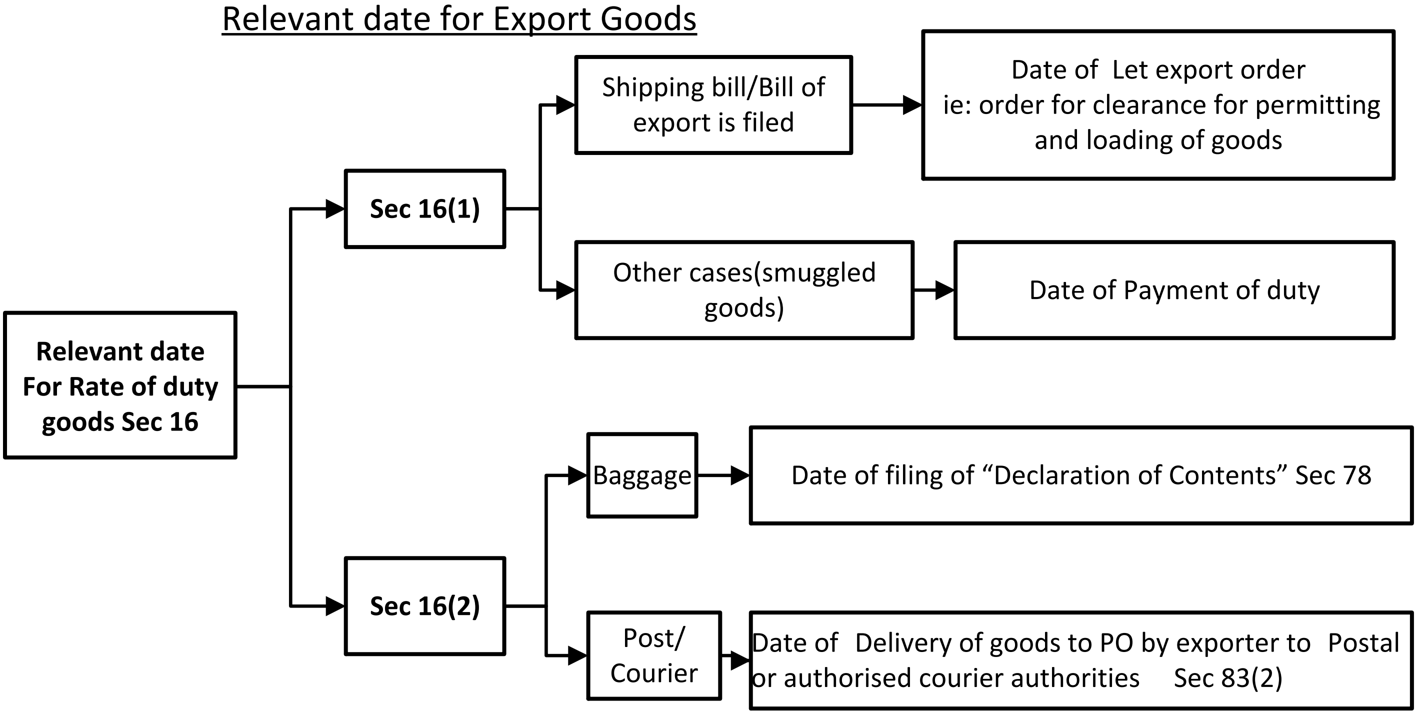


	Procedure summary
1	The manufacturer importer has to has to make an application giving details of
	Name address Registration No
	Decryptions of inputs, quantity required, nature of process in the factory
	Details of exemption notification proposed to be availed
2	Application to be made in 3 copies 2 sets to jurisdictional AC/DC of Customs and one set to AC/DC of customs port
3	Importer has to execute continuity bond with surety declaring duty interest will be paid
4	Jurisdictional AC/DC counter sign the copy and forward one copy of information to AC/DC of customs
5	Importer should file BOE and give details of factory where the goods are being used.
6	AC/DC of customs will allow the benefit of notification to importer
7	Importer has to inform about the receipt of goods with 2 days. He should maintain records and file quarterly return.
8	The imported goods should be used as per the conditions of notification, failure, bond will be invoked. Duty payable along with interest from the date of importation
9	**Re export or clearance of unutilized or defective goods**
	Can be re-exported with the Permission of Jurisdictional AC/DC of Customs within 3 months from the date of import. The FOB should not be less than the value of goods at the time of import
	Clear with the Permission of Jurisdictional AC/DC of Customs within 3 months from the date of importation on payment of duty along with interest from the date of importation

Relevant date for Imported Goods



Relevant date for Export Goods



Rate of duty if the goods are not removed from warehouse within the permissible period

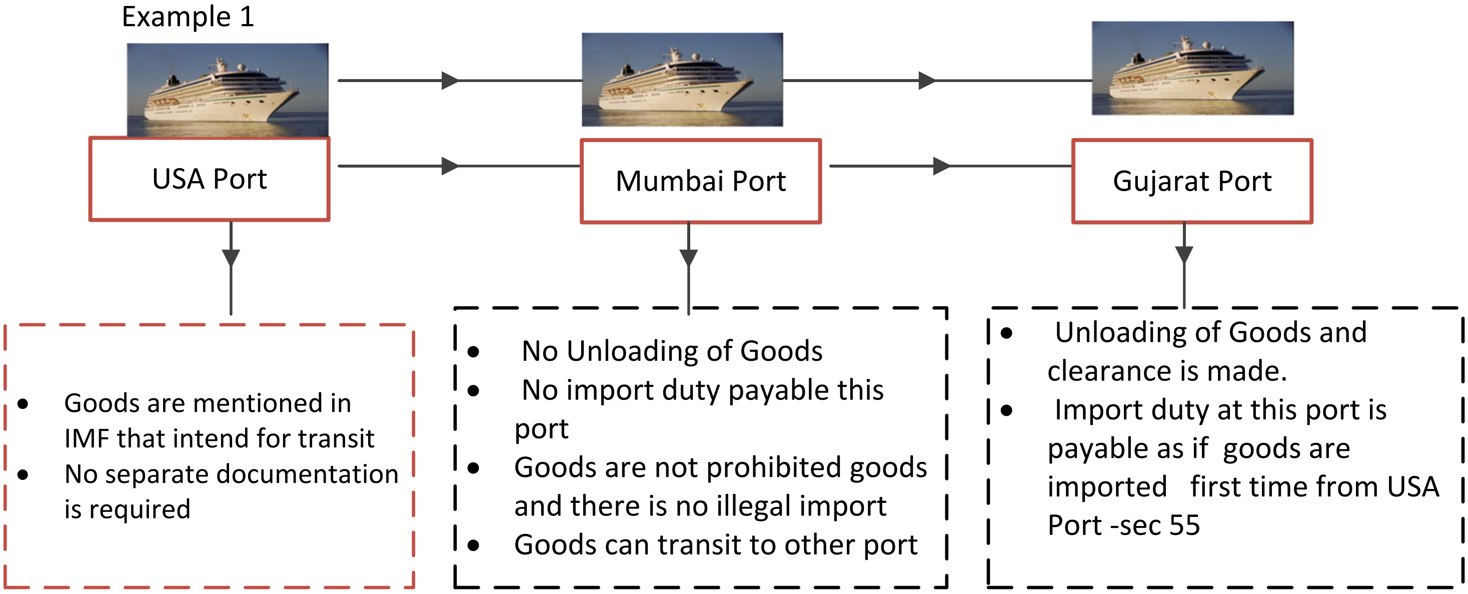
- Goods which are not removed within the permissible period are deemed to be improperly removed on the day it should have been removed.
- Thus, duty applicable on such date i.e. last date on which the goods should have been removed is relevant and not the date on which the goods were actually removed.

Transit and transhipment of goods Sec 53, Sec54 andSec 55

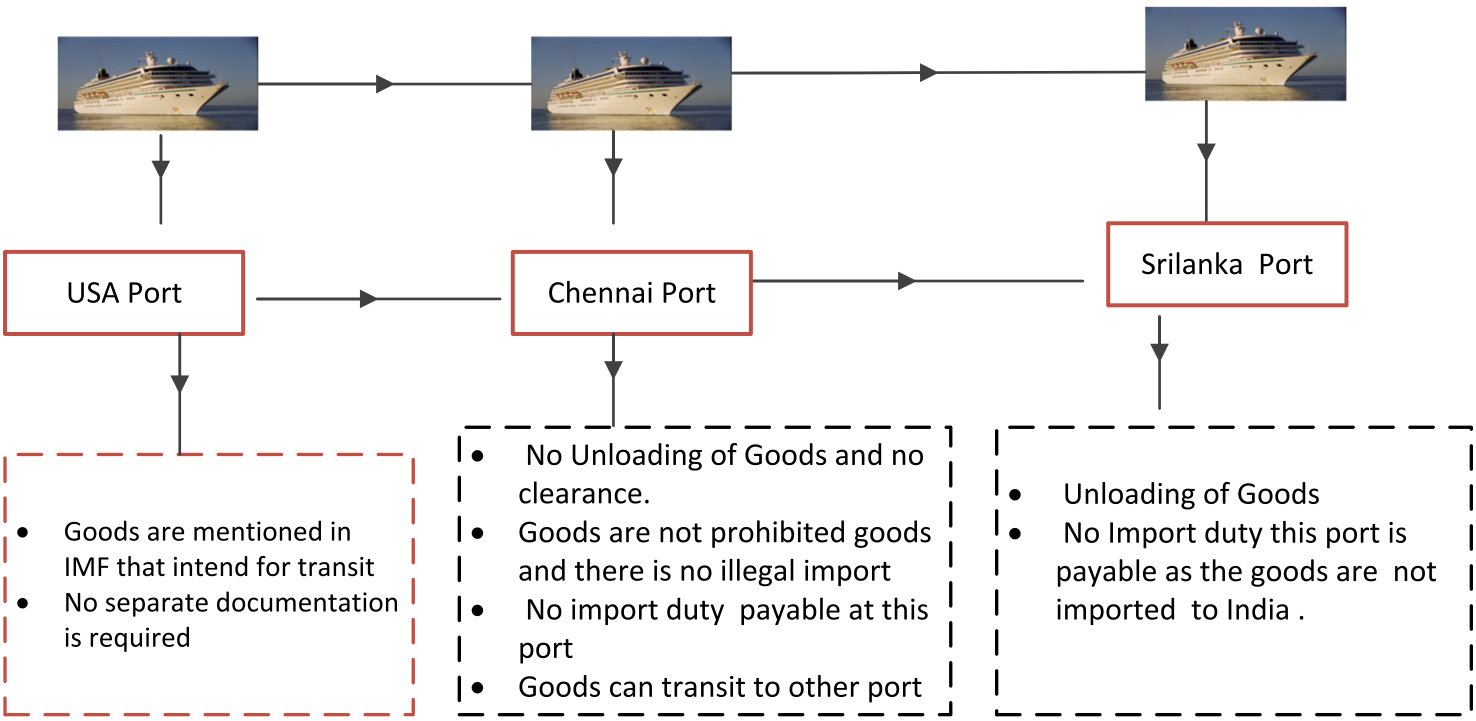
Transit of goods sec 53

- Any vessel, aircraft or Vehicle <u>coming out of India,</u> reaches any port, airport customs station in India, the goods may be <u>allowed to transit any port or airport, customs station in India / Outside India</u> without payment of duty, <u>if such goods are mentioned in IMF for transit</u>

Example 1



Example 2

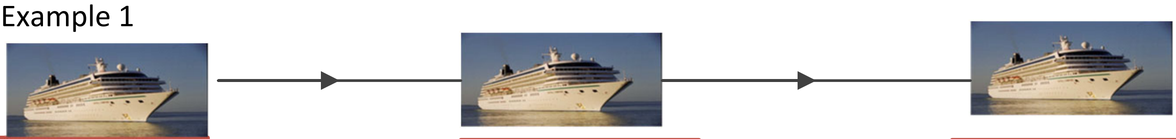


Transit and transhipment of goods-2, Sec 53, Sec54 andSec 55

Transhipment of goods sec 54

- Any vessel, aircraft or Vehicle coming out of India, reaches any port, airport customs station in India, the goods may be allowed for transhipment to any other port or airport, customs station in India /Outside India without payment of duty, if such goods are mentioned in IMF, A bill of transhipment is filed.

Example 1



USA Port → Mumbai Port → Gujarat Port

USA Port
- Goods are mentioned in IMF that intend for transhipment

Mumbai Port
- Bill of Transshipment" shall be filed with the PO
- In case of goods transhipped under international treaty a declaration of transhipment is sufficient,
- Unloading of Goods but not cleared
- No import duty payable at this port
- Goods is loaded in to another vessel

Gujarat Port
- Unloading of Goods
- Import duty at this port is payable as if goods are imported first time from USA Port -sec 55

Example 2

USA Port → Chennai Port → Srilanka Port

USA Port
- Goods are mentioned in IMF that intend for transhipment

Chennai Port
- Bill of Transshipment" shall be filed with the PO
- In case of goods transhipped under international treaty a declaration of transhipment is sufficient,
- Unloading of Goods but not cleared.
- No import duty is payable at this port
- Goods is loaded in to another vessel

Srilanka Port
- Unloading of Goods
- No Import duty this port is payable as the goods are not imported to India .

Transit VS Transhipment

Transit	Transhipment
• Goods remain in the same conveyance in transit • No fresh documents is need to file at port/air port	• Goods will be loaded in to another Conveyanceremain in the same conveyance in transit • Fresh documents of bill of transhipment is to filed at port/air port

Transit andtranshipment provisions are not applicable for goods imported through baggage, post and courier

EXPORT PROCEDURES

Procedures *for* EXPORTER

(Clearance of Export Goods)

- **Sec 50 : Entry of goods for Exportation**
- **Filing of Shipping Bill** (SB) *(*if Export is in Vessel / Aircraft*)* or Bill of Export (BE) *(*if Export is in Vehicle)]
- **<u>Prescribed forms of Shipping Bill</u> Color code**
- 1,S B for Export of Goods under claim of Duty Drawback Green
- 2.SB for export of dutiable goods Yellow
- 3.SB for export of duty free goods White
- 4SB for export of duty free goods ex-bond (i.e., direct exportation from the Customs Warehouse)Pink
- 5.SB for export under DEPB (Duty Entitlement Pass Book) Scheme Blue
- **Sec 51: Clearance of goods for Exportation**
- S.B / BE filed
- Inspection of goods is necessary to ensure that prohibited goods are not exported; Goods tally with description and invoice; and Duty drawback, where applicable, is correctly claimed
- PO satisfied that goods are not prohibited goods and assessed duty (if any) and any other charges have been paid
- **<u>Clearance Order</u>** issued :Order permitting clearance and loading of goods onto the conveyance – such order is known as **<u>"Let Export Order</u>" / "Let Ship Order"**)]

Sec 44: -- Sec 50 & 51 are Not Applicable to
a) Baggage, b) Goods imported by post

<u>Sec 37: Power to Board Conveyance</u>
PO may, if he thinks it necessary, board any conveyance carrying export goods.
<u>Sec 38: Power to require production of documents and ask questions</u>
Any document may be demanded from PIC --- Questions may also be asked by the PO.

Procedures *for* PI C

(Provisions relating to conveyance carrying Export Goods)

Sec 39 : Export goods not to be loaded on vessel unless "Entry Outward" granted
MASTER OF VESSEL SHALL NOT PERMIT LOADING OF EXPORT GOODS – UNTIL RECEIPT OF ENTRY OUTWARD" FROM THE PO
<u>Exceptions:</u> i) Baggage & ii) Mail Bags]

Sec 40: Export Goods not to be loaded unless duly passed by the PO
PIC of Conveyance shall allow loading of goods only upon submission by the Exporter to him of a duly assessed Shipping Bill // Bill of Export]
***<u>Exceptions:</u>* i) Baggage & ii) Mail Bags**

<u>Loading of Goods</u>

Sec 33 Loading shall be done only at approved places
Sec 34 Loading shall be done under supervision of Customs Officer
Sec 35 Export Goods can be loaded with the help of small boats. If **goods are accompanied with Shipping Bill**, no Boat Note is required. However, **if goods are not accompanied with shipping bill**, boat note is must.]
Sec 36 Loading after Working Hours or on Holiday --- only upon payment of Merchant Overtime Fees)
Sec 41 Delivery by PIC of export of goods/ import of goods <u>(before departure from India)</u>

- Export Manifest (EGM) in case of Vessel / Aircraft orExport Report (ER) in case of Vehicle) Electronically. PCC/CC allow any other manner if electronic filing is not feasible
- Penalty without sufficient reason Rs.50,000

[EGM/ER <u>has to be filed EGM/ER before Departure</u>]

Sec 42 : Conveyance carrying Export Goods shall leave Customs Station only upon receipt of "written order to that effect" (This order is known as <u>"Departure Permission")</u>

Customs Assessments

Self Assessment Sec 17 FA 2018

- Importer/Exporter file BO E/S B and Self assesses duty.
- stores warehoused without assessment
- The P.O verify the Entries made in BOE/SB Examine and test the goods
- Verification primary shall be on the basis risk evaluation through selection criteria
- .the Proper Officer may require t o produce documents
- PO re-assess the duty when that the self-assessment is not done correctly,
- Where any re-assessment in verification which is contrary to the self-assessment
- Proper Officer shall pass a speaking order in writing with in 15 days of re assessment of BOE/SB
- ~~When re-assessment has not been done or a speaking order has not been passed on re-assessment, the Proper Officer may audit the assessment of duty at his office or at the premises of the importer or exporter,~~

Provisional Assessment Sec 18

Reasons

- Importer/Exporter file BOR/SB and unable to Self assesses duty.
- imported goods or export goods to get any chemical or other test; or
- In addition to submitted documents the Proper Officer deems it necessary to make further enquiry

Procedure

- The P.O direct for P.A
- Bond/Guarantee/Cash deposit for differential duty by Importer/Exporter
- Importer/exporter produce any document that required by PO at the time of final assessment
- Time limit to complete FA with in 2 months from the date of lab test/information from importer
- Final assessment difference pay/refund . in case of warehouse, bond for difference
- Interest 15 % p.a from first day after duty provisonally assessed.
- Refund interest 6% if not paid with in 6 months of final assessment
- Doctrine of Unjust enrichment applicable

CBIC provides regulations for completion of final assessment in case of goods provisionally assessed u/s 18 , by notification 73/2018 dated 14.08.2018. which are purely practical purpose

Special cases of assessment and duty rates

Assessment of Set of articles Sec 19

- **Article attracting "Specific Duty=** Shall be charged to that specific duty only
- **Article attracting "Ad-Valorem Duty"=** Shall be charged to MAXIMUM of the "ad-valorem" rates
- **Article Not liable to duty at all =** Shall be charged to the "Ad-Valorem Rate" as above

Exception

<u>Set of Article</u> = [Main Article Accessories / Spare Parts / Repairs & Maintenance Implements]

- ---- Main Article --- Rate as applicable to it
- --- ***<u>Accessory etc</u>***. -- Rate as applicable on the main article
- ***<u>Conditions:</u>***
- i) Compulsory Supply;
- ii) Price of Main Article is inclusive of charges for accessories etc.

<u>Any Set of Article –</u> Importer furnishes proper evidence as to the independent values of different articles therein – then, each of the article shall be charged to duty as applicable to it independently

Project Imports for eligible projects Chapter 98.01

Machinery, Equipment, apparatus

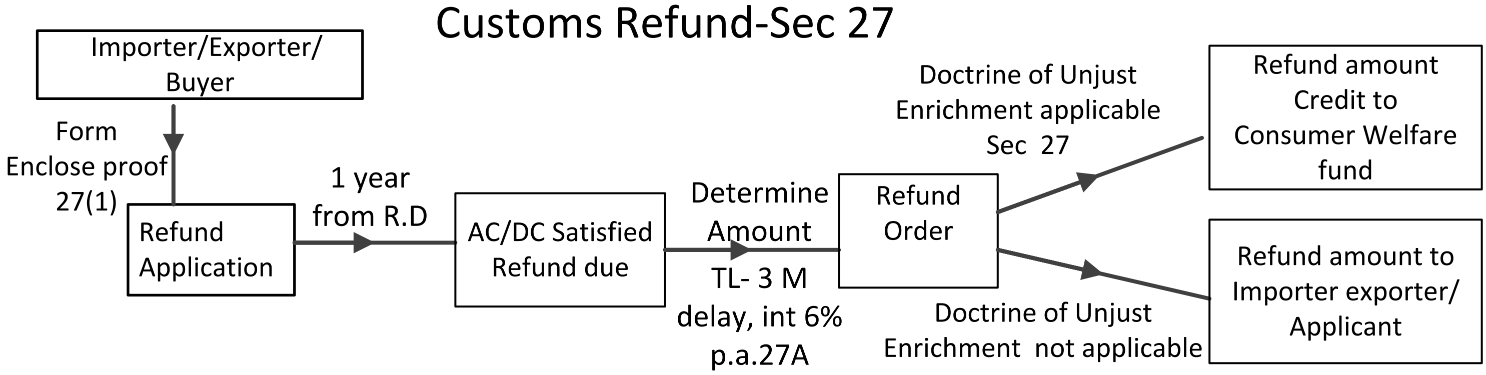
Benefits

- Single Classification of different machineries;
- **<u>Concessional lower rate of duty</u>**

Examples

Power projects
Irrigation projects
Industrial plant
Mining project

Customs Refund-Sec 27



Relevant Date:

- **In case of Export Rebate**
    - Export through aircraft/vessel-Date of leaving aircraft/Vessel Export through vehicle-Date of leaving custom frontier Export through post-Date of dispatch of article
- In Case of Exemption u/s 25 -Date of exemption order
- In Case of Provisional Assessment-Date of final adjustment of duty
- In case of Buyer Date of Purchase of goods
- In case of Order of court/Appellate authority-Date of order
- In any other case-Date of payment of duty

Doctrine of Unjust Enrichment/Refund credit to consumer welfare fund

- It is always assumed unless contrary proved by manufacturer that excise Duty burden normally fully passed on to buyer
- In such cases, refund of excess duty paid to the manufacturer will amount to excess and un-deserved profit to him.
- He will get double benefit – One from consumer and again from the Government.
- At the same time, the duty is illegally collected and hence cannot be retained by Government, it will be credited to Consumer welfare fund
- The fund may be used for activities of protection and benefit of consumers.
- Provisions of Unjust enrichment will apply to all types of refund, (Provisional Assessment, Captive consumption Duty paid under protest etc)

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Non Applicability of Doctrine of Unjust enrichment (Refund paid to manufacturer / buyer)

- if the importer has not passed on the incidence of such duty and interest to any other person;
- if imports were made by an individual for his personal use;
- if the buyer who has borne the duty and interest, has not passed on the incidence of such duty and interest to any other person;
- if amount found refundable relates to export duty paid on goods which has returned to exporter as specified in section 26;
- if amount relates to drawback of duty payable under section 74 and 75;
- if the duty or interest was borne by a class of applicants which has been notified for such purpose in the Official Gazette by the Central Government.
- if the duty paid in excess by the importer before an order permitting clearance of goods for home consumption is made where—
    - such excess payment of duty is evident from the bill of entry in the case of self-assessed bill of entry; or
    - the duty actually payable is reflected in the reassessed bill of entry in the case of reassessment.

Duty Drawback

Duty draw back means refund of customs duty, and excise duty paid on non GST goods/ on inputs, to exporter on export goods

Types of duty drawback

- Drawback u/s 74 → imported goods on which customs duty paid is exported . Exporer eligible of refund of customs duty, IGST and GST Compensation CESS Notification No 57/2017 dt 29.06.2017
- Drawback u/s 75 → Duty paid imported inputs/ Local inputs/ Used in manufacture of Final product. Exporter eligible of refund of customs duty, excise duty on Non GST goods

Duty draw back u/s sec. 74

- Goods have been import in to India
- Import duty on goods is paid

→

- Same imported goods Is entered for Export
- General export of cargo, baggage export, export by post is eligible

→

- Shipping bill/Bill of export is filed by exporter
- AC/DC examined goods and Ensure that there is no prohibition/restriction for export Of goods

→

- Export is made With in 2 years <u>from date of payment of duty</u>
- CBEC has power to extend unlimited time
- Let export order issued u/s 51 for clearance of goods.

→

- Refund of import duty up to 98% of duty paid
- Proportionate Reduction of % of refund in case of delay in export by usage of goods

→

CG fixes Two types of rates
1. Rates for business goods
2. Rates for personal goods

Duty draw back u/s sec. 75

Import of raw material/Packing material → customs duty Paid → Manufacture/Process/ Any operation is carried on duty paid imported goods → Final Product is exported → Refund of Customs duty At All Industry rate at % on F O B value

No Duty draw Back on IGST paid on Imports u/s 75 drawback

Rates of draw back

All Industry rate =% on F O B Value Notified by CBEC → If A I R not fixed for any product → Brand rate fixed by Commissioner. Exporter has to submit information and request

If A I R is too low Compared to Actual duty paid ie., A I R < 80% duty paid → Special Brand rate fixed by Commissioner. Exporter has to submit information and request

Safeguard duties are rebatable as duty drawback *[Circular No. 23/2015 Cus dated 29.09.2015]*

- AIR u/75 are not includes safe guard duty paid u/s 8B/8C , Hence exporter can apply for brand rate who pays safe guard duties at the time of importation
- Similarly exporter can claim drawback u/s 74 in who pays safe guard duties at the time of importation

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Duty Drawback 2 (details)

Draw back u/s 74 comparison

S No	Situation	DBK u/s 74 (1)	DBK u/s 74 (2)
1	When admissible	Imported goods exported as such (without being used)	Imported goods exported after having being used in India for some period
2	**Rates of DBK**	98% of the import duty paid at the time of importation	DBK at reduced rate (Notified Rates)
3	Time limit for Export	2 years from date of payment of import duty + Extension by CBEC	Maximum up to 3 Years or 4 years , As the case may be

DBK 74 (2) Rates

Business Goods

Personal goods including Motor car

S No	Usage time	Rate of DBK	Usage time	Rate of DBK : For personal goods including motorcar imported by individual
1	< 3 months	95%	Ist year	100% -(4% per quarter of part of quarter)
2	> 3months<= 6 months	85%	2^{nd} year	100% -(16%+ 3% per quarter of part of quarter)
3	> 6 months<= 9 months	75%	3^{rd} Year	100% -(28%+ 2.5% per quarter of part of quarter)
4	> 9 months<= 12 months	70%	4^{th} year	100% -(38%+ 2% per quarter of part of quarter)
5	> 12 months<= 15 months	65%	More than 4 years	NIL. No DBK
6	> 15 months<= 18 months	60%	No DBK for used --- i) Wearing Apparel; ii) Tea; iii) Exposed Cinema Film; iv) Unexposed Photographic films/Paper Plates/X-ray films Note: If the above are not used after import, drawback u/s 74(1) is eligible @ 98%	
7	> 18 months	NIL		

Procedure for claiming drawback U/s 74

Re-Export of Imported Goods (Drawback of Customs Duties) Rules, 1995

Rule 3	Export by Post:
	❖ outer packing shall carry the words "DRAWBACK EXPORT ❖ exporter shall deliver to the DBK claim to competent Postal Authority ❖ date of filing of drawback claim is considered for one-month calculation for interest ❖ Deficiencies if any rectify within 15 days. ❖ Deficiency rectification memo acknowledgement date is considered for DBK claim
Rule 4	Export by other than Post:
	❖ Exporter at the time of export declaration to be made in the shipping bill/Bill of export about imported goods, duty paid/ whether used or nor after importation. ❖ To furnish documents as proof of import/duty payment & Export invoice packing list etc.,
Rule 5 (a) Time limit	❖ A Claim for DBK to be filed within 3 months from the date of let export order ❖ Application for extention of time can be made by exporter by payment of application fees ❖ Extention of time another 3 months by AC/DC 1% of FOB/Rs. 1000 WEL ❖ Extention of time further 6 months by Com., /Principal Com., 2% of FOB/Rs. 2000 WEL ❖ Extention of time may be given or refused by writing reasons
(b) Documents to file	❖ Triplicate copy of shipping bill, BOE, import invoice, Export invoice, packing list ❖ Other documents if any mentioned in deficiency memo ❖ Deficiencies if any rectify within 15 days. ❖ Deficiency rectification memo acknowledgement date is considered for DBK claim

Drawback u/s 75

DBK = Refund of [Customs Duty paid on imports + Excise Duty paid on NON GST goods on local Inputs)+ ~~Service Tax paid on Input Service~~ used in manufacture of goods which are exported

Drawback not allowed 75(1)

- ❖ The export value of the finished goods is less than the value of the imported material used in manufacture (i.e. There shall NOT BE (-ve) Value Addition,
- ❖ The (+ve) Value Addition shall exceed the minimum notified % of Value Addition
- ❖ Export sale proceeds are not received in with in time as per FEMA
- ❖ However, Central Government is empowered to prescribe the circumstances under which duty drawback would not be disallowed even though the export remittances are not received within the period allowed under FEMA

More import material used 75 (1A)

- ❖ Where it appears to the Central Government that the quantity of a particular Material imported into India, is more than the total quantity of like material that has been used in the goods manufacture, Central Government, by notification declare that material is deemed to be import material for drawback

Power to frame Drawback Rules 75(2)

CG has power to notify DBK rules for Payment of DBK, / procedure for claim DBK/ Documents for DBK/DBK disallowance/inspection of factory/recovery of DBK etc. are as follows

Customs, Central Excise Duties ~~and Service Tax~~ (DBK) Rules, 2017 Notification

No. 88/ 2017 Cus (NT) dated 21.09.2017 Effective from 01.10.2017

Rule 3	❖ Drawback will be paid based on the percentage of FOB as per All Industry Rates notified by the CBEC. By considering the following ❖ Fixed considering <u>average quantity and value of each class of inputs</u> imported or manufactured in India. ❖ Average amount of duties paid imported material indigenous material/ waste produced in manufacture/Service tax paid on input service is considered. ❖ These rates are fixed for broad categories of products. The rates include drawback on packing materials. ❖ any other information which the Central Government may consider relevant or useful for the purpose **No drawback in certain cases:** (i) Packing materials for export of tea, except tea chests. (ii) Goods manufactured out of duty free materials. (iii) Jute batching oil used in manufacture jute yarn, twine etc. (iv) Packing material used for jute yarn, fabrics etc.
Rules 4	The Central Government will revise these rates and specify the period in which the rates will be in force
Rule 5	Determination of relevant date for application of amount or rate of DBK i) The Central Government will specify the period of validity for the drawback. (ii) Retrospective effect – from the date of notification The relevant date shall be: In case of Goods exported by filing Shipping Bill / Bill of Export — Date of issuance by "Let Export Order In case of Goods Exported by Post — Date of delivery of Export Goods to the Postal Authority
Rule 6	**Brand rate** ❖ Brand rate is fixed if it is not possible to fix All Industry Rate in case of some special products. Ie Where no amount or rate of drawback has been determined in respect of any goods, ❖ The manufacturer has to submit an application with all the details to Principal Commissioner of Customs of exporter jurisdiction. ❖ Such application must be made within 3 months from the date of applicability of amount or rate

	❖ The exporter can also make an application for provisional drawback, pending determination of final rate. He has to execute bond not exceeding full amount of drawback. ❖ The final draw back amount is adjusted against provisional amount released. The excess if any paid shall be refunded by exporter.
Rule 7)	**Special brand rate: Cases where amount or rate of drawback determined is low** ❖ A particular manufacturer may find that the actual duty paid on inputs is higher than the All Industry Rate fixed for his product. ❖ In such cases, he can apply for fixation of Special Brand Rate, within 3 months from relevant date of applicability of amount to principal commissioner/Commissioner of Customs of his jurisdiction ❖ The conditions of eligibility are that the fixed All Industry Rate should be less than 80% of the duties paid by him. ❖ The manufacturer can also file an application for provisional drawback as per Rule 6
Rule 8]:	❖ **Cases where no amount or rate of drawback is to be determined:** ❖ No amount or rate of drawback shall be determined in respect of any goods or class of goods under rule 6 or rule 7, as the case may be, if the export value of each of such goods or class of goods in the <u>bill of export or shipping bill is less than the value of the imported materials used in the manufacture of such goods or</u> ❖ not more than such percentage of the value of the imported materials used in the manufacture of such goods or class of goods as the Central Government
Rule 9	The drawback amount or rate determined under rule 3 shall not exceed one third of the market price of the export product.
Rule 10	Any officer of the CG Authorised in this behalf by an AC/DC, may require any manufacturer or exporter of goods or any other person likely to be in possession of the same to furnish such information and to produce such books of account and other documents as are considered necessary by such officer. For the purpose of ❖ determining the class or description of materials or components used in manufacture ❖ verifying the correctness or otherwise of any information/ drawback ❖ obtaining any other information considered useful by PC/C of customs
Rule 11	**Access to manufactory:** **Officer of CG Authorised by AC/DC of customs** as the case may be, considers it necessary, inspect the premises of factory, manufacturing process so as to enable materials or components used for the manufacture of such goods, entitlement of the goods for drawback or for a particular amount or rate of drawback
Rule 12	**Export by Post** ❖ Mention "DBK Export" on outer package ❖ Prepare DBK claim separately ❖ Submit to the postal authorities along with the package ❖ The date of claim of drawback will be the date of filing of to customs by the ❖ postal authorities
Rule 13 & 14	**Procedure Export other than by Post** ❖ Declaration by exporter on shipping bill that all duties paid. Additional declaration in case of brand rates ❖ Submit other documents ARE 1/Insurance certificate/invoice/LC

	❖ Electronic shipping bill in Electronic Data Interchange (EDI) under the claim of drawback or triplicate copy of the shipping bill for export of goods under a claim of drawback shall be deemed to be a claim for drawback filed ❖ If the said claim for drawback is incomplete in any material particulars or is without the documents specified above, shall be returned to the claimant with a deficiency memo by PC of C of customs ❖ Where the exporter resubmits the claim for drawback after complying with the requirements specified in the deficiency memo, the same will be treated as a claim filed
Rule 15	**Payment of drawback and interest** The drawback under these rules and interest, if any, shall be paid by the proper officer of Customs to the exporter or to the agent specially authorised by the exporter to receive the said amount of drawback and interest. One or more claims can be combined and adjustments of all dues can be made and cheque issued or amount credited to exporter.
Rule 16	**Supplementary claim** ❖ DBK sanction is found to be less than what the exporter is entitled to ❖ Supplementary claims can be made in Form Annexure III within 3 months from ▪ Date of publication of such rate in case of revised rate granted ▪ Date of communication of the said rate in case of brand rate (rule 6 & 7) ▪ Date of payment of original drawback in other cases.
[Rule 17]	**Repayment of erroneous or excess payment of drawback and interest** It shall be repaid upon demand by the PO./recovered u/s 142
[Rule 18]:	**Recovery of amount of drawback where export proceeds not realised** ❖ AC/DC will send notice to exporter to bring evidence of sale proceeds (30 days' time given) ❖ failure to bring the evidence, AC/DC shall pass recovery orders --- exporter r shall pay within next 30 days *(Failure will attract recovery Procedures u/s 142* ❖ However, as and when foreign exchange is brought in India --Proof can be submitted and then, recovered DBK shall be repaid to the importer.

Common points for drawback u/s 74 and 75

Eligibility for drawback

The exporter is eligible for drawback in the following situations:

	Situation	Eligibility
1	In case of goods entered for export	Proper Officer has made order of clearance for loading /exportation under section 51
2	In case goods are to be exported as baggage (**Not applicable for 75 drawback)**	When the owner makes a declaration of its contents to the Proper Officer under section 77
3	In case goods are entered for export by post	The Proper Officer makes an order permitting clearance of the goods for exportation under section 81

Interest for Delay payment of drawback 75 A

- Failure to pay DBK due to the exporter within 1 Month of filing of DBK Claim
- Exporter shall be entitled to interest @ 6% p.a. for the period of delay beyond 1 Month
- DBK granted erroneously to Exporter, SCN served for recovery of such DBK –
- Exporter shall pay interest @ 15% p.a. from the date the DBK was erroneously granted till the date of actual payment
- Failure of to pay the demand within 2 Month from date of demand, recovery action shall be initiated

PROHIBITION & REGULATION OF DBK Sec 76

- No DBK if DBK due is less than Rs., 50/- / Market Price (of Export Goods) is < the DBK Due
- Goods likely to be smuggled back into India: CG (by Notification -- May
    - Prohibit allowance of DBK on export of such goods; or
    - Impose restrictions and conditions as to allowance of DBK on export of such goods.

Distinction between Drawback u/74 and 75

Situation	DBK u/s 74	DBK u/s 75
When admissible	Imported goods exported as such (without being used) or after use	IG used in manufacture of goods which are exported
Related Rules	Re-export of Imported Goods (DBK of Customs Duties) Rules, 1995	Customs, Central Excise Duties and Service Tax Drawback Rules, 1995
Means of export	i) General Export of Cargo; ii) Baggage Export; iii) Export by Post	i) General Export of Cargo; ~~ii) Baggage Export;~~ iii) Export by Post
Coverage of Duty refund	Customs Duty is only refunded.	Customs, Excise Duty as well as Service Tax are refunded.
Rates of DBK	98% of the import duty paid at the time of importation DBK at reduced rate for used goods	i) AIR (All Industry Rate) --- generally; ii) BR (Brand Rate)—when no AIR is fixed in the DBK Schedule; iii) SBR (Special Brand Rate)--- when fixed AIR < 80% of the actual duties incidence
Time limit for export	2 years + extention	No time limit

Verification of identity and compliance thereof Sec 99B New Section FA 2019

The proper officer, authorised in this behalf by the Principal Commissioner of Customs or the Commissioner of Customs, may, for the purposes of ascertaining compliance of the provisions of this Act or any other law for the time being in force, require a person, whose verification he considers necessary for protecting the interest of revenue or for preventing smuggling, to do all or any of the following, namely:''

(a) undergo authentication, or furnish proof of possession of Aadhaar number, in such manner and within such time as may be prescribed;

(b) submit such other document or information, in such manner and within such time as may be prescribed:

Provided that where such person has not been assigned the Aadhaar number, or where so assigned, but authentication of such person has failed due to technical reasons or for reasons beyond his control, then, he shall be provided an opportunity to furnish such other alternative and viable means of identification in such form and manner and within such time as may be prescribed.

(2) The provisions of sub-section (1) shall not apply to such person or class of persons as may be prescribed.

(3) Notwithstanding anything contained in any other provisions of this Act, where the Principal Commissioner of Customs or the Commissioner of Customs concludes, based on reasons to be recorded in writing, that the person referred to in sub-section (1) has''

(i) failed to comply with the requirements of the said sub-section or submitted incorrect documents or information under the said sub-section, he may, by order, suspend''

(a) clearance of imported goods or export goods;
(b) sanction of refund;
(c) sanction of drawback;
(d) exemption from duty;
(e) licence or registration granted under this Act; or
(f) any benefit, monetary or otherwise, arising out of import or export, relating to such person, subject to such conditions as may be prescribed;

(ii) failed authentication as required under the said sub-section, he may, by order, direct that such person shall not have the benefit of any of the items specified in sub-clauses (a) to (f) of clause (i).

(4) The order of suspension under sub-section (3) shall remain in force until the person concerned complies with the requirements of sub-section (1) or furnishes correct document or information thereunder

Certain other amendments made in sec 103, sec 104, sec 110, sec 110A, Sec 114, sec 125 etc., are relating to search, seizure, confiscation, Penalties are not relevant for exam.

BAGGAGE

BAGGAGE Sec 2(3):

It includes – unaccompanied baggage but it doesn't include Motor Vehicle.

Baggage normally means the luggage of a passenger accompanied or unaccompanied,

Baggage comprises of trunks or bags and the personal belongings of the passenger.

The statutory provisions relating to Baggage are covered by sections 77 to 81 of the Customs Act as below

Sec 77	**Entry of Baggage/Declaration by Owner of the Baggage** ❖ The owner of the baggage has to make a declaration of its contents to the proper officer of customs, for the purpose of clearing (for import/export) it. ❖ This is known as Baggage Declaration Form.
Sec 78	**Relevant Date for determination of AV & RoD** ❖ Relevant Date = Date of filing of Declaration of its contents ❖ All dutiable Articles when imported as Baggage shall be classifiable into Entry No. 98.03 [they shall be assessed collectively under this Heading --- & not to their individual Heading. The effective rate is 36.05%. This rate is not applicable for cigar tobacco, fire arms in excess of prescribed quantity and goods imported through courier
Sec 79	**Bonafide Baggage Exempt from Customs Duty** Subject to LIMITS & CONDITIONS as specified in the BAGGAGE RULES, 1998 --- PO will allow clearance of baggage without charging any customs duty as below ❖ Articles in use for minimum period by passenger/crew member the Baggage : Any Quantity (which appears reasonable keeping in mind status of the passenger) ❖ Unused Articles in the Baggage: for passenger/ his family members up to limit ❖ A bonafide gift or souvenir up to limit
Sec 80	**Article in the Baggage** ---- [Dutiable // Prohibited Article + True Declaration about the article has been made u/s 77] ❖ Passenger may request PO to detain (keep in custody) such article with him for the purpose of returning him said article at the time of his leaving India ❖ If passenger is not able to collect the article at the time of his leaving India, he can claim return of his articles in either of the following modes: ❖ He can authorize any other passenger (who is also leaving India) to collect the detained baggage on his behalf; or ❖ He can make a request to PO to later on send the baggage as cargo consigned in his name.
Sec 81	**Regulations in respect of baggage** Board may make regulations in the following matters: a) providing for the manner of declaring the contents of any baggage; b) providing for the custody, examination, assessment to duty and clearance of baggage; c) providing for transit or transhipment of baggage from one customs station to another or to a place outside Indi

Valuation of Baggage: there is no separate rules. Price tags, online prices are not relevant.. Value is to be made as per Customs Valuation Rules.

Bonafide Baggage: Baggage declaration form prescribed that 'bona fide baggage' includes - wearing apparel / personal and household effects meant for personal use of passenger or family members travelling with him and not for sale or gift /.Jewellery including articles made wholly or mainly of gold, in reasonable quantity according to status of passenger '/Tools of draftsman /Instruments of physician or surgeon.Import of consumer goods in commercial quantity is not permissible as per Foreign Trade policy and it cannot be treated as 'bona fide baggage

Baggage Rule 1998

Amended with notification No. 30/2016 Cus (NT) dated 01.03.2016 and
Notification No. 43/2016 Cus (NT) dated 31.03.2016).
New rules are applicable from 01.04.2016

Type of passengers and Classification:

Tourists can be broadly classified as
a) Indian persons going abroad and coming back
b) Foreign Tourists visiting India for sightseeing or business purpose.
Accordingly, 'Baggage Rules, 1998' contain different provisions for
a) Residents from India
b) Foreigners residing in India
c) Infants
d) Tourists visiting India and
e) Persons transferring their residence

General Free Allowance:
In addition to personal effects (excluding jewellery) ,a passenger is allowed general free allowance of up to Rs. 50,000/-. The limit for Rs. 50,000/- is reduced up to Rs.15,000/- for various category of persons depending upon different circumstances

Annexure I
Following cannot be accommodated in General free allowance. Ie this items are dutiable

1. Fire Arms
2. Cartridges of fire arms > 50 units
3. Cigarettes > 100 no
4. Cigar>25 no.
5. Tobacco > 125 g
6. Alcoholic Liquor > 2 lt
7. Gold or silver, in any form, other than ornaments
8. Flat Panel (LCD/LED/Plasma) Television

Personal effects: Departmental clarification - Following will be covered in 'personal effects'. Only used personal effects are permitted. However, as long as it is not prima facie new goods in their original pickings which can be disposed of off hand, it will be permitted. The list as given in MF(DR) circular No. 72/98-Cus dated 24-9-1998 is as follows

• Personal Jewellery
• One camera with film-rolls not exceeding 20
• One video camera/camcorder with accessories and with video cassettes not exceeding 12
• One pair of binoculars
• One portable colour TV (not exceeding 15 cms in size)
• One music system including compact disc player
• One portable typewriter
• One perambulator
• One tent and other camping equipment
• One computer (laptop/note book) [Laptop/note book computer has been exempted from customs duty vide notification No. 11 /2004-Cus dated 8-1-2004]
• One electronic diary
• One portable wireless receiving set (transistor radio)
•Professional equipment, instruments and apparatus of appliances including professional audio/ video equipment's

• Sports equipment such as one fishing outfit, one sporting firearm with 50 cartridges, one non- powered bicycles, one canoe or ranges less than 5 metres long, one pair of skids, two tennis rackets, one golf set (14 pieces with a dozen of golf balls)
• One cell phone

Important Definitions

Resident" means a person holding a valid passport issued under the Passports Act and normally residing in India;

tourist" means a person not normally resident in India, who enters India for a stay of not more than six months in the course of any twelve months' period for legitimate non-immigrant purposes,

For example: such as touring, recreation, sports, health, family reasons, study, religious pilgrimage or business;

"**Family"** includes all persons who are residing in the same house and form part of the same domestic establishment;

Personal effects" means things required for satisfying daily necessities but does not include Jewellery.

Infant" means a child not more than two years of age

Rule 3: Passengers arriving from countries other than Nepal, Bhutan, Myanmar

An Indian resident or a foreigner residing in India, Tourist of foreign origin returning from any country other than Nepal, Bhutan, Myanmar shall be allowed clearance free of duty articles in his bona fide baggage as below:

Class of Passenger	Origination Country	Articles allowed free of duty
Indian resident or Foreigner residing in India or Tourist of Indian origin, excluding an infant	Any country other than Nepal, Bhutan or Myanmar	Used personal effects, excluding jewellery, required for satisfying daily necessities of life
		Articles other than those mentioned in Annex. I up to a value of Rs. 50,000/- if these are carried on the person or in the accompanied baggage of the passenger
Tourist of foreign origin excluding infant	Any country other than Nepal, Bhutan or Myanmar	Used personal effects, excluding jewellery, required for satisfying daily necessities of life
		Articles other than those mentioned in Annex. I up to a value of Rs. 15000/- if these are carried on the person or in the accompanied baggage of the passenger -

In case of infant only used personal effects excluding Jewellery will be allowed as duty free

Note: Old slabs like age of passenger and duration of stay abroad by passengers was removed from 01.04.2016.

The free allowance under this rule shall not be allowed to be pooled with the free allowance of any other passenger. e.g. husband and wife bringing one item of Rs.1,00,000 will not be permitted duty free.

Rule 4: Passengers arriving from countries Nepal, Bhutan, Myanmar

Class of Passenger	Origination Country	Articles allowed free of duty
Indian resident or Foreigner residing in India or Tourist, excluding an infant	Nepal, Bhutan, Myanmar	Used personal effects, excluding jewellery, required for satisfying daily necessities of life
		Articles other than those mentioned in Annex. I up to a value of Rs. 15,000/- if these are carried on the person or in the accompanied baggage of the passenger

In case of infant only used personal effects excluding Jewellery will be allowed as duty free

In case of arrival by land only used personal effects excluding Jewellery will be allowed as duty free

Note: Old slabs like age of passenger and duration of stay abroad by passengers was removed from 01.04.2016.

The free allowance under this rule shall not be allowed to be pooled with the free allowance of any other passenger. e.g. husband and wife bringing one item of Rs.30,000 will not be permitted duty free.

Rule 5 Jewellery.

A passenger returning to India shall be allowed clearance free of duty Jewellery in his bona fide baggage as below

Type of Passenger	Duration of Stay in abroad	Articles allowed free of duty
Any Passenger coming from Any Country	Over 1 year	Gentleman: Jewellery upto a weight of 20 gms with a value cap of Rs.50,000
		Lady Passenger: Jewellery upto a weight of 40 gms with a value cap of Rs.1,00,000

Rule 7 Currency

The import and export of currency under these rules will be governed in accordance with the provisions of the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015, and the notifications issued thereunder.

Rule 8 Transfer of residence to India

A person who is engaged in profession abroad or transferring his residence to India shall be allowed clearance free of duty, in addition to what he is eligible under rule 3 or rule 4

S NO	Duration of Stay	Articles Allowed free of duty	Condition
1	From 3 months up to 6 months	Used personal and household articles, other than those mentioned in Annexure I or Annexure II but including articles mentioned in Annexure III up to an aggregate value of Rs. 60,000/-	Indian Passenger
2	From 6 months up to 12 months	Used personal and household articles, other than those mentioned in Annexure I or Annexure II but including articles mentioned in Annexure III up to an aggregate value of Rs. 1,00,000/-	Indian Passenger
3	Minimum stay of one year during the preceding two years.	Used personal and household articles, other than those mentioned in Annexure I or Annexure II but including articles mentioned in Annexure III upto an aggregate value of Rs. 2,00,000/-	The Indian passenger should not have availed this concession in the preceding three years.
4	Minimum stay of two years or more.	Used personal and household articles, other than those mentioned in Annexure I or Annexure II but including articles mentioned in Annexure III up to an aggregate value of Rs. 5,00,000/-	(i)Minimum stay of two years abroad, immediately preceding the date of his arrival on transfer of residence; (ii)Total stay in India on short visit during the two preceding years should not exceed six months; and (iii)Passenger has not availed this concession in the preceding three years.
Relaxation for Sl. No. 4 (a) For condition (i), shortfall of up to two months in stay abroad can be condoned by Deputy Commissioner of Customs or Assistant Commissioner of Customs if the early return is on account of - (i) terminal leave or vacation being availed of by the passenger; or (ii) any other special circumstances for reasons to be recorded in writing. (b) For condition (ii), the Principal Commissioner or Commissioner of Customs may condone short visits in excess of six months in special circumstances for reasons to be recorded in writing. (c) For condition (iii)- No relaxation.			

Rule 9. Provisions regarding unaccompanied baggage

- Provisions of these Rules are also extended to unaccompanied baggage except where they have been specifically excluded.
- The unaccompanied baggage had been in the possession abroad of the passenger and is dispatched within one month of his arrival in India or within such further period as the AC/DC may allow.
- The unaccompanied baggage may land in India up to 2 months before the arrival of the passenger or within such period, not exceeding one year, as the AC/DC may allow, for reasons to be recorded, if he is satisfied that the passenger was prevented from arriving in India within the period of two months due to circumstances beyond his control such as sudden illness of the passenger or a member of his family, or natural calamities or disturbed conditions or disruption of the transport or travel arrangements in the country or countries concerned or any other reasons, which necessitated a change in the travel schedule of the passenger.

Rule 10 Members of the crew.

- These baggage rules are applicable to the members of the crew engaged in foreign going vessels, when they are finally paid off on termination of their engagement.
- However, a crew member of a vessel and aircraft shall be allowed to bring items like chocolates cheese, cosmetics and other petty gift items for their personal or family use which shall not exceed the value of Rs.1500

Annexure II:

1. Colour Television
2. Video Home Theatre System
3. Dish Washer
4. Domestic Refrigerators of capacity above 300 litres or its equivalent
5. Deep Freezer
6. Video camera or the combination of such video camera with one or more of the following goods viz.
(a)Television receiver.
(b)Sound recording or reproducing apparatus.
(c)Video reproducing apparatus.
7. Cinematographic films of 35 mm and above
8. Gold or silver in any form other than ornaments

Annexure III:

1. Video Cassette Recorder or Video Cassette Player or Video Television Receiver or Video Cassette Disk Player.
2. Digital Video Disc player.
3. Music System.
4. Air-Conditioner.
5. Microwave Oven.
6. Word Processing Machine.
7. Fax Machine.
8. Portable Photocopying Machine.
9. Washing Machine.
10. Electrical or Liquefied Petroleum Gas Cooking Range
11. Personal Computer (Desktop Computer)
12. Laptop Computer (Note book Computer)
13. Domestic Refrigerators of capacity up to 300 litres or its equivalent

Notification No. 31/2016 Cus (NT) 01.03.2016*:* the baggage declaration will have to be filed only by those passengers who carry dutiable or prohibited goods or have anything to declare.

Notification No. 26/2016 Cus dated 31.03.2016. The rate of duty, on baggage remains at 35%. This rate of duty is not applicable to fire arms, cartridges of fire arms exceeding 50, cigarettes, cigars or tobacco in excess of the quantity prescribed for importation free of duty under the relevant baggage rules and goods imported through a courier service**.**

Domestic passengers who board international flights in the domestic leg are not required to file the Customs Baggage Declaration **Form**. **[Circular No. 08/2016 Cus dated 08.03.2016]**