

Chapter 8: - Input Tax Credit

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

Section 16 Eligibility and conditions for taking input tax credit

Section 16(1)

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

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

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

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

Section 16(2)

Registered person shall be entitled to the ITC, in respect of any supply of goods or services or both to him unless: -

- He is in possession of a tax invoice or debit note or such other tax paying documents as may be prescribed;
- He has received the goods or services or both

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

- (i) it shall be deemed that the registered person has received the goods where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of title to goods or otherwise;
 - (ii) where the services are provided by the supplier to any person on the direction of and on account of such registered person.
- (c) subject to the provision of section 41, the **tax charged in respect of such supply has been actually paid** to the Government, either in cash or through utilization of ITC admissible in respect of the said supply; and
- (d) He has furnished the **return under section 39**:

Provided that:

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

At present, ITC to be taken in GSTR 3B by taxable person on his own. Of course, supplier has to upload his supplies in his GSTR-1. Refer rule 36 (4) for details.

Section 16(3)

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

Example 1: ABC purchased a laptop for official working for Rs. 1,12,000 (GST element Rs. 12,000).

In such case, ABC is having 2 options for recording such purchase:

- i. **Book the fixed asset at Rs. 1,00,000 & claim ITC of Rs. 12,000. Depreciation in such case shall be charged only on Rs. 1,00,000.**
- ii. **Book the fixed asset at Rs. 1,12,000 & do not claim ITC. Depreciation in such case shall be charged on Rs. 1,12,000.**

Section 16(4)

A registered person **shall not be entitled to take ITC** in respect of any invoice or debit note for supply of goods or services or both after the due date of furnishing of the return under section 39 for the month of September following the end of financial year to which such invoice or invoice relating to such debit note pertains or furnishing of the relevant annual return, whichever is earlier.

Example 2: Suppose ITC related to purchase invoice for the month of December, 2018 has been omitted to be taken in return. Annual return for the FY 18-19 has not been furnished yet. In this situation, ITC related to such invoice can be availed earlier of

- **Due date of September 2019 return i.e. 20th October 2019 (GSTR 3B)**
- **Date of annual of FY 2018-19 i.e. 31st December 2019**

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Telegram Group for Doubt Clearance

<https://telegram.me/cafinalidtamitjain>

So, the maximum date by which the ITC can be claimed shall be 20th October 2019. If annual return is furnished on 31st August 2019 then 31st August 2019 is last date to claim ITC in respect of such invoice.

Rule 36 Documentary requirements and conditions for claiming ITC

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

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

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

It is provided that if the said document doesn't contain all the specified particulars but contains the details of the amount of tax charged, description of goods or services, total value of supply of goods or services or both, GSTN of the supplier and recipient and place of supply in case of inter-State supply, input tax credit may be availed by such registered person.

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

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

Rule 36(4): Input tax credit to be availed by a registered person in respect of invoices or debit notes, the details of which have not been uploaded by the suppliers under sub-section (1) of section 37, shall not exceed 10 20 percent of the eligible credit available in respect of invoices or debit notes the details of which have been uploaded by the suppliers under sub-section (1) of section 37.

Provided that the said condition shall apply cumulatively for the period February, March, April, May, June, July and August, 2020 and the return in FORM GSTR-3B for the tax period September, 2020 shall be furnished with the cumulative adjustment of input tax credit for the said months in accordance with the condition above.

CBIC has issued a circular 123/42/2019-GST dated 11th November 2019, with an intent to clarify therein, various issues such as the manner of calculating the restriction of 10 20-%, the cut-off date for carrying out reconciliation and the scope of the restriction.

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

Summary of Circular

- The restriction imposed under rule 36(4) of the CGST Rules, 2017, needs to be carried out by the taxpayers on a self-assessment basis.
- Full ITC of eligible credits shall be available on following:
 - IGST paid on imports
 - Documents issued under reverse charge mechanism (RCM)
 - Credit received from input service distributor (ISD)
- The restriction is not to be computed supplier wise.
- For the purpose of calculating the restriction, ineligible credits such as those enumerated under section 17(5) of the CGST Act, 2017, shall not be considered.
- For the purpose of determining the quantum of matched eligible credits, the GSTR-2A as available on the due date of filing of form GSTR-1, should be considered.

Example 3:

Name of Supplier	ITC Element on Invoice	Invoice uploaded by Supplier in his GSTR-1 & Auto-populated to GSTR-2A of Recipient	Admissible ITC considering restriction of Rule 36(4)
Mr. A	2,00,000	2,00,000	No Invoice wise ITC
Mr. B	3,00,000	1,00,000	
Mr. C	10,00,000 {Blocked Credit 17 (5)}	10,00,000	
Total	15,00,000	13,00,000	
Admissible ITC	5,00,000	3,00,000 (eligible ITC)	3,60,000

Example 4: illustrations of the manner of calculating the eligible ITC that can be availed in GSTR-3B is as under-

(INR in lakhs)

Scenarios	Eligible credit as per books	Eligible credit as per GSTR 2A as on the due date of filing of GSTR-1	Eligible credit not reflected in GSTR2A	10% of eligible ITC	Amount of credit as per rule 36(4) in respect of invoices/debit notes, the details of which has not been uploaded by the supplier in GSTR-1	Total eligible credit that can be claimed in GSTR-3B	Un-availed eligible credit by virtue of restriction imposed by rule 36(4)
(a)	(b)	(c)	(d)	(e) 10% of (c)	(f) Lower of (d) or (e)	(g) (c) + (f)	(h) (d) – (f)
1	10.00	6.00	4.00	0.60	0.60	6.60	3.40
2	10.00	7.00	3.00	0.70	0.70	7.70	2.30
3	10.00	9.30	0.70	0.93	0.70	10.00	NIL

Note: - Un-availed credit as illustrated in scenarios (1) and (2) above, can be claimed in any of the succeeding tax period(s), provided the details of requisite invoices are uploaded by the suppliers.

Though the circular has clarified some doubts, however the challenges of implementing the same every month is still not being addressed i.e. whether reconciliation to be done on a YTD basis or on a monthly basis, considering that there is always going to be a gap between invoice booking by the recipient and the uploading of invoice by supplier in their respective GSTR-1.

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

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

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

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

Provided further that the value of supplies on account of any amount added in accordance with the provisions of clause (b) of sub-section (2) of section 15 shall be deemed to have been paid for the purposes of the second proviso to sub-section (2) of section 16.

Any amount that the supplier is liable to pay in relation to supply but which has been incurred by the recipient of the supply and not included in price actually paid or payable for the goods or services or both.

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

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

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

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

Example 5: A is a trader who places order on B and instruct to deliver goods at C and in turn he raised invoice on C. Though the goods are not physically received at the premises of A, the condition of section 16 (2) (b) is satisfied and A is entitled to take ITC.

Example 6: XYZ makes an advance payment along with GST in August. The supplier raises a bill in the month of August but delivered goods in installment till November. XYZ can take ITC only in November.

Example 7: Due to a quality dispute, ABC withheld payment on a machine supplied by a vendor till it could be rectified. Over 180 days went by in this dispute. The credit taken by ABC and thus, it had to pay back the credit. Only after the vendor rectified the machine and ABC released the payment, could ABC take the credit again.

Example 8: Hercules Machinery delivered a machine to XYZ in January 2018 under Invoice No. 49 Dated 28th January 2018 for Rs. 4,15,000 plus GST and undertook trial runs and calibration of the machine as per the requirements of XYZ. The amount chargeable for post-delivery activities was covered in a debit note raised in April 2018 for Rs. 50,000 plus GST. XYZ did not file its annual return till October 2018. Though the debit note was received in the next financial year, it relates to an invoice received in the financial year ending March 2018. Therefore, the time limit for taking ITC available on Rs. 50,000 as well as on Rs. 4,15,000 is 20th October 2018; earlier of the date of filing the annual return for 2017-18 or the return for September 2018.

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

Example 9: XYZ received goods from ABC Ltd. on 21.09.2018 worth Rs. 1 Lac for which invoice was issued on 21.09.2018 along with GST of Rs. 18,000. XYZ claimed credit for the month of the same in form GSTR-3B of September month, but, failed to pay the invoice amount to the supplier till April, 2019. In this case, 180 days calculated from 21.09.2018, will expire on 20.03.2019. Thus, XYZ will reverse credit of Rs. 18,000 in its GSTR-3B for the month of March 2019 and interest computation to start from date of availing of credit and not from the date of invoice.

Section 17 Apportionment of credit & blocked credits

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

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

Section 17(3): Value of exempt supply {Definition u/s 2(27)} shall include supply as may be prescribed, and –

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

Explanation.—For the purposes of this sub-section, the expression “value of exempt supply” shall not include the value of activities or transactions specified in Schedule III, except those specified in paragraph 5 of the said Schedule {Sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building}.

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

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

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

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

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

Rule 38 Claim of credit by Banking company or a financial institution (condition on choosing above option (b):

- The said company or institution shall not avail the credit of –
 - tax paid on Inputs & Input Services that are used for non-business purposes, and
 - the credit attributable (blocked credits) to supplies specified U/s 17 (5), in Form GSTR-2
- 50% of the input tax shall be the ITC admissible to the company or the institution and shall be furnished in Form GSTR -2

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

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

17(5)(a),
(aa), (ab)

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

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

(aa) vessels and aircraft except when they are used—

- (i) for making the following taxable supplies, namely:—
 - (A) further supply of such vessels or aircraft; or
 - (B) transportation of passengers; or
 - (C) imparting training on navigating such vessels; or
 - (D) imparting training on flying such aircraft;
- (ii) for transportation of goods

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

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

- (i) where the motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) are used for the purposes specified therein;
- (ii) where received by a taxable person engaged—
 - (I) in the manufacture of such motor vehicles, vessels or aircraft; or
 - (II) in the supply of general insurance services in respect of such motor vehicles, vessels or aircraft insured by him;

As per section 2(28) of the Motor Vehicles Act, 1988, “motor vehicle” or “vehicle” means any mechanically propelled vehicle adapted for use upon roads whether the power of propulsion is transmitted thereto from an external or internal source and includes a chassis to which a body has not been attached and a trailer; but does not include a vehicle running upon fixed rails or a vehicle of a special type adapted for use only in a factory or in any other enclosed premises or a vehicle having less than four wheels fitted with engine capacity of not exceeding twenty-five cubic centimetres.

Noticeable, for first three exceptions viz., further supply of such vehicles or conveyance, transportation of passengers and imparting training on driving, flying, navigating such vehicles or conveyance, the supply must be an outward taxable supply of the registered person. While, in case of transportation of goods, there is no such requirement of making taxable supply. Therefore, all types of vehicles (dumpers, work-trucks, fork-lift trucks, etc.) used for transportation of goods are allowed to avail ITC without any restrictions under this sub-section.

Example 10: Dealer ‘A’ procures cars from Hyundai for further supply to various customers from its showroom. ITC available for this.

Example 11: ABC Ltd., purchased cars for employees’ official use. ITC not available for this.

Example 12: A cab operator/transport agencies procures car for transportation of passengers. ITC available for this.

Example 13: XYZ Ltd., purchased buses for daily commuting of employees. ITC available since credit not restricted on motor vehicles for transportation of passengers with capacity > 13 person.

Example 14: ABC Ltd. bought truck for transportation of tiles manufactured by it. ITC available for this.

Example 15: A driving school purchases car for imparting training to trainees. ITC available for this.

Example 16: ABC Ltd. purchased a trailer which is used inside the factory for movement of semi-finished goods to main plant. ITC available since it is not motor vehicle.

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

	Example 17: ITC on aircraft purchased by a manufacturing company for official use of its CEO is blocked. Example 18: ITC on aircraft purchased by an Aviation School providing training on flying aircrafts, is allowed. Example 19: ITC on general insurance taken on a car used by employees of a manufacturing company for official purposes, is blocked. Example 20: ITC on maintenance & repair services availed by a company for a truck used for transporting its finished goods, is allowed.
17(5)(b)	The following supply of goods or services or both— (i) food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, leasing, renting or hiring of motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) except when used for the purposes specified therein, life insurance and health insurance: Provided that the input tax credit in respect of such goods or services or both shall be available where an inward supply of such goods or services or both is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply; (ii) membership of a club, health and fitness centre; and (iii) travel benefits extended to employees on vacation such as leave or home travel concession: Provided that the input tax credit in respect of such goods or services or both shall be available, where it is obligatory for an employer to provide the same to its employees under any law for the time being in force. Example 21: ABC Ltd., organized a dealer meet in a hotel and was charged GST on food bills of that hotel. ITC not available. Example 22: ABC Ltd., pays GST on monthly purchase of mineral water bottles for its employees. ITC not available. Example 23: Director of ABC Ltd., has taken membership of club for which the fee is paid by the company. ITC not available. Example 24: ABC Ltd. pays monthly subscription fee for FICCI etc. for their employees to attend their various programmes for knowledge enrichment. ITC available. Example 25: ABC Ltd., pays GST on cab services availed for onsite visit of its employees. ITC not available. Example 26: A hotel pays GST on cab services availed for airport pick up and drop facilities for its guests. In turn, the hotel recovers the same from its guests as part of composite supply of hotel stay services and cab. ITC available. Example 27: ABC caterers received a big contract for providing catering services to its client on occasion of marriage. They availed services of another caterer to render quality services and paid GST to the other caterer for his services. ITC available. Example 28: ABC Ltd., avails services of a caterer for running canteen for its employees which is mandatory as per Factories Act, 1948. ITC available. Example 29: ITC on outdoor catering services availed by a company, for a team development event organised for its employees, is blocked. Example 30: ITC on outdoor catering service availed by a company to run a canteen in its factory. The Factories Act, 1948 requires the company to set up a canteen in its factory. ITC on such outdoor catering is allowed.
17(5)(c)	Work contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service; Example 31: ABC Ltd., availed services of a builder for construction of its factory which will be used for manufacturing taxable goods. The builder charged GST on invoice raised to ABC Ltd. ITC not available to ABC Ltd.

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

	Example 32: ABC Ltd., availed services of a building for renovating his office. If this is capitalized then ITC not available. But let say it is minor expenses and expensed out in Profit & Loss account then ITC available. Example 33: ABC Ltd., availed works contract services for constructing foundation of pillars supporting the machinery and paid GST charged thereupon. ITC available.
17(5)(d)	goods or services or both received by a taxable person for construction of immovable property (other than plant & machinery) on his own account including when such goods or services or both are used in the course or furtherance of business .
17(5)(e)	Goods or services or both on which tax has been paid under composition scheme.
17(5)(f)	Goods or services or both received by a Non-resident taxable person except goods imported by him.
17(5)(g)	Goods or services or both used for personal consumption. Example 34: ABC Ltd., is engaged in manufacturing tiles. 50 packs of tiles were taken by the MD of the company for its newly constructed home. ITC not available. Example 35: ABC & Co. is a CA Firm and provide advice on taxation matters. Two ACs were purchased for installing in the office. ITC available.
17(5)(h)	Goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples.
17(5)(i)	Any tax paid in accordance with the provisions of sections, 74, 129 and 130.

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

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

Note: -

The expressions "capital goods" shall include "plant and machinery" as defined in the Explanation to section 17.

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

"Plant & Machinery" means apparatus, equipment, and machinery fixed to earth by foundation or structural support that are used for making outward supply of goods or services or both and includes such foundation and structural supports but excludes: -

- (i) land, building or any other civil structures;
- (ii) telecommunication towers; and
- (iii) pipelines laid outside the factory premises.

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

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

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

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

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

	segregated at invoice level by the registered person, the same shall be included in 'T1' and 'T2' respectively, and the remaining amount of credit on such inputs or input services shall be included in 'T4'
--	---

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

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

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

Or

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

Example 36: Out of 10 containers purchased by a registered person engaged in taxable supply of goods, 5 are used for storing non-taxable goods (exempt supply) such as petroleum. ITC on 5 containers used for non-taxable goods cannot be availed.

Example 37: A registered person (partnership firm) purchases 5 laptops but one of the laptop is being used by the son of one of the partners of the firm. ITC will not be available on such laptop as it is used for personal purposes.

Example 38: ABC Ltd. provides taxable as well as exempted services. Turnover of ABC Ltd. during the month of Nov'17 is as under:

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

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

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

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

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

Particulars	CGST	SGST	IGST
Total ITC available	1,08,000	1,08,000	54,000
Less:			
(i) Credit on input services exclusively used for supplying services for personal use [T1]	10,800	10,800	5,400
(ii) Credit on input services exclusively used for supplying exempted services [T2]	18,000	18,000	7,200
(iii) Credit availed on inputs which are not eligible u/s 17(5) [T3]	18,000	18,000	6,300
Amount of ITC to the electronic credit ledger C1 = T – [T1+T2+T3]	61,200	61,200	35,100
Less: Credit on input services exclusively used for supplying taxable services including zero rated supplies [T4]	54,000	54,000	3,600
Common Credit of input & input services used for providing supply of services [C2 = C1-T4]	7,200	7,200	31,500
Total inadmissible common ITC [D1+D2]**	2,160	2,160	9,450
Net eligible common credit [C3 = C2 – (D1+D2)]	5,040	5,040	22,050
Total credit eligible [T4+C3]	59,040	59,040	25,650
Amount to be reversed by registered person [D1+D2]	2,160	2,160	9,450

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

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

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

- (1) Subject to the provisions of sub-section (3) of section 16, the ITC in respect of capital goods, which attract the provisions of sub-sections (1) and (2) of section 17, being partly used for the purposes of business and partly for other purposes, or partly used for effecting taxable supplies including zero rated supplies and partly for effecting exempt supplies, shall be attributed to the purposes of business or for effecting taxable supplies in the following manner, namely, -
- the amount of input tax in respect of capital goods used or intended to be used exclusively for non-business purposes or used or intended to be used exclusively for effecting exempt supplies shall be indicated in FORM GSTR-2 and FORM GSTR-3B and shall not be credited to his electronic credit ledger;
 - the amount of input tax in respect of capital goods used or intended to be used exclusively for effecting supplies other than exempted supplies but including zero rated supplies shall be indicated in FORM GSTR-2 and FORM GSTR-3B and shall be credited to the electronic credit ledger;
 - the amount of input tax in respect of capital goods not covered under clauses (a) and (b), denoted as 'A', shall be credited to the electronic credit ledger and the useful life of such goods shall be taken as five years from the date of the invoice for such goods:
Provided that where any capital goods earlier covered under clause (a) is subsequently covered under this clause, input tax in respect of such capital goods denoted as 'A' shall be credited to the electronic

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

credit ledger subject to the condition that the ineligible credit attributable to the period during which such capital goods were covered by clause (a), denoted as 'T_{ie}', shall be calculated at the rate of five percentage points for every quarter or part thereof and added to the output tax liability of the tax period in which such credit is claimed

Provided further that the amount 'T_{ie}' shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax and declared in FORM GSTR-3B.

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

- (d) the aggregate of the amounts of 'A' credited to the electronic credit ledger under clause (c) in respect of common capital goods whose useful life remains during the tax period, to be denoted as 'T_c', shall be the common credit in respect of such capital goods:

Provided that where any capital goods earlier covered under clause (b) are subsequently covered under clause (c), the input tax credit claimed in respect of such capital good(s) shall be added to arrive at the aggregate value 'T_c';

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

$$T_m = T_c \div 60$$

Explanation. - For the removal of doubt, it is clarified that useful life of any capital goods shall be considered as five years from the date of invoice and the said formula shall be applicable during the useful life of the said capital goods.

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

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

$$T_e = (E \div F) \times T_r$$

After omitting clause (f), T_r is not defined. Look like CBIC forgot about this & now how to do calculation in absent of T_r definition. So, I am deleting Rule 43 calculation example for Nov 20 students. In case of any future update, I am going to release Rule 43 Question in scanner as well as in Telegram group.

where,

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

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

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

- (h) the amount 'T_e' along with the applicable interest shall, during every tax period of the useful Life of the concerned capital goods, be added to the output tax liability of the person making such claim of credit.
(i) The amount T_e shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax and declared in FORM GSTR3B.

There is no provision to make final calculations at end of every financial year in Rule 43.

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

Notes for rule 42 & 43:

- i. If the registered person does not have any turnover during the said tax period, or the above information is not available, the values for the last tax period may be used.
- ii. Here, exempt supplies include supplies charged to tax under reverse charge, transactions in securities, sale of land and sale of building when entire consideration is received either after issuance of completion certificate by the competent authority or its first occupation, whichever is earlier. Thus, ITC attributable to such supplies will need to be reversed.
- iii. Here, exempt supplies exclude-
 - a. supply of services by way of accepting deposits, extending loans or advances where the consideration is either interest or discount. However, value of such services is included in the exempt supply when the same are provided by a banking company or a financial institution including a NBFC.
 - b. transportation of goods by a vessel from the customs station of clearance in India to a place outside India.

Thus, ITC attributable to such supplies need not be reversed.
- iv. Aggregate value of exempt supplies and total turnover excludes the central excise duty, State excise duty, CST and VAT.
- v. The value of exempt supply in respect of land and building is the value adopted for paying stamp duty and for security is 1% of the sale value of such security.

Rule 88A Order of utilization of ITC

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

Provided that the input tax credit on account of central tax, State tax or Union territory tax shall be utilised towards payment of integrated tax, central tax, State tax or Union territory tax, as the case may be, only after the input tax credit available on account of integrated tax has first been utilised fully.

1. Use ITC of IGST to pay IGST liability then exhaust ITC of IGST balance to pay CGST or SGST liability in any order & proportion before using CGST/SGST ITC.
2. ITC of CGST shall be utilized for payment of CGST & IGST in that order. ITC of CGST cannot be utilized for payment of SGST/UTGST.
3. ITC of SGST/UTGST shall be utilized for payment of SGST/UTGST & IGST in that order. ITC of SGST/UTGST cannot be utilized for payment of CGST.

One State/UT input tax credit cannot be utilized against other State's CGST & SGST/UTGST liability.

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

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Telegram Group for Doubt Clearance

<https://telegram.me/cafinalidtamtjain>

- Original set-off provision was applicable for tax period Jul'17 to Jan'19.
- Section 49A was made effective from Fe'19 and accordingly was applicable for tax period.
- Provisions of Rule 88A shall be applicable for tax period March 2019 onwards.

In exam please use Rule 88A

Example 39:

Amount of Input tax Credit available and output liability under different tax heads

Head	Output Liability	Input tax Credit
Integrated Tax	1000	1300
Central Tax	300	200
State Tax/UTGST	300	200
Total	1600	1700

Option1:

Input tax Credit on account of	Discharge of output liability on account of Integrated tax	Discharge of output liability on account of Central tax	Discharge of output liability on account of State tax / Union Territory tax	Balance of Input Tax Credit
Integrated Tax	1000	200	100	0
Input tax Credit on account of Integrated tax has been completely exhausted				
Central Tax	0	100	-	100
State Tax/Union Territory Tax	0	-	200	0
Total	1000	300	300	100

Option 2:

Input tax Credit on account of	Discharge of output liability on account of Integrated tax	Discharge of output liability on account of Central tax	Discharge of output liability on account of State tax / Union Territory tax	Balance of Input Tax Credit
Integrated Tax	1000	100	200	0
Input tax Credit on account of Integrated tax has been completely exhausted				
Central Tax	0	200	-	0
State Tax/Union Territory Tax	0	-	100	100
Total	1000	300	300	100

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

Section 18 Credit in Special Circumstances

Section 18(1):

- Person who has applied for registration within 30 days from the date on which he becomes liable for registration and has been granted registration, shall be entitled to take ITC in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date from which he becomes liable to pay tax.
- Person who takes registration under Sec. 25 (3) [voluntarily registration], shall be entitled to take ITC in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date of grant of registration.
- where any registered person ceases to pay tax under section 10 (composition dealer), shall be entitled to take ITC in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock and on capital goods (credit on capital goods shall be reduced by such percentage points as prescribed) on the day immediately preceding the date from which he becomes liable to pay tax under Section 9.
- where an exempt supply of goods or services or both by a registered person becomes a taxable supply, such person shall be entitled to take ITC in inputs held in stock and inputs contained in semi-finished or finished goods held in stock and on capital goods exclusively used for such exempt supply (credit on capital goods shall be reduced by such percentage points as prescribed) on the day immediately preceding the date from which he becomes liable to pay tax under Sec. 9.

Example 40: Mr. A whose liability arises, say, on 1st April, may have paid GST on his purchases, say from 1st January, is required to take registration within 30 days from 1st April i.e. upto 30th April. Supposedly, the dealer applies for registration for 29th April, ITC shall be allowed in respect of inputs held in stock, inputs contained in semi-finished goods or finished goods held in stock as on 31st March.

Example 41: Suppose in the above example, if the supplier whose liability arises, say, on 1st April, applies for registration on 6th May, when he was required to take registration within 30 days i.e. upto 30th April. Now, supposedly, registration is granted on 9th May. In such case, ITC would be allowed only from 9th May. It would lead to loss of ITC for the period prior to 9th May.

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

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

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

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

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

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Telegram Group for Doubt Clearance

<https://telegram.me/cafinalidtamitjain>

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

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

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

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

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

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

Rule 40 Manner of claiming ITC in special circumstances

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

(a) the input tax credit on capital goods, in terms of clauses (c) and (d) of sub-section (1) of section 18, shall be claimed after reducing the tax paid on such capital goods by five percentage points per quarter of a year or part thereof from the date of the invoice or such other documents on which the capital goods were received by the taxable person.

(b) the registered person shall within a period of thirty days from the date of becoming eligible to avail the input tax credit under sub-section (1) of section 18, or within such further period as may be extended by the Commissioner by a notification in this behalf, shall make a declaration, electronically, on the common portal in FORM GST ITC-01 to the effect that he is eligible to avail the input tax credit as aforesaid:

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

(c) the declaration under clause (b) shall clearly specify the details relating to the inputs held in stock or inputs contained in semi-finished or finished goods held in stock, or as the case may be, capital goods—

(i) on the day immediately preceding the date from which he becomes liable to pay tax under the provisions of the Act, in the case of a claim under clause (a) of sub-section (1) of section 18;

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

(iii) on the day immediately preceding the date from which he becomes liable to pay tax under section 9, in the case of a claim under clause (c) of sub-section (1) of section 18;

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

- (iv) on the day immediately preceding the date from which the supplies made by the registered person becomes taxable, in the case of a claim under clause (d) of sub-section (1) of section 18;
 - (d) the details furnished in the declaration under clause (b) shall be duly certified by a practicing chartered accountant or a cost accountant if the aggregate value of the claim on account of central tax, State tax, Union territory tax and integrated tax exceeds two lakh rupees;
 - (e) the input tax credit claimed in accordance with the provisions of clauses (c) and (d) of sub-section (1) of section 18 shall be verified with the corresponding details furnished by the corresponding supplier in FORM GSTR-1 or as the case may be, in FORM GSTR- 4, on the common portal.
- (2) The amount of credit in the case of supply of capital goods or plant and machinery, **for the purposes of sub-section (6) of section 18, shall be calculated by reducing the input tax on the said goods at the rate of five percentage points for every quarter or part thereof from the date of the issue of the invoice for such goods.**

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

- (1) A registered person shall, in the event of sale, merger, de-merger, amalgamation, lease or transfer or change in the ownership of business for any reason, furnish the details of sale, merger, de-merger, amalgamation, lease or transfer of business, in FORM GST ITC-02, electronically on the common portal along with a request for transfer of unutilized input tax credit lying in his electronic credit ledger to the transferee:
Provided that in the case of demerger, the input tax credit shall be apportioned in the ratio of the value of assets of the new units as specified in the demerger scheme.
Explanation:- For the purpose of this sub-rule, it is hereby clarified that the “value of assets” means the value of the entire assets of the business, whether or not input tax credit has been availed thereon.
- (2) The transferor shall also submit a copy of a certificate issued by a practicing chartered accountant or cost accountant certifying that the sale, merger, de-merger, amalgamation, lease or transfer of business has been done with a specific provision for the transfer of liabilities.
- (3) The transferee shall, on the common portal, accept the details so furnished by the transferor and, upon such acceptance, the un-utilized credit specified in FORM GST ITC- 02 shall be credited to his electronic credit ledger.
- (4) The inputs and capital goods so transferred shall be duly accounted for by the transferee in his books of account.

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

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

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

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

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

Circular No.133/03/2020-GST dated 23rd March 2020

Sr. No.	Issue/Question	Clarification
A1	In case of demerger of entity, whether the value of assets of the new units to be considered at State level or at all India level for the purpose of transfer of ITC	State level Illustration A company XYZ is registered in two States of M.P. and U.P. Its total value of assets is worth Rs. 100 crore, while its assets in State of M.P. and U.P are Rs 60 crore and Rs 40 crore respectively. It demerges a part of its business to company ABC. As a part of such demerger, assets of XYZ amounting to Rs 30 Crore are transferred to company ABC in State of M.P, while assets amounting to Rs 10 crore only are transferred to ABC in State of U.P. (Total assets amounting to Rs 40 crore at all-India level are transferred from XYZ to ABC). The unutilized ITC of XYZ in State of M.P. shall be transferred to ABC on the basis of ratio of value of assets in State of M.P., i.e. $30/60 = 0.5$ and not on the basis of all-India ratio of value of assets, i.e. $40/100=0.4$. Similarly, unutilized ITC of XYZ in State of U.P. will be transferred to ABC in ratio of value of assets in State of U.P., i.e. $10/40 = 0.25$.
A2	Is the transferor required to file FORM GST ITC – 02 in all the States where it is registered	Only in those states where both transferor and transferee are registered
B	Whether the proviso to rule 41(1) of the CGST Rules, 2017 would be applicable to calculate the amount of transferable ITC in case of business reorganization other than 'demerger'?	Yes, it shall be applicable to all forms of business re-organization that results in partial transfer of business assets along with liabilities
C1	Manner of applying the ratio of value of assets, in respect of each of the heads of input tax credit viz. CGST/ SGST/ IGST/ Cess	It has to be applied on total amount of unutilized ITC and not for each head separately. Illustration : The ITC balances of transferor X in the State of Maharashtra under CGST, SGST and IGST heads are 5 lakh, 5 lakh and 10 lakh respectively. Pursuant to a scheme of demerger, X transfers 60% of its assets to transferee B. Accordingly, the amount of ITC to be transferred from A to B shall be 60% of 20 lakh (total sum of CGST, SGST and IGST credit) i.e. 12 lakh.
C2	Manner of determination of ITC that is to be transferred to the	The amount to be transferred under each head shall be at the liberty of the transferor subject to maximum ITC available for transfer.

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

	transferee under each tax head i.e. IGST/CGST/SGST.				ITC balance of Transferor (pre apportionment) as on the date of filing FORM GST ITC-02)	Total amount of ITC transferred to the Transferee under FORM GST ITC02	ITC balance of Transferor (post apportionment) after filing of FORM GST ITC-02) [Col (4) – Col (5)]
		Delhi	70%	CGST	10,00,000	10,00,000	0
				SGST	10,00,000	10,00,000	0
				IGST	30,00,000	15,00,000	15,00,000
				Total	50,00,000	35,00,000	15,00,000
		Haryana	70%	CGST	25,00,000	3,00,000	22,00,000
				SGST	25,00,000	5,00,000	20,00,000
				IGST	20,00,000	20,00,000	0
				Total	70,00,000	28,00,000	42,00,000
D1	Relevant date for calculating the amount of unutilized ITC balance to be transferred	The relevant date for this purpose is the date of filing FORM GST ITC – 02 by the transferor					
D2	Relevant date to calculate the ratio of value of assets	The relevant date would be “Appointed date of demerger” as defined in Section 232(6) of the Companies Act 2013.					

Rule 44 Manner of reversal of credit under Special Circumstances

- (1) The amount of input tax credit relating to inputs held in stock, inputs contained in semi-finished and finished goods held in stock, and capital goods held in stock shall, for the purposes of sub-section (4) of section 18 or sub-section (5) of section 29, be determined in the following manner, namely,-
 - (a) for inputs held in stock and inputs contained in semi-finished and finished goods held in stock, the input tax credit shall be calculated proportionately on the basis of the corresponding invoices on which credit had been availed by the registered taxable person on such inputs;
 - (b) for capital goods held in stock, the input tax credit involved in the remaining useful life in months shall be computed on pro-rata basis, taking the useful life as five years.
- (2) The amount, as specified in sub-rule (1) shall be determined separately for input tax credit of central tax, State tax, Union territory tax and integrated tax.
- (3) Where the tax invoices related to the inputs held in stock are not available, the registered person shall estimate the amount under sub-rule (1) based on the prevailing market price of the goods on the effective date of the occurrence of any of the events specified in sub-section (4) of section 18 or, as the case may be, sub-section (5) of section 29.
- (4) The amount determined under sub-rule (1) shall form part of the output tax liability of the registered person and the details of the amount shall be furnished in FORM GST ITC-03, where such amount relates to any event specified in sub-section (4) of section 18 and in FORM GSTR-10, where such amount relates to the cancellation of registration.

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

- (5) The details furnished in accordance with sub-rule (3) shall be duly certified by a practicing chartered accountant or cost accountant.
- (6) The amount of input tax credit for the purposes of sub-section (6) of section 18 relating to capital goods shall be determined in the same manner as specified in clause (b) of sub rule (1) and the amount shall be determined separately for input tax credit of central tax, State tax, Union territory tax and integrated tax: *{please refer to rule 40 (2). Look like that is more relevant for Section 18 (6)}* Provided that where the amount so determined is more than the tax determined on the transaction value of the capital goods, the amount determined shall form part of the output tax liability and the same shall be furnished in FORM GSTR-1.

Example 42: Mr. Z becomes liable to pay tax on 1st August and has obtained registration on 15th August. Mr. Z is eligible for ITC on inputs held in stock and as part of semi-finished goods or finished goods held in stock as on 31st July 2017. Mr. Z cannot take ITC on capital goods.

Example 43: Mr. A applies for voluntarily registration on 5th June and obtain registration on 22nd June. Mr. A is eligible for ITC on inputs held in stock and as part of semi-finished goods or finished goods held in stock as on 21st June. Mr. A cannot take ITC on capital goods.

Example 44: Mr. B, a registered taxable person, was paying tax at composition rate upto 30th July. However, w.e.f. 31st July, Mr. B becomes liable to pay tax under regular scheme. Mr. B will be eligible for ITC on inputs held in stock and inputs contained in semi-finished or finished goods held in stock and on capital goods as on 30th July. ITC on capital goods will be reduced by 5% per quarter from the date of the invoice.

Example 45: Capital goods have been in use for 4 years, 6 month and 15 days.

The useful remaining life in months = 5 months ignoring a part of the month.

ITC taken on such capital goods = C

ITC attributable to remaining useful life = $C * 5/60$

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

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

 The most important condition is that 'inputs' must be received within 1 year (from the date of dispatch by principal or if it is directly sent through supplier then from the date when job worker receive) or supplied from the place of business of job worker & 'capital goods' must be received back in 3 years. No time period in case of moulds & dies, jogs, fixtures or tools. This 1 year or 3 years can be further extended by the Commissioner for a further period not exceeding 1 year or 2 years respectively.

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

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

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

- (1) The inputs, semi-finished goods or capital goods shall be sent to the job worker under the cover of a challan issued by the principal, including where such goods are sent directly to a job-worker, and where the goods are sent from one job worker to another job worker, the challan may be issued either by the principal or the job worker sending the goods to another job worker:
Provided that the challan issued by the principal may be endorsed by the job worker, indicating therein the quantity and description of goods where the goods are sent by one job worker to another or are returned to the principal: Provided further that the challan endorsed by the job worker may be further endorsed by another job worker, indicating therein the quantity and description of goods where the goods are sent by one job worker to another or are returned to the principal.
- (2) The challan issued by the principal to the job worker shall contain the details specified in rule 55.
- (3) The details of challans in respect of goods dispatched to a job worker or received from a job worker ~~or sent from one job worker to another~~ during a quarter shall be included in FORM GST ITC-04 furnished for that period on or before the twenty-fifth day of the month succeeding the said quarter or within such further period as may be extended by the Commissioner by a notification in this behalf:
Provided that any extension of the time limit notified by the Commissioner of State tax or the Commissioner of Union territory tax shall be deemed to be notified by the Commissioner.
- (4) Where the inputs or capital goods are not returned to the principal within the time stipulated in section 143, it shall be deemed that such inputs or capital goods had been supplied by the principal to the job worker on the day when the said inputs or capital goods were sent out and the said supply shall be declared in FORM GSTR-1 and the principal shall be liable to pay the tax along with applicable interest.

Example 46: A supplier of notebooks for schools sends the paper of required dimensions and GSM to a job worker for making the notebooks as per the design given by him.

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

Section 20 Manner of distribution of credit by input service distributor

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

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

- (a) the credit can be distributed to the recipients of credit against a document containing such details as may be prescribed;
- (b) the amount of the credit distributed shall not exceed the amount of credit available for distribution;
- (c) the credit of tax paid on input services attributable to a recipient of credit shall be distributed only to that recipient;
- (d) the credit of tax paid on input services attributable to more than one recipient of credit shall be distributed amongst such recipients to whom the input service is attributable and such distribution shall be pro rata on the basis of the turnover in a State or turnover in a Union territory of such

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

recipient, during the relevant period, to the aggregate of the turnover of all such recipients to whom such input service is attributable and which are operational in the current year, during the said relevant period;

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

Explanation. – For the purposes of this section,–

- (a) the “relevant period” shall be–
- if the recipients of credit have turnover in their States or Union territories in the financial year preceding the year during which credit is to be distributed, the said financial year; or
 - if some or all recipients of the credit do not have any turnover in their States or Union territories in the financial year preceding the year during which the credit is to be distributed, the last quarter for which details of such turnover of all the recipients are available, previous to the month during which credit is to be distributed;
- (b) the expression “recipient of credit” means the supplier of goods or services or both having the same Permanent Account Number as that of the Input Service Distributor;
- (c) the term “turnover”, in relation to any registered person engaged in the supply of taxable goods as well as goods not taxable under this Act, means the value of turnover, reduced by the amount of any duty or tax levied under entry entries 84 and 92A of List I of the Seventh Schedule to the Constitution and entries 51 and 54 of List II of the said Schedule.

Section 21 Manner of recovery of credit distributed in excess

Where the Input Service Distributor distributes the credit in contravention of the provisions contained in section 20 resulting in excess distribution of credit to one or more recipients of credit, the excess credit so distributed shall be recovered from such recipients along with interest, and the provisions of section 73 or section 74, as the case may be, shall, mutatis mutandis, apply for determination of amount to be recovered.

Rule 39 Procedure for distribution of ITC by Input Service Distributor

- (1) An Input Service Distributor shall distribute input tax credit in the manner and subject to the following conditions, namely,–
- the input tax credit available for distribution in a month shall be distributed in the same month and the details thereof shall be furnished in **FORM GSTR- 6** in accordance with the provisions of Chapter VIII of these rules;
 - the Input Service Distributor shall, in accordance with the provisions of clause (d), separately distribute the amount of ineligible input tax credit (ineligible under the provisions of sub-section (5) of section 17 or otherwise) and the amount of eligible input tax credit;
 - the input tax credit on account of central tax, State tax, Union territory tax and integrated tax shall be distributed separately in accordance with the provisions of clause (d);
 - the input tax credit that is required to be distributed in accordance with the provisions of clause (d) and (e) of sub-section (2) of section 20 to one of the recipients ‘**R1**’, whether registered or not, from amongst the total of all the recipients to whom input tax credit is attributable, including the recipient(s) who are engaged in making exempt supply, or are otherwise not registered for any reason, shall be the amount, “**C1**”, to be calculated by applying the following formula –

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

where,

“**C**” is the amount of credit to be distributed,

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

- “t1” is the turnover, as referred to in section 20, of person R1 during the relevant period, and
 “T” is the aggregate of the turnover, during the relevant period, of all recipients to whom the input service is attributable in accordance with the provisions of section 20;
- (e) the input tax credit on account of integrated tax shall be distributed as input tax credit of integrated tax to every recipient;
 - (f) the input tax credit on account of central tax and State tax or Union territory tax shall-
 - (i) in respect of a recipient located in the same State or Union territory in which the Input Service Distributor is located, be distributed as input tax credit of central tax and State tax or Union territory tax respectively;
 - (ii) in respect of a recipient located in a State or Union territory other than that of the Input Service Distributor, be distributed as integrated tax and the amount to be so distributed shall be equal to the aggregate of the amount of input tax credit of central tax and State tax or Union territory tax that qualifies for distribution to such recipient in accordance with clause (d);
 - (g) the Input Service Distributor shall issue an Input Service Distributor invoice, as prescribed in sub-rule (1) of rule 54, clearly indicating in such invoice that it is issued only for distribution of input tax credit;
 - (h) the Input Service Distributor shall issue an Input Service Distributor credit note, as prescribed in sub-rule (1) of rule 54, for reduction of credit in case the input tax credit already distributed gets reduced for any reason;
 - (i) any additional amount of input tax credit on account of issuance of a debit note to an Input Service Distributor by the supplier shall be distributed in the manner and subject to the conditions specified in clauses (a) to (f) and the amount attributable to any recipient shall be calculated in the manner provided in clause (d) and such credit shall be distributed in the month in which the debit note is included in the return in **FORM GSTR-6**;
 - (j) any input tax credit required to be reduced on account of issuance of a credit note to the Input Service Distributor by the supplier shall be apportioned to each recipient in the same ratio in which the input tax credit contained in the original invoice was distributed in terms of clause (d), and the amount so apportioned shall be-
 - (i) reduced from the amount to be distributed in the month in which the credit note is included in the return in **FORM GSTR-6**; or
 - (ii) added to the output tax liability of the recipient where the amount so apportioned is in the negative by virtue of the amount of credit under distribution being less than the amount to be adjusted.
 - (2) If the amount of input tax credit distributed by an Input Service Distributor is reduced later on for any other reason for any of the recipients, including that it was distributed to a wrong recipient by the Input Service Distributor, the process specified in clause (j) of sub rule (1) shall apply, mutatis mutandis, for reduction of credit.
 - (3) Subject to sub-rule (2), the Input Service Distributor shall, on the basis of the Input Service Distributor credit note specified in clause (h) of sub-rule (1), issue an Input Service Distributor invoice to the recipient entitled to such credit and include the Input Service Distributor credit note and the Input Service Distributor invoice in the return in **FORM GSTR-6** for the month in which such credit note and invoice was issued.

Example 47: ABC Ltd. a confectionary manufacturer, has paid bills of an advertising company amounting to Rs. 24 Lacs for advertising campaigns for two varieties of cakes, which are manufactured at separate locations in Pune and Bangalore. The company had a total turnover of Rs. 112 crores in the previous financial year. The turnover of the Pune unit was Rs. 5 crores, and the turnover of the Bangalore unit was Rs. 10 crores. The aggregate turnover here is taken as Rs. 15 crores, as advertising was for cakes, which are manufactured at these two units only.

The ITC is to be distributed Pune and Bangalore units in the ratio 1:2. Therefore, Pune unit will be given ITC of Rs. 8 Lacs, and the Bangalore unit will be given ITC of Rs. 16 Lacs for the advertising bills.

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Example 48: XYZ Ltd., having its head office at Mumbai, is registered as ISD. It has three units in different cities situated in different States namely Mumbai, Jabalpur and Delhi which are operational in the current year.

M/s XYZ Ltd. furnishes the following information for the month of July 20XX

- (i) CGST paid on services used only for Mumbai Unit Rs. 3,00,000
- (ii) IGST, CGST & SGST paid on services used for all units Rs. 12,00,000

Total Turnover of the units for the previous financial year are as follows –

Total Turnover Rs. 10,00,00,000

Turnover Mumbai Rs. 5,00,00,000

Turnover Jabalpur Rs. 3,00,00,000

Determine the credit to be distributed by XYZ Ltd. to each of its three units.

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

Note 1: Credit distributed pro rata on the basis of the turnover of all the units is as under :-

- 1. Unit Mumbai $(5,00,00,000/10,00,00,000) \times 12,00,000 = \text{Rs. } 6,00,000$
- 2. Unit Jabalpur $(3,00,00,000/10,00,00,000) \times 12,00,000 = \text{Rs. } 3,60,000$
- 3. Unit Delhi $(2,00,00,000/10,00,00,000) \times 12,00,000 = \text{Rs. } 2,40,000$

Example 49: ABC Ltd., a registered supplier of goods having Head Office at Delhi, also registered as ISD, furnishes the following information for month of July 2018 and asks you to distribute the credit to various units:

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

Total Turnover for the units for the year ending 31st March, 2018 is Rs. 3,30,00,000 with details are as under :

Unit I Rs. 50,00,000

Unit II Rs. 30,00,000

Unit III (not registered as exclusively engaged in exempt goods) Rs. 1,50,00,000

Unit IV Rs. 1,00,00,000

All units are operational during the current year. Unit I is located in Delhi whereas Unit II is in Mumbai, Unit III is in Rajasthan and Unit IV is in Gujarat. Compute credit attributable to each of the units.

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

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

Working Notes:-

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

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

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

Moulds and dies owned by the original equipment manufacturer (OEM) which are provided to a component manufacturer (the two not being related persons or distinct persons) on free on cost (FOC) basis does not constitute a supply as there is no consideration involved. Further, since the moulds and dies are provided on FOC basis by the OEM to the component manufacturer in the course or furtherance of his business, there is no requirement for reversal of input tax credit availed on such moulds and dies by the OEM.

However, where the contract between OEM and component manufacturer is for supply of components made by using the moulds/dies belonging to the component manufacturer, but the same have been supplied by the OEM to the component manufacturer on FOC basis, the OEM will be required to reverse the credit availed on such moulds/ dies, as the same will not be considered to be provided by OEM to the component manufacturer in the course or furtherance of the former's business [Circular No. 47/21/2018 GST dated 08.06.2018].

Return of time expired medicines/drugs

Where the time expired medicines/drugs (goods) returned by the retailer/wholesaler as a fresh supply, are destroyed by the manufacturer, he/she is required to reverse the ITC availed on the return supply in terms of section 17(5)(h) of the CGST Act. It is pertinent to mention here that the ITC which is required to be reversed in such scenario is the ITC availed on the return supply and not the ITC that is attributable to the manufacture of such time expired goods. Illustration: Supposedly, manufacturer has availed ITC of Rs. 10/- at the time of manufacture of medicines valued at Rs. 100/-. At the time of return of such medicine on the account of expiry, the ITC available to the manufacturer on the basis of fresh invoice issued by wholesaler is Rs. 15/-. So, when the time expired goods are destroyed by the manufacturer, he would be required to reverse ITC of Rs. 15/- and not of Rs. 10/.

The clarification may also be applicable to return of goods for reasons other than being time expired. [Circular No. 72/46/2018 GST Dated 26.10.2018].

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Question & Answer

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

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

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

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

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

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

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

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

Note:

- (i) All the conditions necessary for availing the ITC have been fulfilled.
- (ii) ABC Co. Ltd. is not eligible for any threshold exemption.

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

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

A.

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

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

A.

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

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

A.

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

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

A.

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

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Credit carried forward in Electronic Credit Ledger	280	280
--	-----	-----

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

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

A.

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

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

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

A.

Credit Available with ISD at Delhi	Chennai	Bangalore
	Amount in Lacs	
Directly Attributable		
SGST as IGST	5	3
CGST as IGST	5	2
IGST as IGST	10	5
Total (a)	20	10
Common Credit		
SGST as IGST (5*10/40) or (5*30/40)	1.25	3.75
CGST as IGST (7*10/40) or (7*30/40)	1.75	5.25
IGST as IGST (8*10/40) or (8*30/40)	2	6
Total (b)	5	15
Total (a+b)	25	25

Q8. ABC Ltd. a registered person supplying taxable goods in Jaipur has opted to pay tax on composition scheme u/s 10 with effect from 1st April 2018. It provides following information relating to balance of ITC lying as on 31st March 2018:

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

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

2. Inputs contained in finished goods where tax invoice is not available relating to such inputs but it is known that market price of such inputs (inclusive of CGST & SGST @ 12%) on 31st March 2018 is Rs. 1,79,200
3. ITC on capital goods purchased on 29th November 2017 is Rs. 1,44,000
4. Balance in Electronic credit ledger is Rs. 2,20,000.

Decide whether ABC Ltd. is eligible for ITC lying on 31st March 2018,

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

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

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

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

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

A.

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

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

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

Q11. ABC Ltd. a registered manufacturer demerged its entity into AB cement Ltd. and BC Steel Ltd. the total value of assets of ABC Ltd. is Rs. 25,00,000 and unutilized credit on account of CGST, SGST and IGST

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Telegram Group for Doubt Clearance

<https://telegram.me/cafinalidtamtjain>

amounted to Rs. 60,000, Rs. 45,000 and Rs. 84,600 respectively. The value of assets of AB cement Ltd. and BC Steel Ltd. is Rs. 12,00,000 and Rs. 13,00,000 respectively obtained as per the scheme. Discuss the eligibility of credit transferred to new units on account of Demerger?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

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

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

A. (A) Tax payable

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

(B) ITC Available

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

(B) Net Tax Payable

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

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

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

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

You are required to answer:

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

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

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

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

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

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

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

Note:

(i) Goods received in lots ITC available only on receipt of last lot/installment [1st proviso to Sec 16(2)]

(ii) ITC is admissible only upon receipt of goods. Thus, ITC not admissible in respect of goods not received.

Q15. M/s X Ltd. has establishment in Chennai, and establishment in Hyderabad. Supply of goods (open market value of Rs. 5,00,000) made by M/s X Ltd. Chennai to M/s X Ltd. Hyderabad. M/s X Ltd. Chennai paid IGST of Rs. 60,000. Accordingly M/s X Ltd. Hyderabad availed the input tax credit of Rs. 60,000. 2nd Proviso to Section 16(2) of CGST Act, 2017 is applicable in the given case (i.e. to reverse the credit where payment is not made within 180 days from the date of invoice). Discuss.

A. As per proviso to rule 37(1) of the CGST Rules, 2017, the value of supplies made without consideration as specified in Schedule I of the said Act shall be deemed to have been paid for the purposes of the second proviso to sub-section (2) of section 16. In the given case M/s X Ltd. Hyderabad is not required to reverse the input tax credit. Since, as per Section 25(4) of the CGST Act, 2017 two establishments are considered as establishment of distinct person and accordingly, supply made by one establishment to another establishment will be covered under Schedule I without consideration.

Q16. XYZ Ltd. is engaged in supply of passenger transportation services. In the month of September, 2017, it has purchased two motor vehicles for Rs. 18,00,000 plus GST @28%. You are required to advise XYZ Ltd. if it can avail Input tax credit of the GST paid by it on motor vehicles.

A. As per Section 17(5)(a), input tax credit shall not be available in respect of motor vehicles having approved seating capacity of not more than thirteen person (including the driver). However, credit will be available when they are used for making the supplies of transportation of passengers. In this case XYZ Ltd. is engaged in transportation of passengers it will be entitled to take credit of GST amounting Rs. 5,04,000 i.e. [Rs. 18,00,000 × 28%].

Q17. ABC Bank has purchased a van for transportation of cash (money). Whether ITC of such motor van is admissible?

A. The blockage is only for the motor vehicle for transportation of passengers. Under GST law, Cash/money is neither goods nor services {Sec 2(52) and Sec 2(102) of CGST Act}. But since it is not specifically blocked in CGST Act, ABC Bank is eligible for ITC of motor vans purchased by it for transportation of cash.

Q18. ABC Ltd. is engaged in supply of transport of passengers by air services. The company avails outdoor catering services of XYZ Caterers in order to provide food and beverages to the passengers. XYZ Caterers raises an invoice on ABC Ltd charging GST. ABC Ltd. wants to avail the ITC on outdoor catering services supplied by XYZ Caterers. Advise.

A. ITC shall be available where an inward supply of goods or services or both of a particular category is used by a registered person as an element of a taxable composite or mixed supply.

In the given case, ABC Ltd will be entitled to avail the ITC of the GST paid to XYZ Caterers since outdoor catering services forms part of taxable composite supply of passengers by air services.

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

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

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

Q20. Mr. A of USA being technician came to India to assemble parts of machinery. He also imported goods worth Rs. 10,00,000 and paid following customs duties:

- (i) Basic customs duty is Rs. 1,00,000.
- (ii) Integrated Goods and Services Tax (IGST) of Rs. 1,98,540.

In India Mr. A wants to register as non-resident taxable person and his estimated liability is Rs. 2,50,000. How much Mr. A is liable to pay as advance tax?

A. Mr A is Non-resident taxable person. NRTP needs to pay tax in advance before he is granted registration certificate. NRTP is entitled to book credit of goods imported by him. However, only IGST paid on imported goods is eligible 'input tax'. Thus, ITC admissible to him is Rs 1,98,540.

Considering the admissible amount of ITC, Mr. A of USA is liable to pay advance tax of Rs. 51,460. (i.e. Rs. 2,50,000 – 1,98,540)

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

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

A.

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

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

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

1. Consultancy given to different clients during October 20XX (but not including the transactions given below) (invoice value : Rs. 35,70,000).
2. Consultancy given to A Ltd. (invoice value : Rs. 8,000, market value of supply : Rs. 50,000, X holds 40 percent shares in A Ltd.)
3. Consultancy given to B (invoice value : nil, market value of supply : Rs. 48,000, B is not a relative of X).
4. Consultancy given to Mrs. X (invoice value : nil, market value of supply : Rs. 75,000, Mrs. X is not dependent upon X).
5. Consultancy given to C, younger brother of X (invoice value : nil, market value of supply : Rs. 60,000, C is not dependent upon X).

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Telegram Group for Doubt Clearance

<https://telegram.me/cafinalidtamitjain>

6. Consultancy given to D, elder brother of X (invoice value : nil, market value of supply : Rs. 70,000, D is dependent upon X).

7. Consultancy given to E, an employee of X (invoice value : nil, market value of supply : Rs. 80,000).

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

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

A.

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

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

1. Service by bay of waxing, retail packing, labelling of apples provided to A Plantation (P.) Ltd., Ludhiana (invoice value : Rs. 17,10,000).
2. Service by way of packing and labelling of chemical goods provided to B Ltd. (invoice value : Rs. 28,00,000).

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

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

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

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

- Balance available in electronic credit ledger on January 1, 2018 : Rs. 61,000.
- Fees paid to an interior decorator for canteen of X Ltd. (taxable value : Rs. 10,000, GST : Rs. 1,800).
- Membership of health club for employees (amount of GST being Rs. 17,000).

A.

Particulars	Amount (Rs.)
Service by way of waxing, retail packing, labelling of apples provided to A Plantation (P.) Ltd. [it is exempt from GST vide Exemption Notification (Sr. No. 57)]	Nil
Service by way of packing and labelling of chemical goods provided to B Ltd.	28,00,000
Service by way of packing of leather goods provided to C Ltd. (X Ltd. and C Ltd. are related, GST applicable on market value)	6,50,000
Service by way of waxing and packing of wooden toys provided to D Ltd.	5,00,000
Advance payment from E Ltd. (Rs. 50,000 × 100 ÷ 118)	42,373
Total Outward Supply	39,92,373
GST @ 18%	7,18,627
Less:- Input Tax Credit	62,800
Balance available in electronic credit ledger on January 1, 2018	61,000
Fees paid to an interior decorator for canteen	1,800
Membership of health club for employees (not eligible)	NIL
Balance to be paid through electronic cash ledger	6,55,827

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

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

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

Whichever is earlier.

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

- 20th Oct'18 being due date of furnishing return of month of Sept'18;
- 12th Aug'18 being the date of furnishing of annual return.

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

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

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

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

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

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

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

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

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

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

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

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

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

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

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

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

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

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

ABC Ltd. for supply of works contract service. Hence, ABC Ltd. can avail the ITC of the GST charged on the input service provided by the sub-contractor.

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

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

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

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

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

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

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

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

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

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

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

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

Credit (CGST and SGST) available on capital goods	10,200
---	--------

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

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

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

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

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

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

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

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

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

Working Notes:

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

2. Credit available in respect of capital goods:

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

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

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

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

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

Computation of amount of tax payable by ABC Ltd.

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

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

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

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

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

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

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

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

Exempt turnover = Rs. 2 Crore

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

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

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

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

A. The excess credit of Rs. 4,00,000 (Rs. 24,00,000- Rs. 20,00,000) distributed would be recovered from the recipient along with interest and the provisions of section 73 or 74 shall apply mutatis mutandis for effecting such recovery.

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Telegram Group for Doubt Clearance

<https://telegram.me/cafinalidtamtjain>

Q35. Total Credit Available to ISD is Rs. 15,00,000/- & the credit should have been distributed equal to all the units as all units had equal turnover, however credit distributed in violation of Section 21, as under:

Delhi Rs. 7,00,000, Jaipur Rs. 6,00,000, Ahmedabad Rs. 2,00,000. What will be the consequences?

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

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

A. Yes. Section 17(5)(b) of the CGST Act provides that tax paid w.r.t health insurance services will be eligible as input tax credit where the Government notifies that such services are obligatory for an employer to provide to its employees under any law for the time being in force. If not notified by the Government then it is not available.

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

A. Input tax credit is not available on goods or services received by a taxable person for construction of an immovable property on his own account other than plant and machinery even when used in course or furtherance of business. The word "construction" includes reconstruction, renovation, additions or alterations or repairs to the extent of capitalization to the said immovable property. If the cost of interiors is capitalized towards the cost of immovable property, then it forms part of the cost of immovable property (Service apartment) and accordingly taxes paid on change of interiors of service apartment will not be eligible as input tax credit.

Q38. In case the amount is paid partly to the supplier of service, whether full taxes can be adjusted first? If no, then, whether it has to be calculated proportionately?

A. No, there is no provision under the GST law to allocate part payment of the invoice towards the taxes first so that the input tax credit can be allowed. Second proviso to Section 16(2) of the CGST Act clearly provides that the entire value of supply (with tax) is to be paid within 180 days from the date of issue of invoice. Therefore, as long as the entire payment is made within 180 days, the recipient would be entitled to claim the credit in full.

Assuming that only part payment is made within 180 days, availing of proportionate credit based on such part payment is not provided for under the CGST Act. However, Rule 37(1) of the CGST Rules provides for availability of the amount of input tax credit availed of proportionate to the amount paid to the supplier.

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions
30 out of 30 in MCQs by studying from this book

Chapter 9: - Registration

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

Section 22 Persons liable for registration

- (1) Every supplier shall be liable to be registered under this Act in the State or Union territory, other than special category States, from where he makes a **taxable supply of goods or services or both**, if his **aggregate turnover in a financial year exceeds twenty lakh rupees**:
Provided that where such person makes taxable supplies of goods or services or both from any of the **special category States**, he shall be liable to be registered if his **aggregate turnover in a financial year exceeds ten lakh rupees**.
Provided further that the Government may, at the request of a special category State and on the recommendations of the Council, enhance the aggregate turnover referred to in the first proviso from ten lakh rupees to such amount, not exceeding twenty lakh rupees and subject to such conditions and limitations, as may be so notified.
Provided also that the Government may, at the request of a State and on the recommendations of the Council, enhance the aggregate turnover from twenty lakh rupees to such amount not exceeding forty lakh rupees in case of supplier who is engaged exclusively in the supply of goods, subject to such conditions and limitations, as may be notified.
Explanation.—For the purposes of this sub-section, a person shall be considered to be engaged exclusively in the supply of goods even if he is engaged in exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.
- (2) Every person who, on the day immediately **preceding the appointed day**, is registered or holds a license **under an existing law**, shall be liable to be registered under this Act with effect from the appointed day.
- (3) Where a **business carried on by a taxable person registered under this Act is transferred**, whether on account of succession or otherwise, to another person as a going concern, the **transferee or the successor**, as the case may be, **shall be liable to be registered** with effect from the date of such transfer or succession.
- (4) Notwithstanding anything contained in sub-sections (1) and (3), in a case of **transfer pursuant to sanction of a scheme or an arrangement for amalgamation or, as the case may be, de-merger of two or more companies pursuant to an order of a High Court, Tribunal or otherwise**, the transferee shall be **liable to be registered**, with effect from the date on which the Registrar of Companies issues a certificate of incorporation giving effect to such order of the High Court or Tribunal.

Except sub-section (1), other sub-sections
compulsory registration

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Telegram Group for Doubt Clearance

<https://telegram.me/cafinalidtamitjain>

Explanation:-

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

Threshold Limit for Registration for Exclusive supplier of goods

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

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

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

Threshold Limit for Registration under Composition

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

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

Section 24 is not subject to Section 23

Section 24 Compulsory Registration in Certain cases

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

- (i) persons making any **inter-State taxable supply**;
- (ii) **casual taxable persons** making taxable supply;
- (iii) persons who are required to pay **tax under reverse charge**;
- (iv) **person who are required to pay tax under sub-section (5) of section 9**;
- (v) **non-resident taxable persons** making taxable supply;
- (vi) persons who are required to **deduct tax under section 51**, whether or not separately registered under this Act;
- (vii) persons who make **taxable supply of goods or services or both on behalf of other taxable persons whether as an agent or otherwise** {now it has been clarified that such registration is required only by C & F agents who stock and sale goods on behalf of Principal and not by ordinarily commission agents who do not deal in goods or services themselves -CBIC circular No. 57/31/2018-GST Dated 4-9-2018}
- (viii) **Input Service Distributor**, whether or not separately registered under this Act;
- (ix) **persons who supply goods or services or both, other than supplies specified under sub-section (5) of section 9, through such electronic commerce operator who is required to collect tax at source under section 52**;
- (x) every **electronic commerce operator** who is required to collect tax at source U/s 52
- (xi) every person supplying **online information and data base access or retrieval services from a place outside India to a person in India, other than a registered person**; and
- (xii) such other person or class of persons as may be notified by the Government on the recommendations of the Council.

Sec. 51: TDS in GST

Sec. 52: TCS by e-commerce operator

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

Section 23 Persons not liable for registration

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

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

Specified category of persons notified by the Government

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Notification No. 10/2017-IT Dated 13-10-2017 w.e.f. 13-10-2017	Government has specified the person making inter-State supplies of taxable services and having an aggregate turnover, to be computed on all India basis, not exceeding Rs. 20 Lakh in a financial year, is exempt from obtaining registration. If such person aggregate value of such supplies includes Special Category State (according to Section 22 explanation) where threshold is 10 Lacs, then should not exceed Rs. 10 Lakh.
Notification No. 05/2017-CT Dated 19-06-2017 w.e.f. 22-06-2017	Persons only engaged in making taxable supplies, total tax on which is liable to be paid on reverse charge basis – Exempt from obtaining registration. (u/s 9 (3)).
Notification No. 7/2017-IT Dated 14-09-2017	Job worker engaged in making inter-state supply of services – exempt from obtaining registration except engaged in jewelers business . The limit of 20 Lakhs/10 Lakhs will be applicable.
Notification No. 65/2017-CT Dated 15-11-2017	Persons making supplies of services, other than supplies specified U/s 9(5) through an ECO who is required to collect TCS U/s 52 , and having aggregate turnover, not exceeding an amount of Rs. 20 Lakhs in a financial year, as the category of persons exempted from obtaining registration under the said Act. If such person aggregate value of such supplies includes Special Category State (according to Section 22 explanation) where threshold is 10 Lacs, then should not exceed Rs. 10 Lakh.
Notification No. 56/2018 – CT Dated 23.10.2018 Casual Taxable Persons making inter-State taxable supplies of notified goods up to Rs. 20,00,000	As we have seen earlier that as per section 24, a CTP is liable to be registered compulsorily under GST irrespective of the threshold limit. However, following categories of CTPs have been exempted from obtaining registration: - CTPs making inter-State taxable supplies of handicraft goods notified under Notification No. 21/2018 CT (R) Dated 26.07.2018. - CTPs making inter-State taxable supplies of notified products, when made by the craftsmen predominantly by hand even though some machinery may also be used in the process. <u>Conditions to be fulfilled:</u> - CTPs are availing benefit of Notification No. 03/2018 IT Dated 22.10.2018 - The aggregate value of such supplies, to be computed on all India basis, does not exceed an amount of Rs. 20 lakh [Rs. 10 lakh in case of Special Category States] in a FY. - Such persons have obtained a PAN and have generated an away bill.
Notification No. 03/2018 – IT Dated 22.10.2018 Persons making inter-State taxable supplies of notified goods up to Rs. 20,00,000	As we have seen earlier that as per section 24 read with Notification No. 10/2017 IT Dated 13.10.2017, a person making inter-State supplies of taxable goods is liable to be registered compulsorily under GST irrespective of the threshold limit. However, following categories of persons have been exempted from obtaining registration: - Persons making inter-State taxable supplies of handicraft goods notified under Notification No. 21/2018 CT (R) Dated 26.07.2018. - Persons making inter-State taxable supplies of notified products, when made by the craftsmen predominantly by hand even though some machinery may also be used in the process. <u>Conditions to be fulfilled:</u> - The aggregate value of such supplies, to be computed on all India basis, does not exceed an amount of Rs. 20 lakh [Rs. 10 lakh in case of Special Category States] in a FY.

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

	2. Such persons have obtained a PAN and have generated an away bill
Circular No. 71/45/2018 Dated 26th October 2018	- Amount of advance tax which a casual taxable person (CTP) is required to deposit while obtaining registration should be calculated as the net tax liability after considering the estimated input tax credit (ITC). - In cases of long running exhibitions (for a period more than 180 days), the taxable person cannot be treated as a CTP and would need to obtain registration as a normal taxable person. While applying for normal registration, the said person should upload a copy of the allotment letter granting him permission to use the premises for the exhibition and the allotment letter/consent letter shall be treated as the proper document as a proof for his place of business.
PIB press release Dated 28-5-2018	Support services to agriculture, forestry, fishing or animal husbandry are exempt from GST. Such exempted support services include renting or leasing of vacant land with or without a structure incidental to its use. Agriculturist are also exempt from taking GST registration.
Circular No. 57/31/2018 GST Dated 04.09.2018 Services provided by the commission agent for sale/purchase of agricultural produce - Registration requirements	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 State⁹. 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, Mr. B is an agent as covered under Para 3. of Schedule I. Hence, services supplied by commission agent Mr. B on behalf of the principal without consideration shall be deemed to be a supply – <i>Concept of Deemed Supply under Schedule-I has been discussed in detail in Chapter 2 – Supply under GST.</i> The registration requirements of the commission agents in such cases have been clarified as follows: - 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 [Discussed in Chapter 4 – Exemptions from GST], 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). - As we have already seen, a person is liable for mandatory registration if he makes taxable supply of goods or services or both on behalf of other taxable persons. Accordingly, a commission agent will be liable to get mandatorily registered under this provision only when both the following conditions are satisfied: - the principal should be a taxable person; and - the supplies made by the commission agent should be taxable. However, generally, a commission agent under APMC Act makes supplies on behalf of an agriculturist who is not a taxable person if he supplies produce out of cultivation of land [as seen above]. Thus, a commission agent, who is making supplies on behalf of non-taxable person [viz. agriculturist], is not liable for compulsory registration under this provision. - However, where a commission agent is liable to pay tax under reverse charge, such an agent will be required to get registered compulsorily (We have already seen under previous heading that

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

	persons liable to pay tax under reverse charge are required to obtain registration mandatorily). (Please refer examples in Chapter 2)
--	--

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

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

Example 3: Mr. A gifts his business (registered in GST) to M/s XYZ partnership as a going concern. In such case, since transferor was registered, then by the application of Section 22(3), M/s XYZ shall be liable to take registration with effect from the date of such transfer or succession.

Example 4: ABC Pvt. Ltd. merged into XYZ Pvt. Ltd. and formed PQR Pvt. Ltd. the resultant company obtained its certificate of incorporation on 30-06-2018 by the Registrar of Companies. According to Section 22(4), PQR Pvt. Ltd. shall be liable to take registration w.e.f. 30th June 2018.

Example 5: Mohini Enterprises has appointed ABC as its agent. All the supplies of goods made by ABC as agent of Mohini Enterprises will also be included in the aggregate turnover of ABC (Recollect discussion of Chapter 2).

Example 6: Mr. A Nasik, has Intra State supply of agricultural produce (own effort) Rs. 15 Lacs, Intra State supply of exempt goods Rs. 10 Lacs & taxable supplies Rs. 25 Lacs. He is supposed to take registration since his aggregate turnover is Rs. 15 Lacs + Rs. 10 Lacs + Rs. 25 Lacs = Rs. 50 Lacs.

Example 7: Mr. A Nasik, has Intra State supply of services chargeable at 0% Rs. 20 Lacs, Intra State supply of exempt services Rs. 20 Lacs & taxable supplies Rs. 1 Lacs. He is supposed to take registration since his aggregate turnover is Rs. 20 Lacs + Rs. 20 Lacs + Rs. 1 Lacs = Rs. 41 Lacs.

Example 8: ABC is running an electronics shop in Mumbai. His turnover in a financial year is Rs. 9 Lakhs which includes an inter-State supply of some items to Ahmedabad worth Rs. 10,000. Even though aggregate turnover of ABC is only Rs. 9 Lakhs, but compulsory registration shall be required for making taxable inter-State supply of goods to Ahmedabad.

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

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

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

Example 11: Mr. A has business in 3 States i.e. Maharashtra, Gujarat, MP. Total turnover of supplies of goods in different state taken together is below threshold. But from Maharashtra, Mr. A has supplied goods to its units in MP. In GST, different registrations of a person are considered as distinct persons and stock transfers are taxable. Further, compulsory registration is required in case of inter-State taxable supply. Thus, benefit of threshold limit shall not be available in this case. Further when liability to register has arisen in one State then registration shall be required for all other place of businesses as well.

Example 12 (ICAI):

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

Example 13 (ICAI): Uday Enterprises is engaged in supply of taxable goods in Maharashtra. It also supplies alcoholic liquor for human consumption from Nagaland. Its turnover in the current financial year is Rs. 34 lakh in Maharashtra and Rs. 8 lakh in Nagaland.

Since Uday Enterprises is exclusively engaged in making taxable supplies of goods from Maharashtra, the applicable threshold limit for obtaining registration is Rs. 40 lakh. However, the threshold limit will not be reduced to Rs. 10 lakh in this case, as supply of alcoholic liquor for human consumption from Nagaland (one of the Special Category States) are non-taxable supplies (clarified vide Circular No. 96/15/2019 GST dated 28.03.2019).

In the given case, since the aggregate turnover of Uday Enterprises exceeds the applicable threshold limit of Rs. 40 lakh, it is liable to obtain registration. It will obtain registration in Maharashtra, but is not required to obtain registration in Nagaland as he is not making any taxable supplies from said State.

Example 14 (ICAI): Ariza Pvt. Ltd., located in Madhya Pradesh, is a supplier of taxable and notified handicraft goods. It supplies these goods in the neighbouring States of Uttar Pradesh and Orissa. Its aggregate turnover in the month of April is Rs. 15 lakh. Although Ariza Pvt. Ltd. is engaged in making inter-State supplies of taxable goods, it is not liable to obtain registration till its aggregate turnover does not exceed Rs. 20 lakh as it has availed the exemption from registration under Notification No. 03/2018-IT.

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Section 25 Procedure for Registrations

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

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

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

Explanation.—Every person who makes a supply from the territorial waters of India shall obtain registration in the coastal State or Union territory where the nearest point of the appropriate baseline is located.

(2) A person seeking registration under this Act shall be granted a single registration in a State or Union territory: Provided that a person having multiple places of business in a State or Union territory may be granted a separate registration for each such place of business, subject to such conditions as may be prescribed.

(3) A person, though not liable to be registered under section 22 or section 24 may get himself registered voluntarily, and all provisions of this Act, as are applicable to a registered person, shall apply to such person.

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

Example 15: Mr. A, Delhi having PAN ABCDE1234F

Delhi North Delhi	Delhi Central Delhi	Delhi South Delhi
Shop 1	Shop 2	Shop 3
07ABCDE1234F1Z5	07ABCDE1234F1Z5	07ABCDE1234F1Z5
Same person same PAN treated as single person since in same State (* Business vertical definition deleted w.e.f. 1.2.2019 NN 2/2019 CT dated 29.1.2019 therefore separate registration of same business can be taken and if taken it shall be treated as distinct person)		

Example 16: Mr. A, Maharashtra having PAN ABCDE1234F

Mumbai	Pune	Nagpur
Shop 1	Shop 2	Shop 3
27ABCDE1234F1ZR	27ABCDE1234F2ZR	27ABCDE1234F3ZR
Same person same PAN treated as distinct person since taken different registration		

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

Example 17:

Maharashtra	Delhi	Sikkim
Head Office	Branch Office	Branch Office
27ABCDE1234F1ZR	07ABCDE1234F1ZR	11ABCDE1234F1ZR
Same person same PAN still treated as distinct person		

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

(6) Every person shall have a Permanent Account Number issued under the Income- tax Act, 1961 in order to be eligible for grant of registration:

Provided that a person required to deduct tax under section 51 may have, in lieu of a Permanent Account Number, a Tax Deduction and Collection Account Number issued under the said Act in order to be eligible for grant of registration.

(6A) Every registered person shall undergo authentication, or furnish proof of possession of Aadhaar number, in such form and manner and within such time as may be prescribed:

Provided that if an Aadhaar number is not assigned to the registered person, such person shall be offered alternate and viable means of identification in such manner as Government may, on the recommendations of the Council, prescribe:

Provided further that in case of failure to undergo authentication or furnish proof of possession of Aadhaar number or furnish alternate and viable means of identification, registration allotted to such person shall be deemed to be invalid and the other provisions of this Act shall apply as if such person does not have a registration.

(6B) On and from the date of notification, every individual shall, in order to be eligible for grant of registration, undergo authentication, or furnish proof of possession of Aadhaar number, in such manner as the Government may, on the recommendations of the Council, specify in the said notification:

Provided that if an Aadhaar number is not assigned to an individual, such individual shall be offered alternate and viable means of identification in such manner as the Government may, on the recommendations of the Council, specify in the said notification.

Effective Date 1st April 2020, notified by Notification No. 18/2020-CT dated 23rd March 2020. In this notification, it is further provided that if Aadhaar number is not assigned to the said individual, he shall be offered alternate and viable means of identification in the manner specified in rule 9 of the said rules.

(6C) On and from the date of notification, every person, other than an individual, shall, in order to be eligible for grant of registration, undergo authentication, or furnish proof of possession of Aadhaar number of the Karta, Managing Director, whole time Director, such number of partners, Members of Managing Committee of Association, Board of Trustees, authorised representative, authorised signatory and such other class of persons, in such manner, as the Government may, on the recommendations of the Council, specify in the said notification:

Provided that where such person or class of persons have not been assigned the Aadhaar Number, such person or class of persons shall be offered alternate and viable means of identification in such manner as the Government may, on the recommendations of the Council, specify in the said notification.

As per Notification No. 19/2020-CT dated 23rd March 2020, the Central Government, on the recommendations of the Council, hereby notifies the date 1st April 2020 as the date, from which the -

(a) authorised signatory of all types;

(b) Managing and Authorised partners of a partnership firm; and

(c) Karta of an Hindu undivided family,

shall undergo authentication of possession of Aadhaar number.

Provided that if Aadhaar number is not assigned to the said persons, they shall be offered alternate and viable means of identification in the manner specified in rule 9 of the said rules.

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Telegram Group for Doubt Clearance

<https://telegram.me/cafinalidtamtjain>

(6D) The provisions of sub-section (6A) or sub-section (6B) or sub-section (6C) shall not apply to such person or class of persons or any State or Union territory or part thereof, as the Government may, on the recommendations of the Council, specify by notification.

Explanation. —For the purposes of this section, the expression “Aadhaar number” shall have the same meaning as assigned to it in clause (a) of section 2 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016.

As per Notification No. 17/2020 – CT dated 23rd March 2020 (w.e.f. 1st April 2020), the Central Government, on the recommendations of the Council, hereby notifies that the provisions of sub-section (6B) or subsection (6C), shall not apply to a person who is not a citizen of India or to a class of persons other than the following class of persons, namely:—

- (a) Individual;
- (b) authorised signatory of all types;
- (c) Managing and Authorised partner; and
- (d) Karta of an Hindu undivided family.

(7) Notwithstanding anything contained in sub-section (6), a non-resident taxable person may be granted registration under sub-section (1) on the basis of such other documents as may be prescribed.

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

(9) Notwithstanding anything contained in sub-section (1),—

- (a) any specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries; and

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

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

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

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

**Compare this Book with any Book including ICAI
SM, you are going to find this Book Best**

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

Section 26 Deemed Registration

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

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

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

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

As per Sec. 27 (2), An advance deposit of tax in an amount equivalent to the estimated tax liability of such person for the period for which the registration is sought. In case of extension, additional amount need to be deposited.

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

Key Rules related to registration:

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

Rule 8 (Application for Registration except TDS U/s 51 TCS U/s 52, non-resident taxable person or OIDAR)	Every person seeking registration shall, before applying for registration, declare his PAN, mobile number, email address, State or UT in Part A of Form GST REG-01. After proper validation reference number will be generated, the applicant shall use this reference number and file application of registration in Part B of Form GST REG-01. ISD shall make a separate application for registration. A casual taxable person shall be given a temporary reference number by the common portal for making advance deposit of tax. The applicant shall, while submitting an application, with effect from 01.04.2020, undergo authentication of Aadhaar number for grant of registration.
---	---

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Rule 9 Verification of the application and approval	Proper officer needs to verify within 3 working days of application. If he needs clarification, will issue notice within a period of 3 working days and person needs to reply within a period of 7 working days. If proper officer is satisfied with reply then he will issue registration within 7 working days or reject the application. If proper officer fails to take any action within a period of 3 working days from the date of submission of the application or within 7 working days from the date of receipt of reply, the application of registration shall be deemed to have been approve. For the purposes of this sub-rule, the expression 'clarification' includes modification or correction of particulars declared in the application for registration, other than Permanent Account Number, State, mobile number and e-mail address declared in Part A of FORM GST REG-01. Provided that where a person, other than those notified under sub-section (6D) of section 25, fails to undergo authentication of Aadhaar number as specified in rule 8, then the registration shall be granted only after physical verification of the principle place of business in the presence of the said person, not later than sixty days from the date of application, in the manner provided under rule 25 and the above time frame shall not be applicable in such cases. (3 days or 7 days)
Rule 10 Issue of Registration Certificate	A certificate of registration in Form GST REG-06 shall be issued. The registration shall be effective from the date on which the person becomes liable to registration where the application for registration has been submitted within a period of 30 days from such date. Otherwise, effective date of registration shall be the date of the grant of registration. It will include principal place of business and additional place of business. Example 18: Sugam Services Ltd. is engaged in taxable supply of services in MP. The turnover of Sugam Services Ltd. exceeded Rs. 20 Lakh on 1st November. It is liable to get registered by 1st December [30 days] in MP. It applies to registration on 28th November and is granted registration certificate on 5th December. The effective date of registration is 1st November. If it applies on 3rd December and granted registration on 10th December then effective registration is 10th December.
Rule 10A Furnishing of Bank Account Details	After a certificate of registration in FORM GST REG-06 has been made available on the common portal and a Goods and Services Tax Identification Number has been assigned, the registered person, except those who have been granted registration under rule 12 or, as the case may be rule 16, shall as soon as may be, but not later than forty five days from the date of grant of registration or the date on which the return required under section 39 is due to be furnished, whichever is earlier, furnish information with respect to details of bank account, or any other information, as may be required on the common portal in order to comply with any other provision.
Rule 11 Separate registration for multiple places of business within a State or a Union territory	(1) Any person having multiple places of business within a State or a Union territory, requiring a separate registration for any such place of business under sub-section (2) of section 25 shall be granted separate registration in respect of each such place of business subject to the following conditions, namely:- - such person has more than one place of business as defined in clause (85) of section 2; - such person shall not pay tax under section 10 for any of his places of business if he is paying tax under section 9 for any other place of business; - all separately registered places of business of such person shall pay tax under the Act on supply of goods or services or both made to another registered place of business of such person and issue a tax invoice or a bill of supply, as the case may be, for such supply.

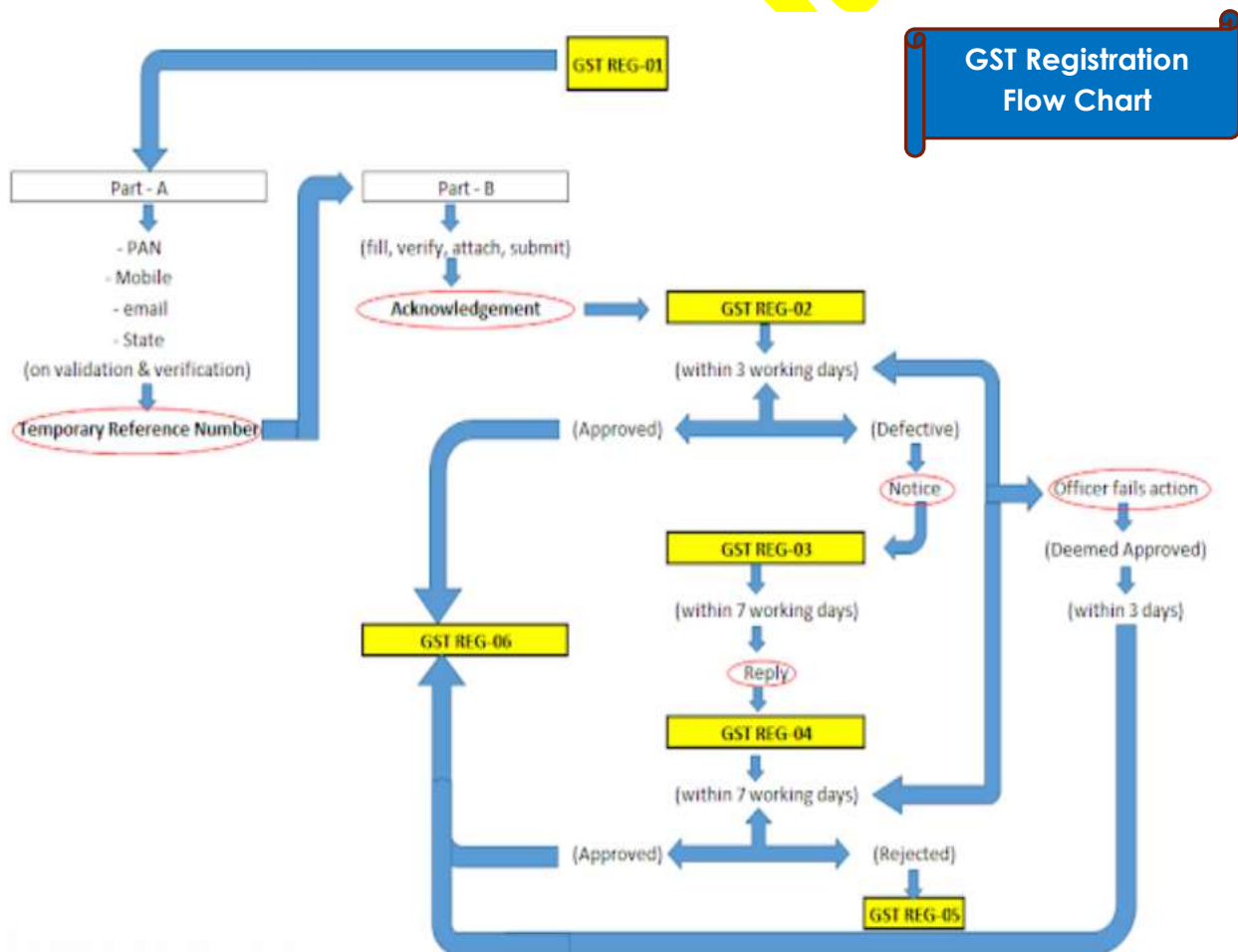
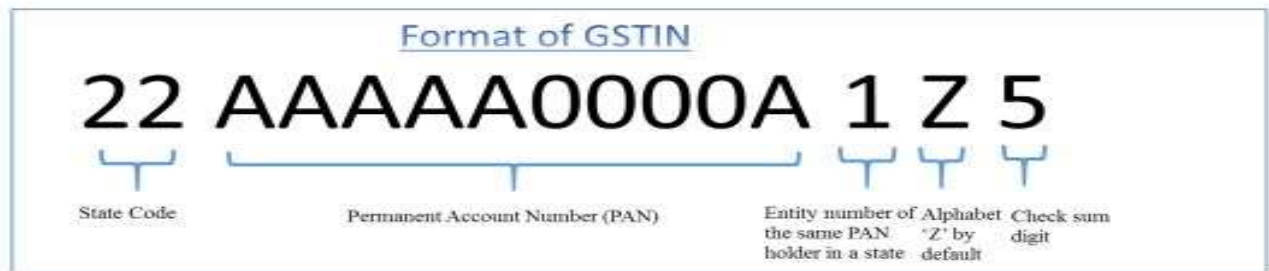
100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

	Explanation. - For the purposes of clause (b), it is hereby clarified that where any place of business of a registered person that has been granted a separate registration becomes ineligible to pay tax under section 10, all other registered places of business of the said person shall become ineligible to pay tax under the said section. (2) A registered person opting to obtain separate registration for a place of business shall submit a separate application in FORM GST REG-01 in respect of such place of business. (3) The provisions of rule 9 and rule 10 relating to the verification and the grant of registration shall, mutatis mutandis, apply to an application submitted under this rule.
Rule 12 Grant of Registration to persons required to deduct or collect tax at source	A person required to deduct tax as per Sec. 51 or required to collect tax as per Sec. 52, shall apply in Form GST REG-07. Registration shall be granted in Form GST REG-06. A person applying for registration to deduct or collect tax in accordance with the provisions of section 51, or, as the case may be, section 52, in a State or Union territory where he does not have a physical presence, shall mention the name of the State or Union territory in PART A of the application in FORM GST REG-07 and mention the name of the State or Union territory in PART B thereof in which the principal place of business is located which may be different from the State or Union territory mentioned in PART A.
Rule 13 Grant of Registration to non-resident taxable person	A non-resident taxable person shall file application in Form GST REG-09 along with a self-attested copy of his valid passport, at least 5 days prior to commencement of business. If business entity incorporated or established outside India, the application or registration shall be submitted along with its tax identification number or unique number on the basis of which the entity is identified by the Government of that country or its PAN. A non-resident taxable person shall be given a temporary reference number by the common portal for making advance deposit of tax.
Rule 14 Registration for a OIDAR	OIDAR supplying services to non-taxable person, shall file application in Form GST REG-10 and registration shall be granted in GST REG-06.
Rule 15 Extension in period of operation by CTP/NRTP	(1) Where a registered casual taxable person or a non-resident taxable person intends to extend the period of registration indicated in his application of registration, an application in FORM GST REG-11 shall be submitted electronically through the common portal, either directly or through a Facilitation Centre notified by the Commissioner, by such person before the end of the validity of registration granted to him. (2) The application under sub-rule (1) shall be acknowledged only on payment of the amount specified in sub-section (2) of section 27.
Rule 16 Suo motu Registration	The proper officer finds that a person liable to registration under the Act, has failed to apply for such registration, such officer may register the said person on temporary basis and issue and order in Form GST REG-12. Such person, shall apply for the registration within 90 days. He has right to appeal against such temporary registration. Once appeal is finalized then he needs to submit the application within 30 days.
Rule 17 Assignment of Unique Identity Number to certain Special entities	The proper officer may, upon submission of an application in Form GST REG-13, assign a UIN to the eligible entities. The Unique Identity Number granted under sub-rule (1) to a person under clause (a) of sub-section (9) of section 25 shall be applicable to the territory of India.
Rule 18 Display of registration certificate and GST Identification	Every registered person shall display his certificate of registration in a prominent location at his principal place of business and at every additional place of business. He also needs to display his GSTIN on the name board exhibited at the entry of his principal place of business and at every additional place or places of business.

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Number on the name board	
Rule 25 Physical verification of business premises in certain cases	Where the proper officer is satisfied that the physical verification of the place of business of a person is required due to failure of Aadhaar authentication before the grant of registration, or due to any other reason after the grant of registration, he may get such verification of the place of business, in the presence of the said person, done and the verification report along with the other documents, including photographs, shall be uploaded in FORM GST REG30 on the common portal within a period of fifteen working days following the date of such verification.



Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

Section 28 Amendment of Registration (Read with Rule 19)

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

Section 29 Cancellation or Suspension of Registration

Section 29(1)

The **proper officer may**, either on his own motion or on an application filed by the registered person or by his legal heirs, in case of death **such person**, cancel the registration: -

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

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

Section 29(2)

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

- (a) A **registered person contravened Act or rules**;
 - (b) A person paying tax U/s 10 (composition dealer) not furnished returns for 3 consecutive tax periods;
 - (c) Any registered person other than composition dealer has not furnished return for a continuous 6 months;
- Provided that where the person instead of replying to the notice served under sub rule (1) of Rule 22 for contravention of the provisions contained in clause (b) or clause (c) of sub-section (2) of section 29, furnishes

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

all the pending returns and makes full payment of the tax dues along with applicable interest and late fee, the proper officer shall drop the proceedings and pass an order in FORM GST-REG 20.

(d) Any person who has taken voluntarily registration but has not commenced business within 6 months from the date of registration;

(e) registration has been obtained by means of fraud, willful misstatement or suppression of facts.

Provided that the Proper officer shall not cancel the registration without giving the person an opportunity being heard.

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

Further in terms of rule 21 of CGST Rules, the registration granted to a person is liable to be cancelled, if the said person,-

(a) does not conduct any business from the declared place of business; or

(b) issues invoice or bill without supply of goods or services in violation of the provisions of this Act, or the rules made thereunder; or

(c) violates the provisions of section 171 of the Act or the rules made thereunder.

(d) violates the provision of rule 10A

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

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

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

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

Rule 21A Suspension of registration

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

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

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

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

Explanation: - For the purposes of this sub-rule, the expression "shall not make any taxable supply" shall mean that the registered person shall not issue a tax invoice and, accordingly, not charge tax on supplies made by him during the period of suspension.

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

(5) Where any order having the effect of revocation of suspension of registration has been passed, the provisions of clause (a) of sub-section (3) of section 31 and section 40 in respect of the supplies made during the period of suspension and the procedure specified therein shall apply.

No revocation for UIN holders, GST practitioner

Section 30 Revocation of cancellation of registration

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

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

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

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

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

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

However, where the registration has been cancelled with retrospective effect, the application for revocation of cancellation of registration can be filed, subject to the condition that all returns relating to the period from the

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Telegram Group for Doubt Clearance

<https://telegram.me/cafinalidtamitjain>

effective date of cancellation of registration till the date of order of revocation of cancellation of registration shall be filed within a period of 30 days from the date of order of such revocation of cancellation of registration.

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

Subject: Verification of applications for grant of new registration

Issue:

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

Clarification:

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

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

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

Issue:

Clarifications have been sought w.r.t.

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

Clarification:

The credit transfer shall be eligible. The transferee / successor shall be liable to pay any tax, interest or any penalty due from the transferor in cases of transfer of business due to death of sole proprietor.

Transfer/change in ownership referred in Sec 18(3), 22(3), 29(1)(a) and 85(1) of the CGST act, includes the transfer or change in the ownership of business due to death of the sole proprietor.

Process:

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

**Compare this Book with any Book including ICAI
SM, you are going to find this Book Best**

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

Question & Answer

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

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

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

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

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

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

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

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

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

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

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

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

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

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Telegram Group for Doubt Clearance

<https://telegram.me/cafinalidtamitjain>

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

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

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

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

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

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

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

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

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

*excluding GST

Determine whether Pure Oils is liable for registration.

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

A. Computation of Aggregate turnover

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

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

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

Registration Requirement of Pure Oils, Delhi

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

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

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

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

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

A. Computation of Aggregate turnover

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

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

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

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

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

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

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Telegram Group for Doubt Clearance

<https://telegram.me/cafinalidtamtjain>

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

A. Yes. In terms of sub-section (8) of Section 25, where a person who is liable to be registered under the CGST Act fails to obtain registration, the proper officer may, without prejudice to any action which may be taken under the CGST Act, or under any other law for the time being in force, proceed to register such person in the manner as may be prescribed.

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

A. Yes. The Proper officer can reject the Application for registration in Form GST REG 05, if after filling the Application of registration in Form GST REG 01 the proper officer issued notice in Form GST REG 03 for further clarification and no response or no satisfactory response is given by the applicant.

Q14. What will be the effective date of registration?

A. Where the application for registration has been submitted within thirty days from the date on which the person becomes liable to registration, the effective date of registration shall be date on which he become liable for registration.

Where an application for registration has been submitted by the applicant after thirty days from the date of his becoming liable to registration, the effective date of registration shall be the date of grant of registration.

In case of suo moto registration, i.e. registration pursuant to any survey, enquiry, inspection, search or any other proceedings, the effective date of registration shall be the date of order of registration.

Q15. At the time of registration will the assessee have to declare all his places of business?

A. Yes. The principal place of business and place of business have been separately defined under section 2(85) & 2(89) of the CGST Act respectively. The taxpayer will have to declare the principal place of business as well as the details of additional places of business in the registration form.

Q16. Should a casual taxable person or non-resident taxable person apply for registration in every State from which that person is operating or is the registration common for all the States?

A. In terms of section 22(1) read with Section 25(1) such persons need to obtain a separate registration in every such States.

Q17. From which State the taxable person should obtain registration?

A. As per Section 22(1) a taxable person should obtain registration in every State from where he makes taxable supply of goods or services or both.

Q18. Whether licensed Tour Guides having registered office in one state but providing services Pan India will have to register in each State?

A. If the presence of tour guide is in each State and he is supplying services from those States then registration requirement in each State would be there.

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

A. No, mere residence is not a business establishment, and therefore he need not take a registration in the State of West Bengal.

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

Chapter 10: - Tax Invoice, Credit & Debit

Notes

Section 31	Tax Invoice
Section 31A	Facility of digital payment to recipient
Section 34	Credit & Debit Note
Section 32	Prohibition of Unauthorized collection of tax
Section 33	Amount of tax to be indicated in tax invoice and other documents

Types of invoices/Other Documents: A snapshot

Document Type	When to Issue
Tax invoice – for supply of taxable goods and services	Section 31(1), (2), (4), (5), (6), and (7) read with rule 46 & rule 48
Revised tax invoice – in case of grant of registration w.e.f. a date earlier than the date of issuance of certificate of registration	Section 31(3)(a) read with rule 53
Bill of Supply – for supply of exempted goods or services or by composition dealer or Supplier under Notification 02/2019 Dated 07.03.2019	Section 31(3)(c) read with rule 49
Invoice cum Bill of Supply – for supplying taxable as well as exempted goods or services	Rule 46A
Delivery Challan – to be issued in cases other than supply	Rule 55
Receipt Voucher – for receipt of advance money	Section 31(3)(d) read with rule 50
Refund Voucher – for refund of advance money	Section 31(3)(e) read with rule 51
Self-invoice for reverse charge from unregistered suppliers	Section 31(3)(f)
Payment voucher – for payment of supplies under reverse charge	Section 31(3)(g) read with rule 52
Credit note – for reduction of taxable value and/or tax amount, sales return etc.	Section 34(1) & (2) read with rule 53
Debit note- for increase in taxable value and/or tax amount	Section 34(3) & (4) read with rule 53
Consolidated tax invoice in specified B2C supplies	Section 31(3)(b) read with rule 46

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Section 31 Tax Invoice

Goods	Services
Section 31(1) A registered taxable person shall issue a tax invoice showing descriptions, quantity and value of goods, tax charged thereon and other prescribed particulars, before or at the time of a. Removal of goods for supply to the recipient, where supply involves movement of goods or b. Delivery of goods or making available thereof to the recipient in other cases.	Section 31(2) A registered person supplying taxable services shall, before or after the provision of service but within a prescribed period, issue a tax invoice, showing the description, value, tax charged thereon and such other particulars as may be prescribed. Note: As per Rule 47 of CGST Rules, Invoice should be issued within 30 days from the date of provision of Services. In case of Insurance, Banks or Financial Institution & NBFC's the above limit is extended to 45 days. An insurer or a banking company or a financial institution, including a NBFC, or a telecom operator, making taxable supplies of services between distinct persons as specified in section 25, may issue the invoice before or at the time such supplier records the same in his books of account or before the expiry of the quarter during which the supply was made.
Section 31(3) Notwithstanding anything contained in sub-sections (1) and (2)– (a) a registered person may, within one month from the date of issuance of certificate of registration and in such manner as may be prescribed, issue a revised invoice against the invoice already issued during the period beginning with the effective date of registration till the date of issuance of certificate of registration to him; (b) a registered person may not issue a tax invoice if the value of the goods or services or both supplied is less than two hundred rupees subject to such conditions and in such manner as may be prescribed; (c) a registered person supplying exempted goods or services or both or paying tax under the provisions of section 10 shall issue, instead of a tax invoice, a bill of supply containing such particulars and, in such manner, as may be prescribed: It is hereby clarified that provisions of clause (c) of subsection (3) of section 31 of the said Act shall apply to a person paying tax under Notification No. 2/2019- Central Tax (Rate) Dated 07.03.2019 {Removal of Difficulty Order No. 3/2019-Central Tax Dated 8th March, 2019} (d) a registered person shall, on receipt of advance payment with respect to any supply of goods or services or both, issue a receipt voucher or any other document, containing such particulars as may be prescribed, evidencing receipt of such payment; (e) where, on receipt of advance payment with respect to any supply of goods or services or both the registered person issues a receipt voucher, but subsequently no supply is made and no tax invoice is issued in pursuance thereof, the said registered person may issue to the person who had made the payment, a refund voucher against such payment; (f) a registered person who is liable to pay tax under sub-section (3) or sub-section (4) of section 9 (reverse charge) shall issue an invoice in respect of goods or services or both received by him from the supplier who is not registered on the date of receipt of goods or services or both; (g) a registered person who is liable to pay tax under sub-section (3) or sub-section (4) of section 9 shall issue a payment voucher at the time of making payment to the supplier.	
Example 1: XYZ is running a consumer durables shop in Pune. He takes services of an advocate for Rs. 50,000 to litigate a department's notice. Such advocate is not registered under GST. Here XYZ will issue a	

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

self-invoice for advocate services and accordingly discharge GST liability under reverse charge and take ITC of the same.	
Section 31(4) In case of continuous supply of goods, where successive statements of accounts or successive payment are involved, the invoice shall be issued before or at the time each such statement is issued or, as the case may be, each such payment is received.	Section 31(5) In case of continuous supply of services (a) if due date is ascertainable from the contract, invoice shall be issued on or before such due date of payment; (b) where the due date is not ascertainable, the invoice shall be issued before or at the time of receiving payment (c) where the payment is linked to the completion of an event, the invoice shall be issued on or before the date of completion of that event.
Section 31(7) The goods being sent or taken on approval for sale or return are removed before the supply takes place, the invoice shall be issued before or at the time of supply or six months from the date of removal, whichever is earlier.	Section 31(6) In a case where the supply of services ceases under a contract before the completion of the supply, the invoice shall be issued at the time when the supply ceases and such invoice shall be issued to the extent of the supply made before such cessation.

Key Points for Tax Invoice U/s 31 & Rule 46

- There is no format prescribed for Tax Invoice. Invoices may be issued manually or electronically.
- The signature or digital signature of the supplier or his authorised representative shall not be required in the case of issuance of an electronic invoice in accordance with the provisions of the Information Technology Act, 2000.
This is also applicable to Bill of supply (Rule 49), consolidated tax invoice in case of Insurance/Banking companies, financial institutions including NBFCs {Rule 54(2)}, ticket issued for passenger transportation service {Rule 54(4)}.
- A Tax invoice shall be issued by:
 - Supplying Taxable goods or services
 - Receiving Taxable goods or services from unregistered supplier (RCM)
- Zero rated supply Invoice shall carry an endorsement "SUPPLY MEANT FOR EXPORT/SUPPLY TO SEZ UNIT/SEZ DEVELOPER FOR AUTHORIZED OPERATIONS ON PAYMENT OF INTEGRATED TAX" or "SUPPLY MEANT FOR EXPORT/SUPPLY TO SEZ UNIT/SEZ DEVELOPER FOR AUTHORIZED OPEATIONS UNDER BOND OR LETTER OF UNDERTAKING WITHOUT PAYMENT OF INTEGRATED TAX".
- A registered person, other than the supplier engaged in making supply of services by way of admission to exhibition of cinematograph films in multiplex screens, may not issue a tax invoice in accordance with the provisions of clause (b) of sub-section (3) of section 31 subject to the following conditions, namely,-
 - the recipient is not a registered person; and
 - the recipient does not require such invoice, and
shall issue a consolidated tax invoice for such supplies at the close of each day in respect of all such supplies.

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Telegram Group for Doubt Clearance

<https://telegram.me/cafinalidtamitjain>

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

{This is same in case of:- Bill of Supply, Receipt Voucher, Refund Voucher, Payment Voucher, Revised tax invoice and credit and debit notes etc.}

- Government may, by notification, on the recommendations of the Council, and subject to such conditions and restrictions as mentioned therein, specify that the tax invoice shall have Quick Response (QR) code.

CBIC has notified via Notification No. 14/2020-CT dated 21st March 2020 that an invoice issued by a registered person, whose aggregate turnover in a financial year exceeds five hundred crore rupees {this provision is not going to apply on insurer or a banking company or a financial institution, including a non-banking financial company, goods transport agency, passenger transportation service, supplying services by way of admission to exhibition of cinematograph films in multiplex screens, supplier of OIDAR}, to an unregistered person (hereinafter referred to as B2C invoice), shall have Quick Response (QR) code:

Provided that where such registered person makes a Dynamic Quick Response (QR) code available to the recipient through a digital display, such B2C invoice issued by such registered person containing cross-reference of the payment using a Dynamic Quick Response (QR) code, shall be deemed to be having Quick Response (QR) code.

This notification shall come into force from the 1st October, 2020.

- CBIC has issued Circular No. 90/09/2019-GST Dated 18th February, 2019, instructing that all registered persons making supply of goods or services or both in the course of inter-State trade or commerce shall specify the place of supply along with the name of the State in the tax invoice. The provisions of sections 10 and 12 of the Integrated Goods and Services Tax Act, 2017 may be referred to in order to determine the place of supply in case of supply of goods and services respectively. Contravention of any of the provisions of the Act or the rules made there under attracts penal action under the provisions of sections 122 or 125 of the CGST Act.
- As per Rule 46A, notwithstanding anything contained in rule 46 or rule 49 or rule 54, where a registered person is supplying taxable as well as exempted goods or services or both to an unregistered person, a single “invoice-cum-bill of supply” may be issued for all such supplies.
- Important content of Tax Invoice

GSTIN of supplier	Consecutive Serial Number & date of issue	GSTIN of recipient, if registered	Name & address of recipient, if not registered	HSN/SAC
Description of goods or services	Quantity in case of goods	Total Value of supply	Taxable Value of supply	Tax rate – Central tax & State tax or Integrated tax, cess
Amount of tax charged	Place of supply	Address of delivery where different than place of supply	Tax payable on reverse charge basis	Signature of authorised signatory

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

If recipient is unregistered and value of supply is more than Rs. 50,000 then name and address of the recipient and the address of delivery, along with the name of State & its code. Please recollect discussion of POS.

Disclosure of HSN/SAC
AT is equal or less than 1.5 crores
AT is more than 1.5 & Upto 5 crores
AT is more than 5 crores

Digit
NIL
2
4

Sample Tax Invoice

ABC Enterprises Pvt. Ltd. GSTIN: 22AAAAA0000A1Z5 Branch: Karnataka (22) PAN: AAAA0000A						Total ₹ 6500.00 Invoice Date: 10/05/2017 Invoice No.: CLR-00054 Reference No.: PO-9997			
TAX INVOICE									
Customer Name: Kantech Solutions Private Ltd. Customer GSTIN: 22B55550007A1Z5			Billing Address: Kantech Solutions Private Ltd., Ground Floor, Building 2A, 23 & 24 AMR Tech Park Internal Road, Hongasandra, Bengaluru, Karnataka 560068			Shipping Address: Kantech Solutions Private Ltd., Ground Floor, Building 2A, 23 & 24 AMR Tech Park Internal Road, Hongasandra, Bengaluru, Karnataka 560068			
Payment Terms: Net 15		Due Date: 19/06/2016		Place of Supply: Karnataka (22)					
Item	HSN	Qty.	Rate/Item(₹)	Discount/Item(₹)	Taxable Value(₹)	SGST	CGST	CESS	Total
1. Himalaya Herbal Cream Neem Edition	440003	10 kg	1000.00	30.00	9700.00	970.00 @10%	970.00 @10%	00.00 @0%	11640.00
2. Himalaya Herbal Cream Neem Edition	440003	10 kg	1000.00	30.00	9700.00	970.00 @10%	970.00 @10%	00.00 @0%	11640.00
3. Himalaya Herbal Cream Neem Edition	440003	10 kg	1000.00	30.00	9700.00	970.00 @10%	970.00 @10%	00.00 @0%	11640.00
4. Freight Charges	—	1 no	1000.00	—	1000.00	50.00 @5%	50.00 @5%	00.00 @0%	1100.00
Total (₹)					30100.00	2960.00	2960.00	00.00	36020.00
Taxable amount Total Tax* Invoice Total Invoice Total (In words)									₹ 30100.00 ₹ 5920.00 ₹ 36020.00 Thirty Six Thousand Twenty Only
*Tax to be paid on Reverse Charge									
Notes: All payments to be made in cash. Contact us for queries on these quotations.					DUPLICATE For Transporter		For ABC Enterprises Pvt. Ltd. (Signature)		
Thank you for your business.									

Rule 48 Manner of Issuing Invoice

- (1) The invoice shall be prepared in triplicate, in the case of supply of goods, in the following manner, namely,-
 - (a) the original copy being marked as ORIGINAL FOR RECIPIENT;
 - (b) the duplicate copy being marked as DUPLICATE FOR TRANSPORTER; and
 - (c) the triplicate copy being marked as TRIPLICATE FOR SUPPLIER.
- (2) The invoice shall be prepared in duplicate, in the case of the supply of services, in the following manner, namely,-
 - (a) the original copy being marked as ORIGINAL FOR RECIPIENT; and
 - (b) the duplicate copy being marked as DUPLICATE FOR SUPPLIER.

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

- (3) The serial number of invoices issued during a tax period shall be furnished electronically through the common portal in FORM GSTR-1.
- (4) The invoice shall be prepared by such class of registered persons as may be notified by the Government, on the recommendations of the Council, by including such particulars contained in FORM GST INV-01 after obtaining an Invoice Reference Number by uploading information contained therein on the Common Goods and Services Tax Electronic Portal in such manner and subject to such conditions and restrictions as may be specified in the notification.
- (5) Every invoice issued by a person to whom sub-rule (4) applies in any manner other than the manner specified in the said sub-rule shall not be treated as an invoice.
- (6) The provisions of sub-rules (1) and (2) shall not apply to an invoice prepared in the manner specified in sub-rule (4).

As per Notification No. 13/2020-CT dated 21st March 2020, the Government, on the recommendations of the Council, hereby notifies registered person, whose aggregate turnover in a financial year exceeds one hundred crore rupees, as a class of registered person who shall prepare invoice in terms of sub-rule (4) of rule 48 of the said rules in respect of supply of goods or services or both to a registered person.

This provision is not going to apply on insurer or a banking company or a financial institution, including a non-banking financial company, goods transport agency, passenger transportation service, supplying services by way of admission to exhibition of cinematograph films in multiplex screens.

This provision is applicable w.e.f. 1st October 2020.

CBIC has notified websites via Notification No. 69/2019-CT dated 13th December 2019 i.e.

www.einvoice1.gst.gov.in, www.einvoice2.gst.gov.in www.einvoice10.gst.gov.in

Revised Tax Invoice [Sec. 31(3)(a) read with rule 53]

Every registered person who has been granted registration with effect from a date earlier than the date of issuance of certificate of registration to him, may issue Revised Tax Invoices. Such invoices shall be issued against the invoices already issued during said period. Revised Tax Invoice shall be issued within 1 month from the date of issuance of certificate of registration. For supplies made by such person during this intervening period, the law enables the issuance of a revised invoice, so that ITC can be availed by the recipient on such supplies.

A registered person may issue a consolidated Revised Tax Invoice in respect of all taxable supplies made to an unregistered recipient (B2C) during such period. In the case of inter-State supplies, where the value of a supply does not exceed two lakh and fifty thousand rupees, a consolidated revised invoice may be issued separately in respect of all the recipients located in a State, who are not registered under the Act. Particulars of Debit & Credit Notes are also same as revised tax invoices.

Consolidated Revised Tax Invoice – B2C supply (Intra-State) :- No limit prescribed

Consolidated Revised Tax Invoice – B2C supply (Inter-State) :- State wise consolidated revised tax invoice. In case of inter-State supplies, where the value of a supply doesn't exceed INR 2,50,000, a consolidated revised invoice may be issued separately in respect of all the recipients located in a State, who are not registered under GST.

Government amended Rule 53 to distinguish the mandatory requirements in the issue of Revised invoice and in the issue of debit note or credit note.

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

Revised invoice can be issued in one month of registration for all supplies done from the date on which registration was applied till the date registration was granted.

By separating the requirements for revised invoice and debit or credit note the requirement for nature of document in case of Revised invoice remains of no use and hence deleted. Also, the requirement for stating the taxable value, rate of tax, amount of tax credited or debited in case of Revised invoice remains of no use and hence deleted in amendment. {Notification No. 03/2019-Central Tax Dated 29.01.2019}

Any invoice or debit note issued in pursuance of any tax payable in accordance with the provisions of Section 74 (Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized by reason of fraud or any willful misstatement or suppressions of facts), Section 129 (Detention, seizure and release of goods and conveyances in transit), Section 130 (Confiscation of goods or conveyances and levy of penalty), shall prominently contain the words, 'INPUT TAX CREDIT NOT ADMISSIBLE'.

Consolidated Tax Invoice [Section 31(3)(b) read with rule 46]

A registered person may not issue a tax invoice if the value of goods or services or both supplied is less than INR 200 and in lieu thereof, shall issue a consolidated tax invoice for such supplies at the close of each day in respect of all such supplies, but subject to the following conditions, namely,-

- (a) the recipient is not a registered person; and
- (b) the recipient does not require such invoice, and

Bill Of Supply [Section 31(3)(c) read with rule 49]

A registered person supplying exempted goods or services or both or paying tax under composition levy shall issue a bill of supply instead of a tax invoice.

As per second proviso to Rule 49 of the CGST Rules, any tax invoice or any other similar document issued under any other Act for the time being in force in respect of any non-taxable supply shall be treated as a bill of supply for the purposes of GST Act.

Receipt Voucher [Section 31(3)(d) read with rule 50]

A registered person shall, on receipt of advance payment with respect to any supply of goods or services or both, issue a receipt voucher evidencing receipt of such payment.

If rate of tax is not determinable, tax shall be paid at the rate of 18%. If nature of supply is not determinable then same shall be paid as inter-State supply.

Refund Voucher [Section 31(3)(e) read with rule 51]

Where, on receipt of advance payment with respect to any supply of goods or services or both the registered person issues a Receipt Voucher, but subsequently no supply is made and no tax invoice is issued in pursuance thereof, the said registered person may issue to the person who made the payment, a Refund Voucher against such payment.

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Supplier permitted to issue any document other than tax invoices [Section 31(2) and proviso to section 31(1) read with rules 54 and 55]

Supplier of taxable service	Document in lieu of the tax invoice	
	Optional information	Mandatory information
Insurer/Banking company/Financial institution/NBFC	- Serial Number - Address of the recipient of taxable service	Other information as prescribed for a Tax invoice, under rule 46 Such document may be issued/made available, physically/electronically
Where the supplier of taxable service is an insurer or a banking company or a financial institution, including a non-banking financial company, the said supplier may issue a consolidated tax invoice or any other document in lieu thereof, by whatever name called for the supply of services made during a month at the end of the month, whether issued or made available, physically or electronically whether or not serially numbered, and whether or not containing the address of the recipient of taxable service but containing other information as mentioned under rule 46.		
Goods Transport Agency (GTA) supplying services in relation to transportation of goods by road in a goods carriage		- Gross weight of the consignment - Name of the consignor and the consignee - Registration number of goods carriage in which the goods are transported - Details of goods transported - Details of place of origin and destination - GSTIN of the person liable for paying tax whether as consignor, consignee or GTA - Other information as prescribed for a tax invoice
Supplier of passenger transportation service	- Serial number - Address of the recipient of taxable service	Other information as prescribed for a tax invoice, under rule 46 Tax invoice shall include ticket in any form, by whatever name called
Supplying services by way of admission to exhibition of cinematograph films in multiplex screens (the supplier of such service in a screen other than multiplex screens may, at his option, follow the same procedure)	→	Required to issue an electronic ticket and the said electronic ticket shall be deemed to be a tax invoice for all purposes of the Act, even if such ticket does not contain the details of the recipient of service but contains

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

[Rule 54(4A)]		the other information as mentioned under rule 46.
It is important to note here that keeping in view the large number of transactions in banking, insurance and passenger transportation sector, taxpayers need not mention the address of the customer and the serial number in their invoices.		

Delivery Challan (Rule 55)

- (1) For the purposes of-
 - (a) supply of liquid gas where the quantity at the time of removal from the place of business of the supplier is not known,
 - (b) transportation of goods for job work,
 - (c) transportation of goods for reasons other than by way of supply, or
 - (d) such other supplies as may be notified by the Board, the consignor may issue a delivery challan, serially numbered not exceeding sixteen characters, in one or multiple series, in lieu of invoice at the time of removal of goods for transportation, containing the following details, namely: -
 - (i) date and number of the delivery challan;
 - (ii) name, address and Goods and Services Tax Identification Number of the consignor, if registered;
 - (iii) name, address and Goods and Services Tax Identification Number or Unique Identity number of the consignee, if registered;
 - (iv) Harmonized System of Nomenclature code and description of goods;
 - (v) quantity (provisional, where the exact quantity being supplied is not known);
 - (vi) taxable value;
 - (vii) tax rate and tax amount – central tax, State tax, integrated tax, Union territory tax or cess, where the transportation is for supply to the consignee;
 - (viii) place of supply, in case of inter-State movement; and
 - (ix) signature.
- (2) **The delivery challan shall be prepared in triplicate**, in case of supply of goods, in the following manner, namely: –
 - (a) the original copy being marked as ORIGINAL FOR CONSIGNEE;
 - (b) the duplicate copy being marked as DUPLICATE FOR TRANSPORTER; and
 - (c) the triplicate copy being marked as TRIPLICATE FOR CONSIGNOR.
- (3) Where goods are being transported on a **delivery challan in lieu of invoice, the same shall be declared as specified in rule 138 (E-way Bill)**.
- (4) Where the goods being transported are for the purpose of supply to the recipient but the tax invoice could not be issued at the time of removal of goods for the purpose of supply, the supplier shall issue a tax invoice after delivery of goods.
- (5) Where the goods are being transported in a semi knocked down or completely knocked down condition or in batches or lots {Inserted vide Notification No. 39/2018-CT, Dated 04.09.2018} –
 - (a) the supplier shall issue the complete invoice before dispatch of the first consignment;
 - (b) the supplier shall issue a delivery challan for each of the subsequent consignments, giving reference of the invoice;
 - (c) each consignment shall be accompanied by copies of the corresponding delivery challan along with a duly certified copy of the invoice; and
 - (d) the original copy of the invoice shall be sent along with the last consignment.

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Telegram Group for Doubt Clearance

<https://telegram.me/cafinalidtamitjain>

This procedure is possible and practical when machinery is dispatched in span of few day. In case of large machinery, if supply is likely to be spread over months or even years, separate invoice for each consignment is the only practical solution.

Tax Invoice or Bill of Supply to accompany transport of goods (Rule 55A)

The person-in-charge of the conveyance shall carry a copy of the tax invoice or the bill of supply issued in accordance with the provisions of rule 46 (tax invoice), 46A (invoice cum Bill of supply) or 49 (Bill of supply) in a case where such person is not required to carry an e-way bill under these rules.

Tax Invoice by ISD [Rule 54 (1) & 54 (1A)]

This Rule 54 (1) is applicable when ISD has to distribute the ITC to the various units.

(1) An Input Service Distributor invoice or, as the case may be, an Input Service Distributor credit note issued by an Input Service Distributor shall contain the following details:-

- (a) name, address and Goods and Services Tax Identification Number of the Input Service Distributor;
 - (b) a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters hyphen or dash and slash symbolized as- "-", "/" respectively, and any combination thereof, unique for a financial year;
 - (c) date of its issue;
 - (d) name, address and Goods and Services Tax Identification Number of the recipient to whom the credit is distributed;
 - (e) amount of the credit distributed; and
 - (f) signature or digital signature of the Input Service Distributor or his authorized representative:
- Provided that where the Input Service Distributor is an office of a banking company or a financial institution, including a non-banking financial company, a tax invoice shall include any document in lieu thereof, by whatever name called, whether or not serially numbered but containing the information as mentioned above.

This Rule 54 (1A) is applicable when registered person in its own GSTIN gets the invoice from supplier (i.e. If supplier doesn't raise the invoice on GSTIN of ISD), then registered person may issue this document to ISD so as to further allocate the ITC to the units.

(1A) (a) A registered person, having the same PAN and State code as an Input Service Distributor, may issue an invoice or, as the case may be, a credit or debit note to transfer the credit of common input services to the Input Service Distributor, which shall contain the following details:-

- i. name, address and Goods and Services Tax Identification Number of the registered person having the same PAN and same State code as the Input Service Distributor;
- ii. a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters -hyphen or dash and slash symbolised as —|| and —/|| respectively, and any combination thereof, unique for a financial year;
- iii. date of its issue;
- iv. Goods and Services Tax Identification Number of supplier of common service and original invoice number whose credit is sought to be transferred to the Input Service Distributor;
- v. name, address and Goods and Services Tax Identification Number of the Input Service Distributor;
- vi. taxable value, rate and amount of the credit to be transferred; and
- vii. signature or digital signature of the registered person or his authorised representative.

(b) The taxable value in the invoice issued under clause (a) shall be the same as the value of the common services.

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

Section 31A Facility of digital payment to recipient

The Government may, on the recommendations of the Council, prescribe a class of registered persons who shall provide prescribed modes of electronic payment to the recipient of supply of goods or services or both made by him and give option to such recipient to make payment accordingly, in such manner and subject to such conditions and restrictions, as may be prescribed.

Section 34 Credit & Debit Notes

(1) Where ~~a tax invoice has~~ one or more tax invoices have been issued for supply of any goods or services or both and the ~~taxable value or tax charged in that tax invoice is found to exceed the taxable value or tax payable in respect of such supply, or where the goods supplied are returned by the recipient, or where goods or services or both supplied are found to be deficient~~, the registered person, who has supplied such goods or services or both, may issue to the recipient ~~a credit note~~ one or more credit notes for supplies made in a financial year containing such particulars as may be prescribed.

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

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

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

(4) Any registered person who issues a debit note in relation to a supply of goods or services or both shall declare the details of such debit note in the return for the month during which such debit note has been issued and the tax liability shall be adjusted in such manner as may be prescribed.

Explanation.—For the purposes of this Act, the expression “debit note” shall include a supplementary invoice.

It has to be strictly borne in mind that a credit or a debit note, for the purpose of the GST Law, can be issued by the registered person who has issued a tax invoice, i.e. the supplier.

One need to bear in mind that mechanism of credit note must not be used to offset the liability of GST on account of bad debts, which is not permissible under specified purposes of credit note U/s 34 (1).

In Section 34 amendment is made to enable the registered person to issue a single or multiple credit notes or debit notes against multiple invoices.

Rule 53 sub-Rule (1A) is inserted to provide the mandatory requirements for the issue of credit note or debit note. The content remain more or less same. In debit or credit note, “serial number(s) and date(s) of the corresponding tax invoice(s) or, as the case may be, bill(s) of supply”, need to be mentioned.

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Telegram Group for Doubt Clearance

<https://telegram.me/cafinalidtamitjain>

Example 2: ABC supplied 10 televisions to XYZ for Rs. 6,00,000 on 25.02.2018. Accordingly, GST on the same was discharged in the month of February, paid on 20.03.2018. Later it was realized that out of 10 sets of television, one television was of lower grade model and hence Rs. 10,000 has been billed extra to XYZ. But such credit note can be issued till 30.09.2018 so as to adjust the tax liability paid extra on Rs. 10,000. Based on the credit note of ABC, XYZ will reduce the amount of ITC availed on Rs. 10,000.

Circular No. 72/46/2018 Dated 26th October 2018

The circular provides two options which can be followed for return of expired drugs or medicine:

- ✚ The retailer or the wholesaler can issue tax invoice/bill of supply/commercial invoice, as the case may be, by treating return of expired goods as fresh supply, or
- ✚ The manufacturer/wholesaler can issue a credit note against the supply made earlier to the wholesaler/retailer.

Return of time expired goods to be treated as fresh supply

- ✚ If the wholesaler/retailer is a registered person, it can return the goods by treating it as a fresh supply and thereby issuing an invoice for the same. The value of the said goods as shown in the invoice on the basis of which the goods were supplied earlier may be taken as the value of such return supply. The recipient i.e. the manufacturer or wholesaler as the case may be, will be eligible to take credit of tax paid.
- ✚ Further, if the person returning the goods, is a composition taxpayer, then he may return goods by issuing a bill of supply and pay applicable tax. In such case, credit will not be available to the person to whom goods are returned.
- ✚ If the expired goods are returned by an unregistered person, then he may return the goods under the cover of any commercial document.
- ✚ Where the returned expired goods are destroyed by the manufacturer, it is required to reverse the credit availed in respect of such returned goods in view of provisions of section 17(5)(h) of the Central Goods and Services Tax Act and not the credit attributable to the manufacture of such time expired goods. Illustration: Supposedly, manufacturer has availed ITC of Rs. 10/- at the time of manufacture of medicines valued at Rs. 100/-. At the time of return of such medicine on the account of expiry, the ITC available to the manufacturer on the basis of fresh invoice issued by wholesaler is Rs. 15/-. So, when the time expired goods are destroyed by the manufacturer he would be required to reverse ITC of Rs. 15/- & not of Rs. 10/-.

Return of time expired goods by issuing the credit note

- ✚ As an alternative to the above procedure, the supplier can issue a credit note to the person returning the goods. The person returning such expired medicines can return it by issuing a delivery challan.
- ✚ If the credit note is issued within the time limit specified in section 34(2) of the CGST Act, the supplier can adjust his tax liability, if the person returning the medicine has either not availed ITC or reversed the ITC, if availed.
- ✚ A credit note can still be issued if the time limit specified in section 34(2) of the CGST Act has lapsed. However, the supplier cannot adjust the tax liability. It is also clarified that in such cases, there is no requirement to declare such credit note on GSTN by the supplier.
- ✚ The manufacturer will be required to reverse the ITC attributable to the manufacture of such goods at the time of destruction of such time expired medicines

**Compare this Book with any Book including ICAI
SM, you are going to find this Book Best**

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

Further, this circular is applicable to such other scenarios where the goods are returned on account of other reasons.

Section 32 Prohibition of Unauthorized collection of Tax

A person who is not a registered person shall not collect in respect of any supply of goods or services or both any amount by way of tax under this Act.

No registered person shall collect tax except in accordance with the provisions of this Act or the rules made thereunder.

Section 33 Amount of tax to be indicated in tax invoice and other documents

Notwithstanding anything contained in this Act or any other law for the time being in force, where any supply is made for a consideration, every person who is liable to pay tax for such supply shall prominently indicate in all documents relating to assessment, tax invoice and other like documents, the amount of tax which shall form part of the price at which such supply is made.

Goods moved within the State or from the State of registration to another State for supply on approval basis and art works sent by artists to galleries for exhibition

Suppliers of jewellery etc. who are registered in one State may have to visit other States (other than their State of registration) and need to carry the goods (such as jewellery) along for approval. In such cases if jewellery etc. is approved by the buyer, then the supplier issues a tax invoice only at the time of supply. Since the suppliers are not able to ascertain their actual supplies beforehand and while ascertainment of tax liability in advance is a mandatory requirement for registration as a casual taxable person, the supplier is not able to register as a casual taxable person. Such goods are also carried within the same State for the purposes of supply.

In view of relevant provisions of rule 55, it is clarified that the goods which are taken for supply on approval basis can be moved from the place of business of the registered supplier to another place within the same State or to a place outside the State on a delivery challan along with the e-way bill wherever applicable and the invoice may be issued at the time of delivery of goods. For this purpose, the person carrying the goods for such supply can carry the invoice book with him so that he can issue the invoice once the supply is fructified. [Circular No. 10/10/2017 GST Dated 18.10.2017].

Likewise, in case where artists supply art works in different States - other than the State in which they are registered as a taxable person and if the art work is selected by the buyer, then the supplier issues a tax invoice only at the time of supply, it is clarified that the art work for supply on approval basis can be moved from the place of business of the registered person (artist) to another place within the same State or to a place outside the State on a delivery challan along with the e-way bill wherever applicable and the invoice may be issued at the time of actual supply of art work.

[Circular No. 22/22/2017 GST Dated 21.12.2017].

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Question & Answer

Q1. ABC Ltd. entered into a contract with XYZ Ltd., for supply of goods on 15th August 2017. The goods were to be delivered on 30th August 2017. ABC Ltd. removed goods on 28th August 2017. When should ABC Ltd. issue the tax invoice?

A. 28th August 2017 according to section 31.

Q2. The aggregate turnover of ABC Ltd. exceeded Rs. 20 Lacs on 15th August 2017. It applied for registration on 5th September 2017 and was granted registration on 7th September 2017. Please give your commentary for this.

A. As per Section 25 of CGST Act, ABC Ltd. has applied within 30 days of becoming liable for registration. So, effective date of registration is date on which it becomes liable to registration i.e. 15th August 2017.

As per Section 31, ABC Ltd. has to issue the revised tax invoices in respect of taxable supplies effected during the period starting from the effective date of registration i.e. 15th August 2017, till date of issuance certificate of registration i.e. 7th September 2017 within 1 month from the date of issuance of certificate of registration i.e. on or before 7th October 2017.

Q3. ABC Ltd. is a trader dealing in provisions items. It is registered under GST and has undertaken following sales during the day:

Sr. No.	Recipient of Supply	Amount
1	A – a registered retail dealer under composition levy	190
2	B – an unregistered dealer	500
3	C – an unregistered buyer	900
4	D Charitable Trust – an unregistered entity	175
5	E – a senior citizen – an unregistered	150

None of the recipients require a tax invoice.

A. In the given question, ABC Ltd. can issue a consolidated tax invoices to supplies made to D Charitable trust & E as the value of goods supplied to these recipients is less than Rs. 200 (unregistered & don't require a tax invoice).

Although A sales is less than Rs. 200 but A is registered retail dealer. So consolidated invoice cannot be issued. Other sales are anyway more than Rs. 200, so consolidated invoice cannot be issued.

Q4. When can a taxable person not issue credit note?

A. According to proviso to Sec 34(2) of the CGST Act, 2017, no credit note shall be issued by the taxable person if the incidence of tax and interest on such supply has been passed by the supplier to the recipient. No reduction in output tax liability of the supplier shall be permitted, if the incidence of tax and interest on such supply has been passed on to any other person.

Q5. What is the time limit for issuance of credit note?

A. A supplier cannot issue a credit note pertaining to a supply of goods or services or both of a particular financial year later than the

- Month of September following the end of the financial year in which such supply was made, or
- Date of furnishing of the relevant annual return.

Whichever is earlier.

Example: Suppose, Mr. A has supplied goods to Mr. B in the month of Sept'17. Mr. B sends a complaint to Mr. A about deficient quality of goods. Mr. A can issue a credit note to Mr. B in respect of such supply of goods

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

and declare details of such credit note in the return till the month of Sept'18 or till the date of furnishing of annual return of 2017-18, whichever is earlier.

Q6. When can a debit note be issued? Is there any time limit for issue of debit note?

A. Debit note can be issued by the supplier of the goods or services or both, to the recipient, when subsequent to the issue of tax invoice he comes to know that taxable value or tax charged in that tax invoice is less than the taxable value or tax payable with respect to such supply

Example: Mr. A has provided services of dry cleaning to Mr. B and charges Rs. 500 and tax at the rate of 12% i.e. Rs. 60. Afterwards, Mr. A comes to know that he has undercharged Mr. B by Rs. 200. He communicates to Mr. B that he has charged Mr. B less by Rs. 200 and issues debit note and charges additional tax of Rs. 24. In such a case, tax liability of Mr. A would be on Rs. 700 only and he would have to pay tax of Rs. 84. There is no time limit for issuance of debit note.

Q7. I am constructing a building for my client. The client is required to pay me on completion of plinth, 1st floor and 2nd floor. When should the invoice be raised?

A. The above instance is a case of continuous supply of services. Here, since the payment is linked to completion of an event (i.e., milestones set in the contract), an invoice should be raised on or before the due date of completion of event as per section 31(5)(c) of the CGST Act, 2017. Therefore, an invoice be raised on or before completion of the 1st floor and the second time on or before the completion of 2nd floor.

Q8. I had a contract for supplying manpower for 28 days for Rs. 28,000/-. However, after 10 days, the service has stopped. Should I raise an invoice?

A. Yes. Where a supply of service ceases before its completion, an invoice has to be issued at the time the supply ceases, i.e., on the 10th day. The invoice shall be issued to the extent of the service provided before its cessation. (Section 31(6) of the CGST Act, 2017).

Q9. ABC Ltd., located in Pune (Maharashtra), received the advance to supply the training. As per the agreement, the supplier may have to impart the training to Jaipur branch or Mumbai branch (both are registered place of recipient) as per the need. What should be the treatment?

A. At the time of receiving the advance, supplier is known that where he has impart the training. Nevertheless, he has to issue the receipt voucher at the time of receipt of advance. As far as, nature of supply is concerned, he will have to treat it as inter-State supply and will have to pay IGST on it. If later on it is supplied that it was imparted in Mumbai Branch (intra-State supply), then as per Section 19 of IGST Act, it says that person will pay correct tax (here, it is CGST+SGST, being found as intra-State supply) without interest and claim the refund of IGST paid.

Q10. How can I supply goods without movement?

A. In cases where the ownership, or the risks and rewards are transferred without requiring the movement of goods, the goods would be treated as supplied although no movement is involved in effecting such supply. E.g. when an Agent who is in possession of certain goods decides to buy the goods from the principal, or in case where there is an on-site installation of machinery, or in case of sale and lease back transactions, etc.

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Chapter 11: - Accounts & Records; E-way Bill

Section 35	Accounts & Records
Section 36	Period of retention of accounts
Section 68	Inspection of goods in movement
Rule 138	E-way Bill

Section 35 Accounts & Records & Section 36 Period of retention of accounts

Applicability [Sec. 35(1)]	Every Registered person
Location [Sec. 35(1)]	At the principal place of business , as mentioned in the certificate of registration. In case of more than one place of business , the accounts relating to each place of business shall be kept at such places of business.
Records to be kept [Sec. 35(1)]	Registered Person shall keep and maintain, a true and correct account of – a) Production or Manufacture of goods; b) Inward & outward supply of goods or services or both; c) Stock of goods; d) Input Tax credit availed; e) Output tax payable and paid; and f) Such other prescribed particulars.
Electronic Form	The registered person may keep and maintain such accounts and other particulars in electronic form stored on any electronic device and record so maintained shall be authenticated by means of a digital signature. Back up of records shall be maintained. Whenever demanded, provide authenticated hard copy or in any electronically readable format, relevant passwords, codes etc. No entry to be erased/overwritten.
Persons covered for mandatory Maintenance of records [Sec. 35(2) read with rule 58]	1. Following persons shall mandatorily maintain records of the Consignor, Consignee and other prescribed details : - a) Every owner or operator of warehouse or godown or any other place used for storage of goods and b) Every transporter 2. If such persons are not already registered, they shall obtain a unique enrollment number by applying electronically at the GST common portal. 3. Records to be maintained: - a) Persons engaged in the business of Transporting Goods : Records of goods transported, delivered and goods stored in transit by him along with GSTIN of the registered consignor and consignee for each of his branches. b) Owner or Operator of warehouse or Godown : Books of Accounts, with respect to the period for which particular goods remain in the warehouse, including the particulars relating to dispatch, movement, receipt, and disposal of such goods. For the purposes of Chapter XVI of these rules, a transporter who is registered in more than one State or Union Territory having the same Permanent Account Number, he may apply for a unique common enrolment number by submitting the details in FORM GST ENR-02 using any one of his Goods and Services Tax Identification Numbers, and upon validation of the details furnished, a unique

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

	common enrolment number shall be generated and communicated to the said transporter: Provided that where the said transporter has obtained a unique common enrolment number, he shall not be eligible to use any of the Goods and Services Tax Identification Numbers for the purposes of the said Chapter XVI. Rule 58 (1A) - Inserted vide notification No. 28/2018-CT, Dated 19.06.2018 Chapter XVI is related to e-way rules. Transporter may apply for a unique common enrollment number for all his registration under GST. After obtaining unique common enrolment number, he shall not be eligible to use any of GSTIN for the purpose of e-way rules.
Power of Commissioner [Sec. 35(3) & 35(4)]	a) May also notify a person to maintain additional accounts or documents b) May permit to maintain in prescribed manner.
Requirement for Audit [Sec. 35(5)]	Every registered person whose turnover during a financial year exceeds the Rs. 2 crores, must get his accounts audited by a Chartered Accountant or Cost Accountant. He shall submit a copy of the - Audited Annual accounts, and - A reconciliation statement u/s 44(2) [to reconcile the value of supplies declared in the returns with the audited annual financial statements] & - Such other documents as may be prescribed Provided that nothing contained in this sub-section shall apply to any department of the Central Government or a State Government or a local authority, whose books of account are subject to audit by the Comptroller and Auditor-General of India or an auditor appointed for auditing the accounts of local authorities under any law for the time being in force.
Failure to Account for Goods or Services [Sec. 35(6)]	Proper officer shall determine the of tax payable on the goods or services or both that are not accounted for. Also, provisions regarding determination of tax not paid or short paid due to Fraud or other reasons shall be equally apply for determination of such tax.
Records prescribes by rules [Rule 56(1), (3), (5) & (6)]	Every registered person shall keep and maintain a True and Correct Account of the following – - The goods/services imported/exported - Supplies attracting payment of tax on reverse charge along with relevant documents, including invoices, bills of supply, delivery challans, credit notes, debit notes, receipt vouchers, payment vouchers and refund vouchers - Separate account of advances received, paid and adjustments made thereto Registered person also required to keep complete address of suppliers from he has received goods or services, to whom he has supplies goods or services. He is also required to keep the particulars of the complete address of premises where goods are stored by him. If any taxable goods found to be stored at any place other than those so declared without proper documents then proper officer shall determine the amount of tax payable on such goods.
Records which are not to be maintained by a supplier opting for composition levy [Rule 56(2) & (4)]	<u>Stock of goods:</u> No need to keep records of goods received, supplied, opening balance, goods lost, stolen, destroyed, written off or disposed of by way of gift or free sample and balance stock. <u>Details of Tax:</u> Account, containing the details of tax payable (including tax payable under reverse charge), tax collected and paid, input tax, ITC claimed, together with a register of tax invoice, credit notes, debit notes, delivery challan issued or received during any tax period.
Records to be maintained by Agent [Rule 56(11)]	Particulars of authorization received by him from each principal to receive or supply goods or services on behalf of such principal separately;

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

	b) Particulars including description, value and quantity (wherever applicable) of goods or services received on behalf of every principal; c) Particulars including description, value and quantity (wherever applicable) of goods or services supplied on behalf of every principal; d) Details of accounts furnished to every principal; and e) Tax paid on receipts or on supply of goods or services effected on behalf of every principal;
Records to be maintained by manufacturer [Rule 56(12)]	Monthly production accounts showing quantitative details of raw materials or services used in the manufacture and quantitative details of the goods or manufactured including the waste and by products thereof.
Records to be maintained by a supplier of services [Rule 56(13)]	Account showing quantitative details of goods used in the provision of services, details of input services utilized and the services supplied.
Separate Accounts to be maintained by a registered person executing works contracts [Rule 56(14)]	a) The names and addresses of the person on whose behalf the works contract is executed b) Description, value and quantity of goods or services received for the execution of works contract c) Description, value and quantity of goods or services utilized in the execution of works contracts d) The details of payment received in respect of each works contract and e) The names and addresses of suppliers from whom he received goods or services
Records to be maintained by a custodian/clearing and forwarding agent [Rule 56(17)]	Any person having custody over the goods in the capacity of a carrier or a clearing and forwarding agent for delivery or dispatch thereof to a recipient on behalf of any registered person shall maintain true and correct records in respect of such goods handled by him on behalf of such registered person and shall produce the details thereof as and when required by the proper officer
Period of Retention of Accounts [Section 36]	Till expiry of 72 months from the due date of furnishing of annual return
Extended time limit	If a registered person, is a party to a) An appeal or b) Revision or c) Any other proceedings before any Appellate Authority or Revisional Authority or Appellate Tribunal or Court, or d) Is under investigation for an offence shall retain the accounts & other records pertaining to the subject matter - for a period of 1 year after final disposal of such matter or for 72 months whichever is later
Requirement of maintaining the books of accounts in case of auction of tea, coffee, rubber etc. [Circular No. 47/21/2018 GST Dated 08.06.2018]	In case of auction of tea, coffee, rubber etc., the requirement of maintaining the books of accounts at the Principal Place of Business (PPoB) and Additional Place(s) of Business (APoB) is as below: a. For the purpose of auction of tea, coffee, rubber, etc, the principal and the auctioneer may declare the warehouses, where such goods are stored, as their APoB. The buyer is also required to disclose such warehouse as his APoB if he wants to store the goods purchased through auction in such warehouses. For the purpose of supply of tea through a private treaty, the principal and an auctioneer may also comply with the said provisions. b. The principal and the auctioneer for the purpose of auction of tea, coffee, rubber etc., or the principal and the auctioneer for the purpose of supply

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

	of tea through a private treaty, are required to maintain the books of accounts relating to each and every place of business in that place itself in terms of the first proviso to section 35(1) of the CGST Act [discussed earlier]. However, in case difficulties are faced in maintaining the books of accounts, it is clarified that they may maintain the books of accounts relating to the APoB at their PPOB instead of such additional place(s). c. The principal and the auctioneer for the purpose of auction of tea, coffee, rubber etc., or the principal and the auctioneer for the purpose of supply of tea through a private treaty, shall intimate their jurisdictional officer in writing about the maintenance of books of accounts relating to the APoB at their PPOB. <u>ITC availment:</u> It is further clarified that the principal and the auctioneer for the purpose of auction of tea, coffee, rubber etc., or the principal and the auctioneer for the purpose of supply of tea through a private treaty, shall be eligible to avail ITC subject to the fulfilment of other provisions of the CGST Act read with the rules made thereunder.
--	---

Section 68 Inspection of goods in movement

Sec. 68(1) Carrying of documents

For the movement of goods, the person in charge of a conveyance may require to carry such documents as may be specified by the government and such devices as may be prescribed. The documents may be required to carry by the person in charge only in case if they are exceeding the value specified in this respect.

Sec. 68(2) Validation of documents

The details of documents required to be carried under sub-section (1) shall be validated in such manner as may be prescribed.

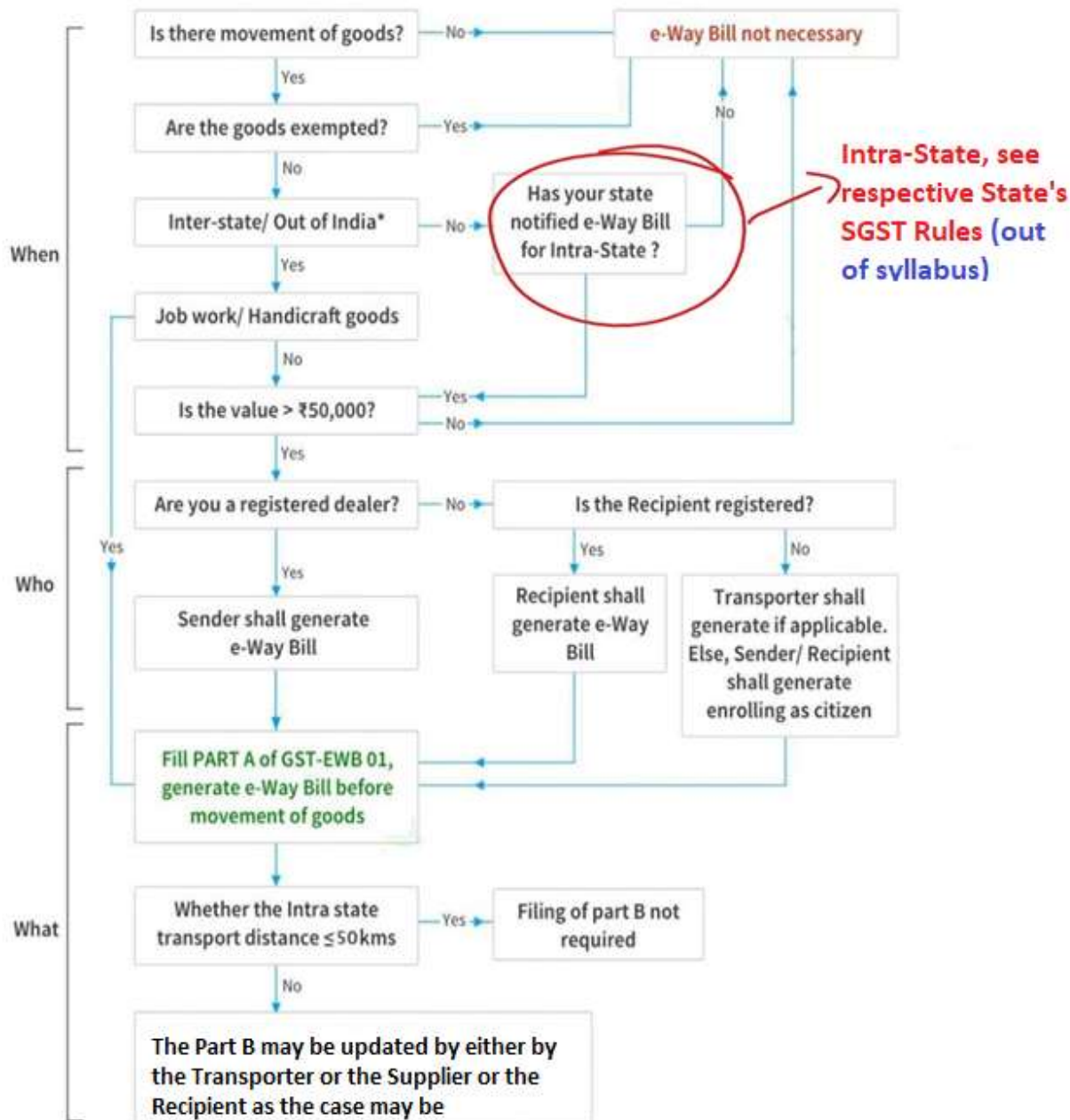
Sec. 68(3) Inspection of documents

Proper officer may intercept any person in charge carrying goods in conveyance to produce such documents and devices as prescribed in sub-section (1) to check the validity of the movement of goods, and such person in charge of goods will be required to produce the same for verification.

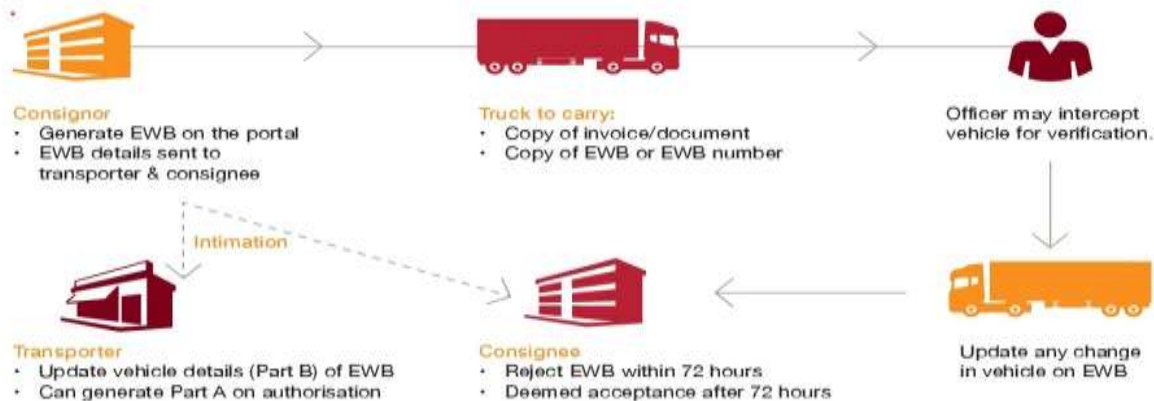
Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Telegram Group for Doubt Clearance

<https://telegram.me/cafinalidtamitjain>



Workflow of movement of goods:



Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

Rule 138 Information to be furnished prior to commencement of movement of goods and generation of e-way bill

FORM GST EWB-01
(See rule 138)
E-Way Bill

PART-A	
A.1	GSTIN of Recipient
A.2	Place of Delivery
A.3	Invoice or Challan Number
A.4	Invoice or Challan Date
A.5	Value of Goods
A.6	HSN Code
A.7	Reason for Transportation
A.8	Transport Document Number
PART-B	
B.	Vehicle Number

E-way bill is of three parts:

Part A is description of goods, which is normally expected to be filled by consignor, but can be filled by others also.

Part B is description of mode of transport, which is normally expected to be filled in by transporter but in many cases, by other also.

The third part is unique e-way bill number and date, which is generated on common portal once both parts get filled up.

- (1) **Every registered person** who causes **movement of goods of consignment value exceeding Rs. 50,000:**
 - (i) In relation to a supply; or
 - (ii) For reasons other than supply; or
 - (iii) Due to inward supply from an unregistered person,

shall, before commencement of such movement, furnish information relating to the said goods as specified in Part A of Form GST EWB-01, electronically, on the common portal and a unique number will be generated on the said portal.

↓ **Transporter, may furnish such information on authorization from the registered person.**

ECO or courier agency, may furnish such information on authorization from the consignor.

★ **In case of job work, principal/job worker (if registered) can furnish information if it is inter-State, irrespective of value of consignment.**

★ **In case of interstate supply of handicraft goods, even if person has been exempted from the requirement of obtaining registration, e-way bill shall be generated irrespective of value of consignment.**

Consignment value of goods would be value, determined in accordance with **Section 15** and would be declared in an invoice, bill of supply or a delivery challan and **include central tax, State or Union territory tax, integrated tax and cess charged**, if any, in the document and **shall exclude the value of exempt supply of goods where the invoice is issued in respect of both exempt and taxable supply of goods.**
- (2) Where the goods are transported by registered person as a consignor or the recipient of supply as the consignee, **whether in his own conveyance or a hired one or a public conveyance, by road, the said person shall generate the e-way bill in Form GST EWB-01 on the common portal after furnishing information in Part B of Form GST EWB-01.**

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

- (2A) Where the goods are transported by **railways or by air or vessel**, the e-way bill shall be **generated by registered supplier or registered recipient**. He shall generate before or after the commencement of movement, the information in Part B of Form GST EWB-01. Where the goods are transported by railways, **the railways shall not deliver the goods unless the e-way bill is produced for delivery**.
- (3) Where the **e-way bill is not generated** under sub-rule (2) and the goods are handed over to a transporter for transportation by road, the registered person shall furnish the information relating to the transporter on the common portal and **the e-way bill shall be generated by the transporter on the said portal on the basis of the information furnished by the registered person** in Part A of FORM GST EWB-01:
Provided that the registered person or, the transporter may, at his option, generate and carry the e-way bill even if the value of the consignment is less than fifty thousand rupees:
Provided further that where the movement is caused by an unregistered person either in his own conveyance or a hired one or through a transporter, he or the transporter may, at their option, generate the e-way bill in FORM GST EWB-01 on the common portal in the manner specified in this rule:
Provided also that **where the goods are transported for a distance of upto fifty kilometers within the State or Union territory from the place of business of the consignor to the place of business of the transporter for further transportation, the supplier or the recipient, or as the case may be, the transporter may not furnish the details of conveyance in Part B of FORM GST EWB-01**.
Explanation 1.— For the purposes of this sub-rule, where the goods are supplied by an unregistered supplier to a recipient who is registered, the movement shall be said to be caused by such recipient if the recipient is known at the time of commencement of the movement of goods.
Explanation 2.— The e-way bill shall not be valid for movement of goods by road unless the information in Part-B of FORM GST EWB-01 has been furnished except in the case of movements covered under the third proviso to sub-rule (3) and the proviso to sub rule (5).
- (4) Upon generation of the e-way bill on the common portal, a unique e-way bill number (EBN) shall be made available to the supplier, the recipient and the transporter on the common portal.
- (5) Where the goods are transferred from one conveyance to another, the consignor or the recipient, who has provided information in Part A of the FORM GST EWB-01, or the transporter shall, before such transfer and further movement of goods, **update the details of conveyance in the e-way bill on the common portal in Part B of FORM GST EWB-01**:
Provided that where the goods are transported for a distance of upto fifty kilometers within the State or Union territory from the place of business of the transporter finally to the place of business of the consignee, the details of the conveyance may not be updated in the e-way bill.
- (5A) The consignor or the recipient, who has furnished the information in Part A of FORM GST EWB-01, or the transporter, may assign the e-way bill number to another registered or enrolled transporter for updating the information in Part B of FORM GST EWB-01 for further movement of the consignment:
Provided that after the details of the conveyance have been updated by the transporter in Part B of FORM GST EWB-01, the consignor or recipient, as the case may be, who has furnished the information in Part A of FORM GST EWB-01 shall not be allowed to assign the e-way bill number to another transporter.
- (6) After e-way bill has been generated in accordance with the provisions of sub-rule (1), where multiple consignments are intended to be transported in one conveyance, the transporter may indicate the serial number of e-way bills generated in respect of each such consignment electronically on the common portal and a consolidated e-way bill in FORM GST EWB-02 maybe generated by him on the said common portal prior to the movement of goods.

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

Example 1: ABC transport in Kashmir, has to transport 3 different type of goods to 3 different traders in New Delhi. All 3 consignments are being transported against 3 different invoices issued by 3 different traders but, will be transported in a single truck. ABC transport may generate a consolidated e-way bill.

- (7) Where the consignor or the consignee has not generated the e-way bill in FORM GST EWB-01 and the aggregate of the consignment value of goods carried in the conveyance is more than fifty thousand rupees, the transporter, except in case of transportation of goods by railways, air and vessel, shall, in respect of inter-State supply, generate the e-way bill in FORM GST EWB-01 on the basis of invoice or bill of supply or delivery challan, as the case may be, and may also generate a consolidated e-way bill in FORM GST EWB-02 on the common portal prior to the movement of goods:

Provided that where the goods to be transported are supplied through an e-commerce operator or a courier agency, the information in Part A of FORM GST EWB-01 may be furnished by such e-commerce operator or courier agency. (Provisions of Rule 138 (7) not notified yet)

- (8) The information furnished in Part A of FORM GST EWB-01 shall be made available to the registered supplier on the common portal who may utilize the same for furnishing the details in FORM GSTR-1: Provided that when the information has been furnished by an unregistered supplier or an unregistered recipient in FORM GST EWB-01, he shall be informed electronically, if the mobile number or the e-mail is available.

- (9) Where an e-way bill has been generated under this rule, but goods are either not transported or are not transported as per the details furnished in the e-way bill, the e-way bill may be cancelled electronically on the common portal within twenty four hours of generation of the e-way bill:

Provided that an e-way bill cannot be cancelled if it has been verified in transit in accordance with the provisions of rule 138B:

Provided further that the unique number generated under sub-rule (1) shall be valid for a period of fifteen days for updation of Part B of FORM GST EWB-01.

- (10) An e-way bill or a consolidated e-way bill generated under this rule shall be valid for the period as mentioned in column (3) of the Table below from the relevant date, for the distance, within the country, the goods have to be transported, as mentioned in column (2) of the said Table:-

Sr. No.	Distance	Validity Period
1.	Upto 100 KM	One day in cases other than Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship
2.	For every 100 KM, or part thereof thereafter	One additional day in cases other than Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship
3.	Upto 20 KM	One day in case of Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship
4.	For every 20 KM or part thereof thereafter	One additional day in case of Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship

Example 2: Suppose eway bill generated on April 1, 2018 at 5 p.m. for transport of cargo which will cover a distance of 90 kms. This eway bill will be valid for one day (till mid night of April 2, 2018);
Suppose eway bill generated on April 1, 2018 at 5 p.m. for transport of cargo which will cover a distance of 190 kms. This eway bill will be valid for two days (till mid night of April 3, 2018).

Provided that the Commissioner may, on the recommendations of the Council, by notification, extend the validity period of an e-way bill for certain categories of goods as may be specified therein:

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Telegram Group for Doubt Clearance

<https://telegram.me/cafinalidtamitjain>

Provided further that where, under circumstances of an exceptional nature, including trans-shipment, the goods cannot be transported within the validity period of the e-way bill, the transporter may extend the validity period after updating the details in Part B of FORM GST EWB-01, if required.

Provided also that the validity of the e-way bill may be extended within eight hours from the time of its expiry.

Explanation 1.—For the purposes of this rule, the —“relevant date” shall mean the date on which the e-way bill has been generated and the period of validity shall be counted from the time at which the e-way bill has been generated and each day shall be counted as the period expiring at midnight of the day immediately following the date of generation of e-way bill.

Explanation 2.— For the purposes of this rule, the expression —“Over Dimensional Cargo” shall mean a cargo carried as a single indivisible unit and which exceeds the dimensional limits prescribed in rule 93 of the Central Motor Vehicle Rules, 1989, made under the Motor Vehicles Act, 1988.

(11) The details of the e-way bill generated under this rule shall be made available to the-

(a) supplier, if registered, where the information in Part A of FORM GST EWB-01 has been furnished by the recipient or the transporter; or

(b) recipient, if registered, where the information in Part A of FORM GST EWB-01 has been furnished by the supplier or the transporter,

on the common portal, and the supplier or the recipient, as the case may be, shall communicate his acceptance or rejection of the consignment covered by the e-way bill.

(12) Where the person to whom the information specified in sub-rule (11) has been made available does not communicate his acceptance or rejection within seventy two hours of the details being made available to him on the common portal, or the time of delivery of goods whichever is earlier, it shall be deemed that he has accepted the said details.

(13) The e-way bill generated under this rule or under rule 138 of the Goods and Services Tax Rules of any State or Union territory shall be valid in every State and Union territory.

(14) Specific goods that are exempt from e-way bill rules are:

1. Transportation of those goods laid down in the annexure to rules as specified below:
 - Liquefied petroleum gas for supply to household and non-domestic exempted category customers
 - Kerosene oil sold under PDS
 - Postal baggage transported by Department of Posts
 - Natural or cultured pearls and precious or semi-precious stones; precious metals and metals clad with precious metal
 - Jewellery, goldsmiths' and silversmiths' wares and other articles
 - Currency
 - Used personal and household effects
 - Unworked and worked coral
2. Goods being transported are alcoholic liquor for human consumption, petroleum crude, high-speed diesel, petrol, natural gas or aviation turbine fuel.
3. Goods being transported are not treated as supply under Schedule III of the Act (Schedule III consists of activities that would neither be supply of goods nor service like service of an employee to an employer in the course of his employment, functions performed by MP, MLA etc.)
4. Goods transported are empty cargo containers
5. Goods, other than de-oiled cake, being transported are specified in notification No. 2/2017– Central tax (Rate) Dated the 28th June, 2017. Few of the goods that are included in the above notification are as follows:
 - Curd, lassi, buttermilk
 - Fresh milk and pasteurized milk not containing added sugar or other sweetening matter
 - Vegetables
 - Fruits
 - Unprocessed tea leaves and unroasted coffee beans
 - Live animals, plants and trees

**Compare this Book with any Book including ICAI
SM, you are going to find this Book Best**

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

- Meat
 - Cereals
 - Unbranded rice and wheat flour
 - Salt
 - Items of educational importance (books, maps, periodicals)
6. Goods exempted under notification No. 7/2017– Central Tax (Rate) Dated 28th June 2017 (supply by CSD to unit run canteens and authorized customers) and notification No. 26/2017– Central Tax (Rate) Dated 21st September 2017 (consists of heavy water and nuclear fuels)
 7. Where empty cylinders for packing of liquefied petroleum gas are being moved for reasons other than supply.

Other transactional cases where away bill is not required are:

1. Eway bill is optional for Goods of value less than Rs. 50,000 (except in cases of mandatory Eway bill provisions like the movement of Handicraft goods and movement of goods for Inter-state Job work)
2. If goods are being transported by a non- motorized conveyance (Ex. Horse carts or manual carts)
3. If goods are being transported:
 - From the port, airport, air cargo complex and land customs station to an inland container depot (ICD) or a container freight station (CFS) for clearance by Customs
 - From ICD or CFS to a customs port, airport, air cargo etc. under customs bond
 - From one customs port/station to another one under customs bond
 - Goods transported under the customs supervision or customs seal
4. Goods transported within the notified area
5. **Goods transported are transit from/to Nepal/ Bhutan**
6. If goods are transported to a weighbridge within 20kms and back to the place of business by being covered under a Delivery Challan
7. Where Government or local authorities transport goods by rail as a consignor
8. Goods transported are to/from the Ministry of Defense

Rule 138A Documents and devices to be carried by a person-in-charge of a conveyance

- (1) The **person-in-charge of conveyance** shall carry-
 - (a) **The invoice or bill of supply or delivery challan**, and
 - (b) **A copy of e-way bill in physical form** or the e-way bill number in **electronic form or mapped to a Radio Frequency Identification Device** embedded on to the conveyance in such manner as may be notified by the Commissioner:

Provided the nothing contained in clause (b) of this sub-rule shall apply in case of movement of goods by rail or by air or vessel.

Provided further that in case of imported goods, the person in charge of a conveyance shall also carry a copy of the bill of entry filed by the importer of such goods and shall indicate the number and date of the bill of entry in Part A of FORM GST EWB-01

- (2) A registered person may obtain an Invoice Reference Number from the common portal by uploading, on the said portal, a tax invoice issued by him in Form GST INV-1 and produce the same for verification by the proper officer in lieu of the tax invoice and such number shall be valid for a period of thirty days from the date of uploading.

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Rule 138B Verification of documents and conveyances

- (1) The Commissioner or an officer empowered by him in this behalf may authorize the proper officer to intercept any conveyance to verify the e-way bill in physical or electronic form for all inter-State and intra-State movement of goods.
- (2) The Commissioner shall get Radio Frequency Identification Device readers installed at places where the verification of movement of goods is required to be carried out and verification of movement of vehicles shall be done through such device readers where the e-way bill has been mapped with the said device.
- (3) The physical verification of conveyances shall be carried out by the proper officer as authorized by the Commissioner or an officer empowered by him in this behalf.
Provided that on receipt of specified information on evasion of tax, physical verification of a specific conveyance can also be carried out by any other officer after obtaining necessary approval of the Commissioner or an officer authorized by him in this behalf.

Rule 138C Inspection and verification of goods

- (1) A summary report of every inspection of goods in transit shall be recorded online by the proper officer in Part A of Form GST EWB-03 within 24 hours of inspection and the final report in Part B of Form GST EWB-03 shall be recorded within 3 days of such inspection.
Provided that where the circumstances so warrant, the Commissioner, or any other officer authorised by him, may, on sufficient cause being shown, extend the time for recording of the final report in Part B of FORM EWB-03, for a further period not exceeding three days.
Explanation.- The period of twenty four hours or, as the case may be, three days shall be counted from the midnight of the date on which the vehicle was intercepted.
- (2) Where the physical verification of goods being transported on any conveyance has been done during transit at one place within the State or UT or in any other State or UT, no further physical verification of the said conveyance shall be carried out again in the State or UT, unless a specific information relating to evasion of tax is made available subsequently.

Example 3: Where a conveyance carrying 25 consignments is intercepted and the person-in-charge of such conveyance produces valid e-way bills and/or other relevant documents in respect of 20 consignments, but is unable to produce the same with respect to the remaining 5 consignments, detention/ confiscation can be made only with respect to the 5 consignments and the conveyance in respect of which the violation of the Act or the rules made thereunder has been established by the proper officer.

Rule 138D Facility for uploading information regarding detention of vehicle

Where a vehicle has been intercepted and detained for a period exceeding 30 minutes, the transporter may upload the said information in Form GST EWB-04 on the common portal.

Explanation. - For the purposes of this Chapter (E-way Bill), the expressions 'transported by railways', 'transportation of goods by railways', 'transport of goods by rail' and 'movement of goods by rail' does not include cases where leasing of parcel space by Railways takes place.

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

Rule 138E Restriction on furnishing of information in PART A of FORM GST EWB-01

Notwithstanding anything contained in sub-rule (1) of rule 138, no person (including a consignor, consignee, transporter, an e-commerce operator or a courier agency) shall be allowed to furnish the information in PART A of FORM GST EWB-01 in respect of a registered person, whether as a supplier or a recipient, who,—

- (a) being a person paying tax under section 10 or availing the benefit of notification of the Government of India, Ministry of Finance, Department of Revenue No. 02/2019– Central Tax (Rate), dated the 7th March, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 189, dated the 7th March, 2019, has not furnished the statement in FORM GST CMP-08 for two consecutive quarters; or
- (b) being a person other than a person specified in clause (a), has not furnished the returns for a consecutive period of two months:
 Provided that the Commissioner may, on receipt of an application from a registered person in FORM GST EWB-05, on sufficient cause being shown and for reasons to be recorded in writing, by order, in FORM GST EWB-06 allow furnishing of the said information in PART A of FORM GST EWB 01, subject to such conditions and restrictions as may be specified by him:
 Provided further that no order rejecting the request of such person to furnish the information in PART A of FORM GST EWB 01 under the first proviso shall be passed without affording the said person a reasonable opportunity of being heard:
 Provided also that the permission granted or rejected by the Commissioner of State tax or Commissioner of Union territory tax shall be deemed to be granted or, as the case may be, rejected by the Commissioner.
 Explanation:– For the purposes of this rule, the expression “Commissioner” shall mean the jurisdictional Commissioner in respect of the persons specified in clauses (a) and (b).
- (c) being a person other than a person specified in clause (a), has not furnished the statement of outward supplies for any two months or quarters, as the case may be.

Circular No. 64/38/2018-GST Dated 14.09.2018

It is clarified that in case a consignment of goods is accompanied by an invoice or any other specified document and not an e-way bill, proceedings under section 129 of the CGST Act may be initiated.

Further, in case a consignment of goods is accompanied with an invoice or any other specified document and also an e-way bill, proceedings under section 129 of the CGST Act may not be initiated, inter alia, in the following situations:

- a. Spelling mistakes in the name of the consignor or the consignee but the GSTIN, wherever applicable, is correct;
- b. Error in the pin-code but the address of the consignor and the consignee mentioned is correct, subject to the condition that the error in the PIN code should not have the effect of increasing the validity period of the e-way bill;
- c. Error in the address of the consignee to the extent that the locality and other details of the consignee are correct;
- d. Error in one or two digits of the document number mentioned in the e-way bill;
- e. Error in 4 or 6 digit level of HSN where the first 2 digits of HSN are correct and the rate of tax mentioned is correct;
- f. Error in one or two digits/characters of the vehicle number.

In case of the above situations, penalty to the tune of Rs. 500/- each under section 125 of the CGST Act and the respective State GST Act should be imposed (Rs.1000/- under the IGST Act) in FORM GST DRC-07 for every consignment. A record of all such consignments where proceedings under section 129 of the CGST Act

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Telegram Group for Doubt Clearance

<https://telegram.me/cafinalidtamitjain>

have not been invoked in view of the situations listed in paragraph 5 above shall be sent by the proper officer to his controlling officer on a weekly basis.

Circular No. 61/35 /2018 GST Dated 04.09.2018 {Consignee/ recipient taxpayer storing goods in the transporter's godown}

Textile traders use transporters' godown for storage of their goods due to their weak financial conditions. The transporters providing such warehousing facility will have to get themselves registered under GST and maintain detailed records in cases where the transporter takes delivery of the goods and temporarily stores them in his warehouse for further transportation of the goods till the consignee/recipient taxpayer's premises.

In this regard, it is clarified that since e-way bill is a document which is required for the movement of goods from the supplier's place of business to the recipient taxpayer's place of business, the goods in movement including when they are stored in the transporter's godown (even if the godown is located in the recipient taxpayer's city/town) prior to delivery shall always be accompanied by a valid e-way bill.

Further, section 2(85) defines the "place of business" [see definitions] to include "a place from where the business is ordinarily carried out, and includes a warehouse, a godown or any other place where a taxable person stores his goods, supplies or receives goods or services or both". An additional place of business (APoB) is the place of business from where taxpayer carries out business related activities within the State, in addition to the principal place of business.

Declaring the transporter's godown as APoB

In case the consignee/ recipient taxpayer stores his goods in the godown of the transporter, the transporter's godown has to be declared as an APoB by the recipient taxpayer. Mere declaration by the recipient taxpayer to this effect with the concurrence of the transporter in the said declaration will suffice.

In such cases, the transportation under the e-way bill shall be deemed to be concluded once the goods have reached the transporter's godown (recipient taxpayer's APoB). Hence, e-way bill validity in such cases will not be required to be extended. Whenever the goods move from the transporter's godown (recipient taxpayer's APoB) to the recipient taxpayer's any other place of business, relevant provisions of the e-way bill rules shall apply. Consequently, a valid e-way bill shall be required, as per the extant State-specific e-way bill rules.

Requirement of maintaining accounts and records

1. Transporter, being a warehouse keeper, has to maintain accounts and records as specified in section 35 read with rule 58 [discussed earlier in this chapter].
2. Recipient taxpayer shall also maintain accounts and records as required under rules 56 and 57 [discussed earlier]. Furthermore, as per rule 56(7), books of accounts in relation to goods stored at the transporter's godown (i.e., the recipient taxpayer's APoB) by the recipient taxpayer may be maintained by him at his principal place of business

**Compare this Book with any Book including ICAI
SM, you are going to find this Book Best**

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

Question & Answer

Q1. Who all can generate E-way bill (EWB)?

A. Every registered person who causes movement of goods of consignment value exceeding Rs. 50,000 or the threshold prescribed (in each State/Union Territory) in relation to supply; or reasons other than supply; or inward supply from unregistered person shall generate EWB.

It means, the consignor or consignee, as a registered person or a transporter of the goods can generate the EWB. The unregistered transporter can enroll on the common portal and generate the EWB for movement of goods for his clients.

Q2. Whether EWB may be generated if the consignment value is less than Rs. 50,000?

A. Yes, the registered person or the transporter, as the case may be, may generate EWB voluntarily, even if the value of consignment is less than Rs. 50,000.

However, Proviso 3 and 4 to Rule 138(1) of the CGST Rules 2017 mandatorily requires a registered person to generate an EWB irrespective of the value of consignment where:

- the goods are to be sent by the principal located in one State or Union Territory to a job worker in other State or Union Territory.
- handicraft goods are transported from one State or Union territory to another State or Union territory by a person who has been exempted from the requirement of obtaining registration under clauses (i) and (ii) of section 24 of the CGST Act.

Q3. Who has been casted with the ultimate responsibility of generating EWBs? Consignor, consignee or the transporter?

A. The primary responsibility to generate EWB shall be of the registered person who causes the movement of goods, i.e. the consignor or the consignee, as the case may be. However, if such consignor or consignee doesn't generate the EWB, it may be generated by transporter as well, if authorized by the registered person. Also, in case of supply of goods by an unregistered person to registered person, the liability to generate EWB is on the recipient.

Q4. Whether EWB would be required, if transportation is done in one's own vehicle or through a public transport?

A. Yes, as per Rule 138 (2), it has been provided that EWB shall be required to be generated, in case the goods are transported by consignor or consignee in his own vehicle or in a hired one or a public conveyance, by road. In such case, the registered person causing the movement of goods may raise the EWB after furnishing the vehicle no. in Part B of FORM GST EWB – 01 if the value of goods being transported is more than Rs. 50,000.

Q5. How shall one calculate the distance and validity of goods in case of supply through multi-modal transport?

A. The distance and the validity of EWB shall remain the same even if the goods are supplied through a multi-modal transport. In order to calculate the validity of the EWB, the distance to be covered by all the modes combined together must be taken into consideration. The validity provided in the CGST Rules is as under:

Sr. No.	Distance	Validity Period
1.	Upto 100 KM	One day in cases other than Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship
2.	For every 100 KM, or part thereof thereafter	One additional day in cases other than Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Telegram Group for Doubt Clearance

<https://telegram.me/cafinalidtamitjain>

3.	Upto 20 KM	One day in case of Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship
4.	For every 20 KM or part thereof thereafter	One additional day in case of Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship

The “relevant date” shall mean the date on which the e-way bill has been generated and the period of validity shall be counted from the time at which the e-way bill has been generated and each day shall be counted as the period expiring at midnight of the day immediately following the date of generation of e-way bill. For example:

- Suppose eway bill generated on April 1, 2018 at 5 p.m. for transport of cargo which will cover a distance of 90 kms. This eway bill will be valid for one day (till mid night of April 2, 2018);
- Suppose eway bill generated on April 1, 2018 at 5 p.m. for transport of cargo which will cover a distance of 190 kms. This eway bill will be valid for two days (till mid night of April 3, 2018).

Note:- Supplier handed over the goods to the transporter on April 1, 2018. Part A of the eway bill was submitted by the supplier on April 1, 2018 after updating the GSTIN of the transporter. Transporter loaded the goods on the truck on April 3, 2018 and completed Part B of the eway bill by updating the vehicle number. In this case, the validity of the eway bill commences from April 3, 2018.

Q6. What is the liability of generation of EWB in case of transportation of goods through e-commerce?

A. Generally, in case of an E-Commerce business model, the logistics is handled by an independent third party logistic service provider. So, in such a case 4 parties are involved in the transaction (seller, buyer, logistic service provider and E-Commerce operator). Therefore, in such cases where the goods are to be transported through an e-commerce operator, on an authorization from consignor, Part A of the EWB may be furnished by the E-Commerce operator and Part B of the EWB may be furnished either by the E-Commerce operator or by the third party logistic service provider.

Q7. Whether any other document needs to be provided to the transporter in addition to EWB, for movement of goods?

A. In accordance with Rule 55A read with Rule 138A of the CGST Rules, the person in-charge of conveyance shall carry

- Tax Invoice or Delivery Challan or Bill of Supply, as the case may be; and
- a copy of the EWB in physical form or the EWB number in electronic form or mapped to a Radio Frequency Identification Device embedded on to the conveyance in such manner as may be notified by the Commissioner:

EWB is an additional document and not a substitute for Tax Invoice, delivery challan or any other prescribed document for the said transaction.

Q8. Can the EWB be deleted?

A. The EWB once generated cannot be deleted. However, it can be cancelled by the generator within 24 hours of its generation. If it has been verified by any proper officer within 24 hours, then it cannot be cancelled. Further, EWB can be cancelled if, either goods are not transported or are not transported as per the details furnished in the EWB. A recipient has right to cancel/ reject the EWB within 72 hours of its generation or actual receipt of goods, whichever is earlier.

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

Q9. In case of High Sea Sale Transactions – Whether EWB is required?

A. EWB is required for movement of goods within the country. In case of High Sea Sales as the supply is affected before the goods cross the custom frontiers of India, EWB is not required to be generated. When the ultimate buyer files bill of entry, he is required to generate EWB for movement of goods from port to his place of business.

Q10. Whether EWB is required to be generated for the movement of goods between CFS /ICD to port in the course of importation and exportation of goods?

A. Rule 138(14) of the CGST Rules 2018, provides that no EWB is required to be generated in respect of:

- Movement of goods from the port, airport, air cargo complex and land customs station to an ICD or a CFS for clearance by Customs in the course of importation.
- where the goods are being transported—
 1. under customs bond from an ICD or a CFS to a customs port, airport, air cargo complex and land customs station, or from one customs station or customs port to another customs station or customs port, or
 2. under customs supervision or under customs seal

Therefore, EWB is not required for movement of goods between CFS/ICD to port or vice versa in the course of importation and exportation of goods.

Q11. How to handle “Bill to” - “Ship to” invoice in e-way bill system?

A. Sometimes, the tax payer raises the bill to somebody and sends the consignment to somebody else as per the business requirements. There is a provision in the e-way bill system to handle this situation, called as ‘Bill to’ and ‘Ship to’.

In the e-way bill form, there are two portions under ‘TO’ section. In the left hand side - ‘Billing To’ GSTIN and trade name is entered and in the right hand side - ‘Ship to’ address of the destination of the movement is entered. The other details are entered as per the invoice.

In case ship to state is different from Bill to State, the tax components are entered as per the billing state party. That is, if the Bill to location is inter-state for the supplier, IGST is entered and if the Bill to Party location is intra-state for the supplier, the SGST and CGST are entered irrespective of movement of goods whether movement happened within state or outside the state.

Q12. Whether multiple invoices can be clubbed in one E way bill? If yes, then to what extent?

A. The value of goods determined in the invoice shall be regarded as the value of consignment, on the basis of which it is decided whether the consignor or consignee is required to generate EWB or not. Therefore, a separate EWB is required to be generated for every individual invoice where value of corresponding consignment exceeds Rs.50,000.

Q13. If the goods are taken from one State to another for the purpose of display in exhibition, whether EWB is required to be generated?

A. EWB would be required to be generated, where the value of the consignment exceeds Rs. 50,000.

Q14. How to generate the EWB in case goods are to be moved to a weighbridge situated outside the factory and invoice cannot be issued unless goods are weighed?

A. EWB is not required to be generated where the goods are to be transported up to a distance of 20 kms for the purpose of weighment from the place of business of consignor to a weighbridge, or, from the weighbridge back to place of consignor. However, such movement should be along with delivery challan to be covered under relaxation of EWB generation.

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Telegram Group for Doubt Clearance

<https://telegram.me/cafinalidtamtjain>

Q15. What if the vehicle is stuck at a particular point in the journey due to calamity or traffic jam?

A. The goods are required to be transported within the validity period of the EWB. However, it is provided that under circumstances of exceptional nature, the transporter may generate another EWB after updating the details in Part-B of FORM GST EWB-01. These circumstances could be said to be in the nature of exceptional nature. However, in the absence of specific meaning of the term "exceptional nature", further clarification is required.

Q16. What if the same invoice contains both categories of goods i.e. ones exempted for the purpose of EWBs and taxable, then whether EWB needs to be generated?

A. It is to be noted that the explanation to the Rule 138(1) provides that consignment value for the purpose of EWB shall be the value, determined in accordance with the provisions of Section 15, declared in invoice or delivery challan or bill of supply as the case may be. However, it shall exclude the value of exempt supply where the invoice is issued in respect of both exempted and taxable supply of goods. Therefore, the value of taxable goods only shall be considered for the purpose of consignment value.

Q17. A registered person has purchased a new mobile phone for Rs. 75,000 and carrying with him on motorized vehicle. Whether EWB is required to be generated?

A. Yes. It appears that if the movement is caused by a registered person, EWB is required to be generated for goods exceeding value of Rs. 50,000.

Q18. A person has been shifting his households from one State to another on account of job change. Whether EWB is required to be generated?

A. Used personal and household effects have been covered in the Annexure to the Rule 138 in respect of which EWB is not required to be generated. Hence, such person is not required to generate EWB in such cases.

Q19. How to consider consignment value in case goods is being moved for renting purpose. Do we need to take the value of goods or value of the rent charged on goods?

A. The consignment value is the value of goods to be determined under section 15 of the CGST Act including applicable tax thereon. The rent charged represents the value of service portion whereas EWB is to be generated for the value of goods for which movement is to be undertaken. Hence, in such cases, the value to be considered should be of the goods not the rental charges charged by the supplier of services. The movement could be based on delivery challan based on which EWB may be generated.

Q20. Supply of goods through pipeline, whether oil, petroleum, gases, water, electricity etc. whether EWB is required to be generated?

A. EWB is required to be generated when movement of goods is through motorized conveyance. Further, the EWB portal has 4 modes of transportation i.e. road, air, rail and ship. As the transportation of goods through pipeline may not involve movement of goods through motorized vehicle, there may not be need to generate EWB for such movement of goods.

Q21. An outdoor catering company is transporting utensils and other accessories for catering outside the kitchen, interstate or intra state. Whether EWB is necessary? If yes what are the documents to be attached with the EWB? If not under which document, it has to be dispatched?

A. The EWB is required for every movement of goods, even if it is for the purpose other than supply. When the goods are transported by caterer for use by him in the course of making supply of catering services, it could be said to be movement of goods by him for himself/ self-use. Though there is no supply of utensils and

**Compare this Book with any Book including ICAI
SM, you are going to find this Book Best**

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

other materials to the customer, yet there is movement of goods and hence EWB is required to be generated. Such EWB may be generated against delivery challan, by providing "Outward" movement and "For own use" under the reason for transportation.

Q22. A farmer carries the goods from his farm to Mandi for the purpose of sale therein. Whether there is requirement to generate EWB?

A. Many of the agricultural produces have been exempted from the levy of GST. Wherever items to be transported is exempted from GST, there is no need to generate EWB. However, if the goods being transported by farmer are in the nature of taxable goods, EWB has to be generated.

Q23. Where goods are supplied on "as is-where is" basis, whether EWB is required to be generated?

A. EWB is not required to be generated for supply of goods unless it involves movement of goods through motorized conveyance. In case of sale of goods on "as is – where is" basis, there is no movement of goods. Hence, there is no need to generate EWB in case of such instances.

Q24. In many cases where manufacturer or wholesaler is supplying to retailers, or where a consolidated shipment is shipped out, and then distributed to multiple consignees, the recipient is unknown at the time the goods are dispatched from shipper's premises. A very common example is when FMCG companies send a truck out to supply kirana stores in a particular area. What needs to be done in such cases?

A. In such cases, EWB shall be generated for outward movement of goods. No supply is being made, movement is caused on behalf of self. In such cases, delivery challan may be used for generation of EWBs. All the provisions for delivery challan need to be followed along with the rules for EWBs.

Q25. Where an invoice is in respect of both goods and services, whether the consignment value should be based on the invoice value (inclusive of value of services) or only on the value of goods. Further, whether HSN wise details of service is also required to be captured in Part A of the EWB in such case.

A. Consignment value and HSN needs to be determined for goods only not for services as only the goods are in movement and EWB needs to be generated accordingly.

Q26. What shall be the consequence if any document, register, or books of accounts belonging to a registered person are found at any premises other than those mentioned in the certificate of registration?

A. As per Rule 56(10) of the CGST Rules, 2017, unless it is proved otherwise, if any document, register, or books of accounts belonging to a registered person are found at any premises other than those mentioned in the certificate of registration, they shall be presumed to be maintained by the said registered person.

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Chapter 12: - Payment of Tax

Section 49	Payment of tax, interest and other amounts
Rule 85	Electronic Liability Register
Rule 86	Electronic Credit Ledger
Rule 86A	Conditions of use of amount available in electronic credit ledger
Rule 87	Electronic Cash Ledger
Rule 88	Unique Identification number
Section 50	Interest on delayed payment of tax
Section 51	Tax deduction at Source
Section 52	Collection of Tax at Source
Section 53	Transfer of ITC
Section 53A	Transfer of certain amounts

Section 49 Payment of tax, interest and other amounts

Payments

Payments	Deposited in	Utilized for
(a) Every deposit made towards Tax, Interest, Penalty, Fee or any other amount by a Person [Sec. 49 (1)]	Electronic Cash Ledger	Payment towards tax, interest, penalty, fees or any other amount payable under the provisions of this Act or the rules [Sec. 49 (3)]
(b) ITC as self-assessed in the Return of a Registered Person [Sec. 49 (2)]	Electronic Credit Ledger	Any payment towards output tax under this Act or under the IGST Act [Sec. 49(4)]

When GST is payable under reverse charge, it should be paid by cash i.e. through Electronic Cash Ledger, the GST under reverse charge cannot be paid by utilizing ITC – Section 49 (4) read with section 2 (82).

Date of Payment

Payment of taxes by the normal tax payer is to be done on monthly basis by the 20th of the succeeding month. Cash payment will be first deposited in the Cash Ledger and the tax payer shall debit the ledger while making payment in the monthly returns and shall reflect the relevant debit entry number in his return. Payment can also be debited from the Credit Ledger. Payment of taxes for the month of March shall be paid by the 20th April. Composition tax payers will need to pay tax on quarterly basis. [The Date of Credit to the account of the Government in the authorized Bank shall be deemed to be the date of deposit in the Electronic Cash Register].

Mode of Payment

- Internet Banking, or
- By using Credit or Debit cards, or
- NEFT/RTGS
- By such other mode prescribed by the Government

Rounding off Tax [Sec. 170]

The amount of duty, interest, penalty, fine or any other sum payable, and the amount of refund or any other sum due, under CGST shall be rounded off to the nearest rupee.

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

Utilization of Credit available in Electronic Credit Ledger [Sec. 49 (5)]

The amount of input tax credit available in the electronic credit ledger of the registered person on account of—

- integrated tax shall first be utilised towards payment of integrated tax and the amount remaining, if any, may be utilised towards the payment of central tax and State tax, or as the case may be, Union territory tax, in that order;
- the central tax shall first be utilised towards payment of central tax and the amount remaining, if any, may be utilised towards the payment of integrated tax;
- the State tax shall first be utilised towards payment of State tax and the amount remaining, if any, may be utilised towards payment of integrated tax;
Provided that the input tax credit on account of State tax shall be utilised towards payment of integrated tax only where the balance of the input tax credit on account of central tax is not available for payment of integrated tax.
- the Union territory tax shall first be utilised towards payment of Union territory tax and the amount remaining, if any, may be utilised towards payment of integrated tax;
Provided that the input tax credit on account of Union territory tax shall be utilized towards payment of integrated tax only where the balance of the input tax credit on account of central tax is not available for payment of integrated tax.
- the central tax shall not be utilised towards payment of State tax or Union territory tax; and
- the State tax or Union territory tax shall not be utilised towards payment of central tax.

Please refer
Rule 88A in
Chapter 8
ITC

Discharge of Tax Liability [Sec. 49 (7), (8) & (9)]

- All liabilities of a taxable person under this Act shall be recorded and maintained in an **Electronic Liability Register**.
- Every taxable person shall discharge his **tax and other dues under this Act in the following order** –
 - Self-assessed tax, and other dues related to Returns of **Previous Tax Periods**;
 - Self-assessed tax, and other dues related to the Return of the **Current Tax Period**;
 - Any other amount payable under this Act or the Rules made thereunder including the **demand for recovery of tax determined U/s 73 or U/s 74**.
- Every person who has paid the tax on goods or services or both under this Act shall, unless the contrary is proved by him, be deemed to have passed on the full incidence of such tax to the recipient of such goods or services or both.

Note

- Tax period means the period for which the tax return is required to be furnished.
- Tax dues means the tax payable under this Act and does not include interest, fee and penalty, and
- Other dues mean interest, penalty, fee or any other amount payable under this Act or the rules made thereunder.

Transfer from one head to another head [Sec. 49 (10) & (11)]

As per Section 49 (10), a registered person may, on the common portal, transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under this Act, to the electronic cash ledger for integrated tax, central tax, State tax, Union territory tax or cess, in such form and manner and

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

subject to such conditions and restrictions as may be prescribed and such transfer shall be deemed to be a refund from the electronic cash ledger under this Act.

As per Section 49 (11), where any amount has been transferred to the electronic cash ledger under this Act, the same shall be deemed to be deposited in the said ledger as provided in sub-section (1).

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

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

Please see example in Chapter 8 :- Input tax credit to understand utilisation of ITC {Rule 88A}

Tax wrongfully collected and paid to Central Government or State Government [Sec. 77]

- If a registered person has paid the Central tax and State tax/UT tax on a transaction considered by him to be an intra-State supply, but which is subsequently held to be an inter-State supply, shall be refunded the amount of taxes so paid.
- If a registered person who has paid Integrated tax on a transaction considered by him to be an inter-State supply, but which is subsequently held to be an intra-State supply, shall not be required to pay any interest on the amount of central tax and State tax/UT tax payable.

There is identical provision in Section 19 of IGST Act, 2017 for wrongly transactions considered as inter-State instead of intra-State.

Rule 85 Electronic Liability Register

1. **Form:** The Electronic Liability Register Specified U/s 49 (7) shall be maintained in FORM GST PMT-01 for each person liable to pay tax, interest, penalty, late fee or any other amount on the Common Portal and all amounts payable by him shall be debited to the said register.
2. **Amounts debited:** The electronic liability register of the person shall be debited by:
 - a. Amount payable towards Tax, Interest, Late fee or any other amount payable as per the return furnished by the said person,
 - b. Amount of tax, interest, penalty or any other amount payable as determined by a Proper Officer in pursuance of any proceedings under the Act or as ascertained by the said person;
 - c. Amount of tax and interest payable as a result of mismatch u/s 42 or u/s 43 or u/s 50, or
 - d. Amount of interest that may accrue from time to time.
3. **Corresponding Debits in Electronic Credit/Cash Ledger:** Payment of every liability by a Registered Person as per his Return shall be made by debiting the Electronic Credit Ledger maintained or the Electronic Cash Ledger maintained and the Electronic Liability Register shall be credited accordingly.

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

4. Credit Entries in the Electronic Liability Register: The following amounts shall be paid by debiting the Electronic Cash Ledger and crediting the Electronic Liability Register –
 - a. Amount deducted u/s 51, or
 - b. Amount collected u/s 52, or
 - c. Amount payable on Reverse charge basis, or
 - d. Amount payable u/s 10,
 - e. Amount payable towards interest, penalty, fee or any other amount under this Act,
5. Electronic Tax Liability Register: The Electronic Liability Register shall be credited with –
 - a. Any amount of demand debited in the Electronic Liability Register which stands reduced to the extent of relief given by the Appellate Authority or Appellate Tribunal or Court.
 - b. Amount of Penalty imposed or liable to be imposed which stands reduced partly or fully, as the case may be, if the taxable person makes the payment of tax, interest and penalty specified in the show cause notice or demand order.
6. Discrepancy: A Registered person shall, upon noticing any discrepancy in his Electronic Liability Ledger, communicate the same to the officer exercising jurisdiction in the matter, through the Common Portal in FORM GST PMT-04.

Rule 86 Electronic Credit Ledger

- Form: The Electronic Credit Ledger shall be maintained in FORM GST PMT-02 for each registered person eligible for ITC under the Act on the Common Portal and every claim of ITC under the Act shall be credited to the said ledger.
- Discharge of liability: The Electronic Credit Ledger shall be debited to the extent of discharge of any liability in accordance with the provisions of U/s 49 or U/s 49A or U/s 49B.
- Refund of Unutilized amount:
 - Where a Registered Person has claimed refund of any unutilized amount from the Electronic Credit Ledger u/s 54, the amount to the extent of the claim shall be debited in the said ledger.
 - If the refund so filed is rejected, either fully or partly, the amount debited to the extent of rejection, shall be re-credited to the Electronic Credit Ledger by the Proper Officer by an order made in FORM GST PMT-03.
 - Where a registered person has claimed refund of any amount paid as tax wrongly paid or paid in excess for which debit has been made from the electronic credit ledger, the said amount, if found admissible, shall be re-credited to the electronic credit ledger by the proper officer by an order made in FORM GST PMT-03.
- Discrepancy: A registered person shall, upon noticing any discrepancy in his Electronic Credit Ledger, communicate the same to the officer exercising jurisdiction in the matter, through the common portal in FORM GST PMT – 04.

Please note:

- No entry shall be made directly in the Electronic Credit Ledger under any circumstance.
- A refund shall be deemed to be rejected, if the appeal is finally rejected or if the claimant gives an undertaking to the proper officer that he shall not file an appeal.

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Rule 86A Conditions of use of amount available in electronic credit ledger

- (1) The Commissioner or an officer authorised by him in this behalf, not below the rank of an Assistant Commissioner, having reasons to believe that credit of input tax available in the electronic credit ledger has been fraudulently availed or is ineligible in as much as-
 - a) the credit of input tax has been availed on the strength of tax invoices or debit notes or any other document prescribed under rule 36-
 - issued by a registered person who has been found non-existent or not to be conducting any business from any place for which registration has been obtained; or
 - without receipt of goods or services or both; or
 - b) the credit of input tax has been availed on the strength of tax invoices or debit notes or any other document prescribed under rule 36 in respect of any supply, the tax charged in respect of which has not been paid to the Government; or
 - c) the registered person availing the credit of input tax has been found non-existent or not to be conducting any business from any place for which registration has been obtained; or
 - d) the registered person availing any credit of input tax is not in possession of a tax invoice or debit note or any other document prescribed under rule 36,

may, for reasons to be recorded in writing, not allow debit of an amount equivalent to such credit in electronic credit ledger for discharge of any liability under section 49 or for claim of any refund of any unutilised amount.
- (2) The Commissioner, or the officer authorised by him under sub-rule (1) may, upon being satisfied that conditions for disallowing debit of electronic credit ledger as above, no longer exist, allow such debit.
- (3) Such restriction shall cease to have effect after the expiry of a period of one year from the date of imposing such restriction.

Rule 87 Electronic Cash Ledger

1. Form: The Electronic cash ledger u/s 49 (1) shall be maintained in FORM GST PMT-05 for each person, liable to pay tax, interest, penalty, late fee or any other amount, on the Common Portal for crediting the amount deposited and debiting the payment therefrom towards tax, interest, penalty, fee or any other amount.

2. Major Heads & Minor Heads:

Major Head	Minor Head for each Major Head
IGST	Tax
CGST	Interest
SGST/UTGST	Penalty
Cess	Fee
	Others

3. A registered taxpayer can make cash deposits in the recognized Banks through the prescribed modes to the Electronic Cash Ledger using any of the Online or Offline modes permitted by the GST Portal. The Cash deposits can be used for making payments like tax liability, interest, penalties, fee and others.
4. Restriction in cross utilization of Major Heads: The amount available in Electronic Cash Ledger can be utilized for payment of any liability for the respective major or minor heads. For example, liability for the

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

tax under SGST/UTGST can be settled only from the available amount of cash under SGST/UTGST Major head.

Example 1: An amount of Rs. 1,000 available under minor head 'tax' of major head 'SGST/UTGST' and the taxpayer has a liability of Rs. 200 for minor head 'interest' under the same major head 'SGST/UTGST'. Since, there is no amount available under minor head 'interest' under major head 'SGST/UTGST', therefore, interest payment cannot be made from the amount available under 'tax' of the same major head.

Amount available under one Major head cannot be utilized for discharging the liability under any other major head. For example, amount available in SGST/UTGST cannot be utilized for discharging liabilities under CGST, IGST or Cess and vice versa.

Example 2: A taxpayer made a cash deposit of Rs. 1,000 to IGST – Tax, through net banking. The tax payer can utilize this cash deposit of Rs. 1,000 in the cash ledger to make payment only of the IGST – tax liability by debiting the cash ledger.

➤ Challan:

- Any person, or a person on his behalf, shall generate a challan in FORM GST PMT – 06 on the common portal and enter the details of the amount to be deposited by him towards tax, interest, penalty fees or any other amount.
- It shall be valid for a period of 15 days.
- For making payment of any amount indicated in the challan, the commission, if any, payable in respect of such payment shall be borne by the person making such payment.

➤ Mode of Deposit:

- Internet Banking through authorized banks,
- Credit Card or Debit Card through the authorized bank,
- NEFT/RTGS
- Over the counter (OTC) payment through authorized banks for deposits up to Rs. 10,000 per challan per tax period, by cash, cheque or demand draft.

➤ OTC limit not applicable:

- Government Departments or any other deposit to be made by notified persons,
- Proper Officer or any other officer authorized to recover outstanding dues from any person, including recovery made through attachment or sale of movable or immovable properties,
- Proper Officer or any other officer authorized for the amounts collected by way of cash, cheque or demand draft during any investigation or enforcement activity or any ad hoc deposit.

➤ Temporary Identification Number: Any payment required to be made by a person who is not registered under the Act, shall be made on the basis of a Temporary Identification Number generated through the Common Portal.

➤ Payment through NEFT/RTGS:

- Where the payment is made by way of NEFT/RTGS mode from any bank, the mandate form shall be generated along with the challan on the Common Portal and the same shall be submitted to the bank from where the payment is to be made.
- The mandate form shall be valid for a period of 15 days from the date of generation of Challan.

➤ Generation of Challan Identification Number (CIN):

- On successful credit of the amount to the concerned government account maintained in the authorized bank, a CIN will be generated by the collecting Bank and the same shall be indicated in the challan.

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

- b. On receipt of CIN from the Collecting Bank, the said amount shall be credited to the Electronic Cash Ledger of the person on whose behalf the deposit has been made and the Common Portal shall make available a receipt of this effect.
 - c. Where the bank account of the person concerned, or the person making the deposit on his behalf, is debited but no CIN is generated or generated but not communicated to the Common Portal, the said person may represent electronically in FORM GST PMT-07 through the Common Portal to the Bank or electronic gateway through which the deposit was initiated.
- Tax deduction/collection: Any amount deducted u/s 51 or collected u/s 52 and claimed in FORM GSTR-02 by the Registered Taxable Person from whom the said amount was deducted or, as the case may be, collected shall be credited to his Electronic Cash Ledger in accordance with the provisions of Rule 87.
- Refund from Electronic Cash Ledger:
- a. Where a person has claimed refund of any amount from Electronic Cash ledger, the amount shall be debited to the Electronic Cash Ledger.
 - b. If the refund so claimed is rejected, either fully or partly, the amount debited to the extent of rejection, shall be credited back to Electronic cash ledger by an order made in FORM GST PMT-03.
- Discrepancy: A registered person shall, upon noticing any discrepancy in his electronic cash ledger, communicate the same to the officer exercising jurisdiction in the matter, through the common portal in FORM GST PMT-04.
- Transfer: A registered person may, on the common portal, transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under the Act to the electronic cash ledger for integrated tax, central tax, State tax or Union territory tax or cess in FORM GST PMT-09 (w.e.f. 21st April 2020).

Note: A refund shall be deemed to be rejected, if the appeal is finally rejected or if the claimant gives an undertaking to the proper officer that he shall not file an appeal.

Refer Question 7 to understand CIN & CPIN



Example 3: ABC has deposited the following amounts in its Electronic Cash Ledger under its major heads. The position of Electronic Cash Ledger for the month of May 2019 is as follows: -

	IGST	CGST	Cess	SGST
Balance	9,000	10,000	-	12,000

For the month of May 2019 Tax Liability:-

Net Tax Liability	IGST	CGST	Cess	SGST
Tax	8,000	12,000	-	12,000

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

It is to be determined as to how ABC can utilize the balance in Electronic Cash Ledger for payment of net tax liability?

Description	Total Tax Payable	Taxes paid through Electronic Cash Ledger			
		IGST	CGST	SGST	Cess
IGST	8,000	8,000			
CGST	12,000		10,000		
SGST	12,000			12,000	
Cess					

In this case, ABC need to deposit INR 2,000 more for payment of CGST.

Now, w.e.f. 21st April 2020, registered person has facility to transfer inter-head amount available in electronic cash ledger so no need to deposit INR 2,000 from his bank account

{Section 49(10) & (11) read with Rule 87(13)}

Rule 88 Unique Identification Number

1. A unique identification number shall be generated at the common portal for each debit or credit to the electronic cash or credit ledger, as the case may be.
2. The unique identification number relating to discharge of any liability shall be indicated in the corresponding entry in the electronic liability register.
3. A unique identification number shall be generated at the common portal for each credit in the electronic liability register for reasons other than those covered under sub-rule (2).

Section 50 Interest on delayed payment of tax

- (1) Every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, but **fails to pay the tax or any part thereof to the Government within the period prescribed**, shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, not exceeding **eighteen percent**, as may be notified by the Government on the recommendations of the Council. **{Notified rate is 18% as per NN 13/2017-CT dated 28-6-2017}**
- (2) The interest under sub-section (1) shall be calculated, in such manner as may be prescribed, from the day succeeding the day on which such tax was due to be paid.
- (3) A taxable person who makes an **undue or excess claim of input tax credit under sub-section (10) of section 42 or undue or excess reduction in output tax liability under sub-section (10) of section 43**, shall pay interest on such undue or excess claim or on such undue or excess reduction, as the case may be, at such rate not exceeding **twenty-four percent**, as may be notified by the Government on the recommendations of the Council. **{Notified rate is 24% as per NN 13/2017-CT dated 28-6-2017}**

Example 4: Mr. A has provided following information with respect to filing of return for the period of June 2018:-

Particulars	Amount (INR)
Amount of IGST to be deposited	2,00,000
Due Date of filing GSTR 3B for the month of June 2018 is 20.07.2018	
Actual Deposit is made on 30.07.2018	

In this case, interest to be deposited is Rs. 986 {Rs. 2,00,000 * 18%* 10 days/365 days}

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Section 51 Tax deduction at source

- (1) Notwithstanding anything to the contrary contained in this Act, the Government may mandate,—
- a department or establishment of the Central Government or State Government; or
 - local authority; or
 - Governmental agencies; or
 - such persons or category of persons as may be notified by the Government on the recommendations of the Council

Notified under notification No. 50/2018 – CT Dated 13.09.2018 & 57/2018 – CT Dated 23.10.2018}

The following persons have been notified under clause (d) of sub-section (1) of section 51 of the CGST Act by the Central Government:

- an authority or a board or any other body, -
 - set up by an Act of Parliament or a State Legislature; or
 - established by any Government,
 with 51% or more participation by way of equity or control, to carry out any function;
- society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860;
- public sector undertakings

With respect to deductor under section 51(1)(a), provisions of TDS are applicable only on the certain prescribed authorities of Ministry of Defence, remaining authorities under the Ministry of Defence are exempt.

- ✓ No TDS in case of supply of goods or services or both from a public sector undertaking to another public sector undertaking, whether or not a distinct person, with effect from the 1st day of October, 2018.
{Notification No. 61/2018 – Central Tax Dated 5th November, 2018}.
- ✓ Nothing in this notification shall apply to the supply of goods or services or both which takes place between one person to another person specified under clauses (a), (b), (c) and (d) or sub-section (1) of Section 51 of said Act.
Notification No.73/2018 – Central Tax Dated 31st December, 2018}
- ✓ The CBIC vide circular no. 76/50/2018 – GST Dated 31.12.2018 has clarified that the provisions of TDS are applicable only to such authority or a board or any other body, set up by an Act of Parliament or a State Legislature or established by any government in which fifty one percent or more participation by way of equity or control is with the Government.

(hereafter in this section referred to as “the deductor”), to deduct tax at the rate of one percent under CGST Act, 2017, (also need to consider deduction under SGST Act, 2017 i.e. 1% CGST & 1% SGST = Total 2%) from the payment made or credited to the supplier (hereafter in this section referred to as “the deductee”) of taxable goods or services or both, where the total value of such supply, under a contract, exceeds two lakh and fifty thousand rupees:

Provided that no deduction shall be made if the location of the supplier and the place of supply is in a State or Union territory which is different from the State or as the case may be, Union territory of registration of the recipient.

Example 5: Registered dealer of Bhubaneswar has placed supply order to a registered dealer of Bihar for delivery of material to a party in Patna. The supply would be intra-State supply and Central tax and State tax would be levied. In such case, transfer of TDS (Central tax + State tax of Orissa) to the cash ledger of the supplier (Central tax + State tax of Bihar) would be difficult. So in such cases, TDS would not be deducted.

- Value of supply shall **exclude GST taxes & Cess**.
- The amount of tax deducted at source should be deposited to the Government account by deductor by **10th of the succeeding month**.
- **A TDS certificate is required to be issued by deductor** (the person who is deducting tax) in prescribed form to the deductee (the supplier from whose payment TDS is deducted).

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

- If the deductor does not furnish the **certificate of deduction-cum- remittance within 5 days of the remittance, the deductor has to pay a late fee of Rs. 100 per day from the expiry of the 5th day until the day he furnishes the certificate. This late fee would not be more than Rs. 5000/-.**
- If the deductor has not remitted the amount deducted as TDS to the Government within the prescribed time limit, he is liable to **pay penal interest under Section 50** in addition to the amount of tax deducted.
- The amount of tax deducted is reflected in
 - Electronic Cash Ledger of deductee.
 - Return filed by deductor under section 39(3).

The deductee can claim credit of the tax deducted, in his electronic cash ledger. This provision enables the Government to cross check whether the amount deducted by the deductor is correct and that there is no mis-match between the amount reflected in the electronic cash ledger and the amount shown in the return filed by deductor.
- The deductor or the deductee can claim refund of excess deduction or erroneous deduction. The provisions of section 54 relating to refunds would apply in such cases. However, if the deducted amount is already credited to the electronic cash ledger of the supplier, the same shall not be refunded.

FAQ released by CBIC

Situations / Contracts	Deduction required YES / NO	Remarks
Finance Department is making a payment of Rs.3 Lakh to a supplier of 'printing & stationery'.	Yes	Where the total contract value of taxable supply is more than Rs.2.5 Lakh deduction is mandatory.
Education Department is making payment of Rs.5 Lakh to a supplier of 'printed books and printed or illustrated post cards' where payment for books is Rs.2 Lakh and Rs.3 Lakh is for other printed or illustrated post cards.	Yes, deduction is required in respect of payment of Rs. 3 Lakh only i.e. for payment in respect of taxable supply.	Books are exempted goods; no deduction is required in respect of supply of books. However, payment involving 'printed or illustrated post cards' is for supply of taxable goods and value of such supply is > Rs.2.5 Lakh; so deduction is required.
Finance Department, is making payment of Rs.1.5 Lakh to a supplier of 'car rental service'.	See Remarks	Deduction is mandatory in case the total value of taxable supply under the contract > Rs.2.5 Lakh irrespective of the amount paid. However, if the total value of supply under a contract is < Rs.2.5 Lakh, deduction is not required.
Health Department executed a contract with a local supplier to supply "medical grade oxygen" of Rs.2.6 Lakh (including GST) and is making full payment.	No	Total value of supply as per the contract is Rs.2.6 Lakh (including GST). Tax rate is 12%. So, taxable value of supply (excluding GST) stands at $\text{Rs.2.6L} \times \frac{100}{112} = \text{Rs.2.32 L} < \text{Rs.2.5 Lakh}$ Hence, deduction is not required.

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Municipal Corporation of Kolkata purchases a heavy generator from a supplier in Delhi. Now, it is making payment of Rs.5 Lakh and IGST @18% on Rs.5 Lakh for such purchase.	Yes, deduction is required @ 2%	Deduction is required in case of inter-State supply and if the value of taxable supply under a contract exceeds Rs.2.5 Lakh.
Fisheries Department is making a payment of Rs.10 Lakh to a contractor for supplying labour for digging a pond for the purpose of Fisheries.	No	This supply of service is exempt in terms of Sl. No. 3 of notification No.12/2017 – Central Tax (Rate) Dated 28.06.2017 and hence deduction is not required.
Municipality is making payment of Rs.5 Lakh to a supplier in respect of cleaning of drains where the value of supply of goods is not more than 25% of the value of composite supply	No	This supply of service is exempt in terms of Sl. No. 3A of notification No.12/2017 – Central Tax (Rate) Dated 28.06.2017 as amended by notification no. 2/2018- Central Tax (Rate) Dated 25.01.2018 and hence deduction is not required.
Government school is making a payment of Rs.3 Lakh to a supplier for supply of cooked food as mid-day meal under a scheme sponsored by Central/State Government.	No	This supply of service is exempt in terms of Sl. No. 66 of notification No. 12/2017 – Central Tax (Rate) Dated 28.06.2017 as amended and hence deduction is not required.
Health Department is making payment of Rs.10 Lakh to a supplier for supply of Hearing Aids.	No	This supply of goods is exempt in terms of Sl. No.142 of notification No. 2/2017 – Central Tax (Rate) Dated 28.06.2017 as amended and hence deduction is not required.

Example 6 (ICAI): Suppose a supplier makes a supply worth Rs. 1000/- to a recipient and the GST at the rate of 18% is required to be paid. The recipient, while making the payment of Rs. 1000/- to the supplier, shall deduct 1% viz Rs. 10/- as TDS.

The value for TDS purpose shall not include 18% GST. The TDS, so deducted, shall be deposited in the account of Government by 10th of the succeeding month.

The TDS so deposited in the Government account shall be reflected in the electronic cash ledger of the supplier (i.e. deductee) who would be able to use the same for payment of tax or any other amount. The purpose of TDS is just to enable the Government to have a trail of transactions and to monitor and verify the compliances.

Example 7:

Particulars (in all cases taxable contract value is over Rs.2.5 Lakh)	Location of Supplier	Place of Supply	State of Registration of recipient	Type of Supply	Tax	TDS deduction
State Government of Rajasthan purchases taxable goods from a local supplier	Jaipur	Jaipur	Rajasthan	Intra-State	CGST & SGST	Yes

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

State Government of Punjab purchases taxable goods from a supplier in Mumbai	Mumbai	Punjab	Punjab	Inter-State	IGST	Yes
State Government of Haryana engages a contractor of Delhi for repairing of Haryana Bhawan in Delhi	Delhi	Delhi	Haryana	Intra - State	CGST & SGST	No

Section 52 Collection of Tax at Source

- Notwithstanding anything to the contrary contained in this Act, every electronic commerce operator (hereafter in this section referred to as the "operator"), not being an agent, shall collect an amount calculated at such rate not exceeding one per cent., as may be notified by the Government on the recommendations of the Council, of the net value of taxable supplies made through it by other suppliers where the consideration with respect to such supplies is to be collected by the operator.
Explanation.—For the purposes of this sub-section, the expression "net value of taxable supplies" shall mean the aggregate value of taxable supplies of goods or services or both, other than services notified under sub-section (5) of section 9, made during any month by all registered persons through the operator reduced by the aggregate value of taxable supplies returned to the suppliers during the said month.
- The power to collect the amount specified in sub-section (1) shall be without prejudice to any other mode of recovery from the operator.
- The amount collected under sub-section (1) shall be paid to the Government by the operator within ten days after the end of the month in which such collection is made, in such manner as may be prescribed.
- Every operator who collects the amount specified in sub-section (1) shall furnish a statement, electronically, containing the details of outward supplies of goods or services or both effected through it, including the supplies of goods or services or both returned through it, and the amount collected under sub-section (1) during a month, in such form and manner as may be prescribed, within ten days after the end of such month.
Provided that the Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing the statement for such class of registered persons as may be specified therein:
Provided further that any extension of time limit notified by the Commissioner of State tax or the Commissioner of Union territory tax shall be deemed to be notified by the Commissioner.
- Every operator who collects the amount specified in sub-section (1) shall furnish an annual statement, electronically, containing the details of outward supplies of goods or services or both effected through it, including the supplies of goods or services or both returned through it, and the amount collected under the said sub-section during the financial year, in such form and manner as may be prescribed, before the thirty first day of December following the end of such financial year.
Provided that the Commissioner may, on the recommendations of the Council and for reasons to be recorded in writing, by notification, extend the time limit for furnishing the annual statement for such class of registered persons as may be specified therein:
Provided further that any extension of time limit notified by the Commissioner of State tax or the Commissioner of Union territory tax shall be deemed to be notified by the Commissioner.
- If any operator after furnishing a statement under sub-section (4) discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, he shall rectify such omission or incorrect particulars in the statement to be furnished for the

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

month during which such omission or incorrect particulars are noticed, subject to payment of interest, as specified in sub-section (1) of section 50:

Provided that no such rectification of any omission or incorrect particulars shall be allowed after the due date for furnishing of statement for the month of September following the end of the financial year or the actual date of furnishing of the relevant annual statement, whichever is earlier.

- (7) The supplier who has supplied the goods or services or both through the operator shall claim credit, in his electronic cash ledger, of the amount collected and reflected in the statement of the operator furnished under sub-section (4), in such manner as may be prescribed.
- (8) The details of supplies furnished by every operator under sub-section (4) shall be matched with the corresponding details of outward supplies furnished by the concerned supplier registered under this Act in such manner and within such time as may be prescribed.
- (9) Where the details of outward supplies furnished by the operator under sub-section (4) do not match with the corresponding details furnished by the supplier under section 37 or Section 39, the discrepancy shall be communicated to both persons in such manner and within such time as may be prescribed.
- (10) The amount in respect of which any discrepancy is communicated under sub-section (9) and which is not rectified by the supplier in his valid return or the operator in his statement for the month in which discrepancy is communicated, shall be added to the output tax liability of the said supplier, where the value of outward supplies furnished by the operator is more than the value of outward supplies furnished by the supplier, in his return for the month succeeding the month in which the discrepancy is communicated in such manner as may be prescribed.
- (11) The concerned supplier, in whose output tax liability any amount has been added under sub-section (10), shall pay the tax payable in respect of such supply along with interest, at the rate specified under sub-section (1) of section 50 on the amount so added from the date such tax was due till the date of its payment.
- (12) Any authority not below the rank of Deputy Commissioner may serve a notice, either before or during the course of any proceedings under this Act, requiring the operator to furnish such details relating to—
 - (a) supplies of goods or services or both effected through such operator during any period; or
 - (b) stock of goods held by the suppliers making supplies through such operator in the godown or warehouses, by whatever name called, managed by such operator and declared as additional places of business by such suppliers, as may be specified in the notice.
- (13) Every operator on whom a notice has been served under sub-section (12) shall furnish the required information within fifteen working days of the date of service of such notice.
- (14) Any person who fails to furnish the information required by the notice served under sub-section (12) shall, without prejudice to any action that may be taken under section 122, be liable to a penalty which may extend to twenty-five thousand rupees.

Explanation.—For the purposes of this section, the expression “concerned supplier” shall mean the supplier of goods or services or both making supplies through the operator.

- In cases where someone is selling their own products through a website, there is no requirement to collect tax at source as per the provisions of this Section. These transactions will be liable to GST at the prevailing rates.
- If we purchase goods from different vendors and are selling them on our website under our own billing. In this case, there are two transactions - where we purchase the goods from the vendors, and where we sell it through our website. For the first transaction, GST is leviable, and will need to be paid to our vendor, on which ITC is available to us. The second transaction is a supply on our own account, and not by other suppliers and there is no requirement to collect tax at source. The transaction will attract GST at the prevailing rates.

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

- If electronic commerce operator has suppliers in different States, he is required to obtain GST registration in each State. However, he can indicate his head office as place of business, if he doesn't have place of business in that State. Thus, all returns can be filed through HO.
{Sr. Nos. 5 to 7 of FAQ released by Law Committee of GST Council on 28-9-2018}
- The supplier cannot supply under composition scheme. He must supply goods or services through normal scheme only.
{Sr. Nos. 6 & 16 of FAQ released by Law Committee of GST Council on 28-9-2018}
- The net value of taxable supplies will be calculated at GSTIN level and not at gross level. In other words, net suppliers are to be calculated for each supplier separately.
{Sr. Nos. 10 & 11 of FAQ released by Law Committee of GST Council on 28-9-2018}
- If in a particular month, the sale returns are more than supplies made, there will be no TCS for that month. However, such negative figure will not be carried forward. Hence, such shortage cannot be adjusted in next month.
{Sr. Nos. 20 of FAQ released by Law Committee of GST Council on 28-9-2018}
- The TCS by electronic commerce operator shall be on billing basis and not on collection basis
{Sr. Nos. 11 of FAQ released by Law Committee of GST Council on 28-9-2018}
TCS provision is not applicable when GST is payable on reverse charge. TCS provisions also do not apply in case of exempt supply.
{Sr. Nos. 14 & 15 of FAQ released by Law Committee of GST Council on 28-9-2018}
- TCS provision don't apply on import of goods or services.
{Sr. Nos. 17 of FAQ released by Law Committee of GST Council on 28-9-2018}
- The rate of TCS are as follows-
 - (a) For supplies within the State – 0.5% CGST plus 0.5% SGST/UTGST
 - (b) For inter-State supplies – 1% IGST
 of the net value of supplies made through it by other suppliers where consideration with respect to such supplies is to be collected by the said operator.
{Sr. Nos. 4 of FAQ released by Law Committee of GST Council on 28-9-2018}
{Notification Nos. 52/2018-CT and 02/2018-IT both Dated 20-9-2018}
- The payment of TCS is to be made through electronic cash ledger only within 10 days from close of month. Payment of TCS amount cannot be made through electronic credit ledger.
{Sr. Nos. 19 of FAQ released by Law Committee of GST Council on 28-9-2018}
- As per Section 24 (ix) every person supplying goods or services through an e-commerce operator who is required to collect TCS under Section 52, is required to be mandatorily register in GST irrespective of the value of supply made by him. However, vide notification No. 65/2017-central tax Dated 15.11.2017, such supplier is going to get threshold limit. It means e-commerce operator is not liable to collect TCS on supply of services being by such supplier through their portal.
- The Government vide circular no. 74/48/2018 – GST Dated 05.11.2018 has clarified on applicability of TCS provisions on operator of electronic auction system for trading tea, in view of the representation received from the Tea Board of India.
The CBIC vide above circular has clarified that the Tea Board admittedly falls under the category of e-commerce operator liable to collect TCS at notified rate in accordance with the provisions of Section 52 of the CGST Act, respectively from the:
 - ✓ Sellers (i.e. tea producers) on the net value of supply of goods i.e. tea; and
 - ✓ Auctioneers on the net value of supply of services (i.e. brokerage)
- The CBIC vide circular no. 76/50/2018 – GST Dated 31.12.2018 has clarified that for the purpose of determination of value of supply under GST, Tax collected at source (TCS) under the provisions of the Income Tax Act, 1961 would not be includible as it is an interim levy not having the character of tax.

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Telegram Group for Doubt Clearance

<https://telegram.me/cafinalidtamtjain>

E-commerce Operator liable to collect TCS	E-commerce Operator not liable to collect TCS	E-commerce Operator not liable to collect TCS
Amazon is liable to collect TCS, because they are facilitating actual supply of goods through their platform (popularly called market place model)	Amazon will not be treated as e-commerce operators liable to collect TCS, in relation to those supplies which they make on their own account (popularly called inventory model)	Titan supplying watches and jewels through its own website would not be considered as an e-commerce operator for the purpose of Section 52. Thus, TCS provisions are not applicable.

Example 8: ABC Ltd. is an e-commerce operator. For the month of May 2019, following information was provided by ABC Ltd.

Particulars	Amount in INR
Aggregate Value of all taxable supplies made through ABC Ltd. by all taxable persons	50,00,000
Supplies returned out of above taxable supplies	10,00,000
Value of supply of notified services made by unregistered suppliers through ABC Ltd., falling under Section 9 (5) of the CGST Act	15,00,000

In this case net value of taxable supplies for the purpose of collecting TCS @ 1% shall be Rs. 40,00,000 (Rs. 50,00,000-Rs. 10,00,000). Accordingly TCS amount is Rs. 40,000. ABC Ltd. would be considered deemed supplier of service in terms of Section 9 (5) of the CGST Act for Rs. 15,00,000 and TCS won't be applicable on this. If suppose suppliers are registered & responsible for GST payment then TCS will be also applicable on Rs. 15,00,000. So total TCS amount will become Rs. 55,000.

Section 53 Transfer of ITC

On utilization of input tax credit availed under this Act for payment of tax dues under the Integrated Goods and Services Tax Act in accordance with the provisions of sub-section (5) of section 49, as reflected in the valid return furnished under sub-section (1) of section 39, the amount collected as central tax shall stand reduced by an amount equal to such credit so utilized and the Central Government shall transfer an amount equal to the amount so reduced from the central tax account to the integrated tax account in such manner and within such time as may be prescribed.

Section 53A Transfer of certain amounts

Where any amount has been transferred from the electronic cash ledger under this Act to the electronic cash ledger under the State Goods and Services Tax Act or the Union territory Goods and Services Tax Act, the Government shall, transfer to the State tax account or the Union territory tax account, an amount equal to the amount transferred from the electronic cash ledger, in such manner and within such time as may be prescribed.

Please refer Question 7 to understand CPIN, CIN, BRN & E-FPB

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

Question & Answer

Q1. How to determine the value limit of Rs. 2,50,000 to decide on the applicability of TDS?

A. As per Section 51, tax to be deducted "where the total value of such supply, under a contract, exceeds Rs 2,50,000". If there is a Purchase order for supply of goods or services or both, for a value exceeding Rs. 2,50,000 then TDS provisions would be attracted. Against the Purchase Order, if several supplies are made under several invoices, even if the value of any particular invoice is less than Rs. 2,50,000 TDS would apply i.e. Public Sector Unit issues 'Purchase order' for a total value of Rs. 10,00,000 on 01.10.2018. Supplier is supplying goods through various invoices & one invoice value is Rs. 50,000. Even then TDS is applicable for this invoice, as the contract value is more than Rs. 2,50,000.

Further, while determining the value, the CGST, SGST, UTGST and IGST shall not be included. For example, if the value of the goods or services being supplied is Rs. 2,40,000/- plus 5% GST, total invoice value Rs. 2,52,000, TDS provisions will not apply, as the value, excluding GST is less than Rs.2,50,000/-.

Q2. State TDS applicability in following cases:

- (a) Supply under RCM
- (b) Supply by unregistered supplier
- (c) Supply by composition Supplier

A.

- (a) No TDS, where the tax is to be paid on reverse charge by the recipient i.e. the deductee;
- (b) No TDS, where the payment is made to an unregistered supplier;
- (c) TDS is required in case of supply received from Composition Supplier i.e. Supplier ZA is a person registered under the composition scheme in Jharkhand who makes taxable supply worth Rs. 10,000 to a Local Authority of Jharkhand where value of taxable supply under the contract is for Rs. 2,55,000 which is more than Rs. 2.5 Lakh and hence deduction of tax is required.

Q3. Mr. X has deducted Rs 1 lakh of TDS in Nov'18. He deposits Rs 70,000 on 10.12.2018 & the rest of Rs 30,000 on 30.01.2019. He submits the return in FORM GSTR 7 on 28.02.2019. Has he incurred any liability to pay late fee or interest? Is he liable to pay any penalty? {FAQ released by CBIC}

A. Electronic Cash Ledger of the DDO is credited on 10.12.2018 and 30.01.2019 with Rs. 70,000 and Rs. 30,000 respectively on account of deposit of TDS of Rs 70,000/- on 10.12.2018 & Rs 30,000 on 30.01.2019. Since return in FORM GSTR 7 for the month of November, 2018 is filed on 28.02.2019 and he discharges his payment liability of tax so deducted by debiting his electronic cash ledger as well on this date only, therefore, late fee of 80 days (11.12.2018 to 28.02.2019) have to be paid under CGST and SGST. The amount of late fee will be restricted to Rs. 5000 (upper limit provided in the Act). Interest has also to be paid for the delay. Penalty is also payable by a DDO if he fails to deduct the tax in accordance with the provisions of sub-section (1) of section 51, or deducts an amount which is less than the amount required to be deducted under the said sub-section, or where he fails to pay to the Government under sub-section (2) of section 51 [section 122 (v) refers]. He is liable to penalty of Rs.1,00,000/-.

Q4. Whether a supplier of goods or services supplying through ecommerce operator would be entitled to threshold exemption? {FAQ released by CBIC}

A. As per Section 24 (ix) of the CGST Act, 2017, every person supplying goods through an ecommerce operator shall be mandatorily required to register irrespective of the value of supply made by him. However, a person supplying services, other than supplier of services under section 9 (5) of the CGST Act, 2017, through an e-commerce platform are exempted from obtaining compulsory registration provided their aggregate turnover

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Telegram Group for Doubt Clearance

<https://telegram.me/cafinalidtamtjain>

does not exceed INR 20 lakhs (or INR 10 lakhs in case of specified special category States) in a financial year. Government has issued the notification No. 65/2017 – Central Tax Dated 15th November, 2017 in this regard.

Q5. Whether e-Commerce operator is required to obtain registration in every State/UT in which suppliers listed on their e-commerce platform are located to undertake the necessary compliance as mandated under the law?

{FAQ released by CBIC}

A. As per the CGST law, registration for TCS would be required in each State / UT as the obligation for collecting TCS would be there for every intra-State or inter-State supply. In order to facilitate the obtaining of registration in each State / UT, the e-commerce operator may declare the Head Office as its place of business for obtaining registration in that State / UT where it does not have physical presence. It may be noted that each State/UT has indicated one administrative jurisdiction where all e-commerce operators having business (but not having physical presence) in that State/UT shall register. The proper officer for the purpose of registration of ECOs has also been notified by each State/UT.

Q6. Foreign e-commerce operator do not have place of business in India since they operate from outside. But their supplier and customers are located in India. So, in this scenario will the TCS provision be applicable to such ecommerce operator and if yes, how will foreign e-commerce operator obtain registration?

{FAQ released by CBIC}

A. Where registered supplier is supplying goods or services through a foreign e-commerce operator to a customer in India, such foreign ecommerce operator would be liable to collect TCS on such supply and would be required to obtain registration in each State / UT. It may be noted that each State/UT has indicated one administrative jurisdiction where all ecommerce operators having business (but not having physical presence) in that State/UT shall register. The proper officer for the purpose of registration of ECOs has also been notified by each State/UT. If the foreign e-commerce operator does not have physical presence in a particular State / UT, he may appoint an agent on his behalf.

Q7. What do you mean by:-

- CPIN
- CIN
- BRN
- E-FPB

A.

CPIN stands for Common Portal Identification Number given at the time of generation of challan. It is a 14 digit unique number to identify the challan. The CPIN remains valid for a period of 15 days.

CIN or Challan Identification number is generated by banks, once payment in lieu of a generated challan is successful. It is a 17-digit number that is 14-digit CPN plus 3-digit bank code. CIN is generated by the authorized banks/Reserve Bank of India (RBI) when payment is actually received by such authorized banks or RBI and credited in the relevant government account held with them. It is an indication that the payment has been realized and credited to the appropriate government account. CIN is communicated by the authorized bank to taxpayer as well as to GSTN.

BRN or Bank reference number is the transaction number given by the bank for a payment against a challan.

E-FPB stands for Electronic Focal Point Branch. These are branches of authorized banks which are authorized to collect payment of GST. Each authorized bank will nominate only one branch as its E-FPB for pan India Transactions. The E-FPB will have to open accounts under each major head for all governments. Total 38 accounts (one each for CGST, IGST and one each for SGST for each State/UT Government) will have to be opened. Any amount received by such E-FPB towards GST will be credited to the appropriate account held by such E-FPB. For NEFT/RTGS transactions, RBI will act as E-FPB.

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

Chapter 13: - Returns

Section 37	Furnishing details of outward supplies
Section 39	Furnishing Returns
Section 40	First Return
Section 44	Annual Return
Section 45	Final Return
Section 46	Notice to Return defaulters
Section 47	Levy of Late Fee
Section 48	Goods & Service Tax Practitioners
Section 150	Information Return
Section 123	Penalty for failure to furnish Information Return

Please download offline utility to understand Returns, to make it simple & interesting. Please memorize below chart (important for MCQ)

Return/Statement	Description	Due Date
GSTR -1	Details of Outward Supplies i.e. invoices, debit notes and credit notes issued by taxable person (including casual taxable person). Not applicable to ISD, NRTP, Composition Dealer, TDS & TCS.	10 th of Succeeding Month (10th of the month succeeding the quarter if aggregate turnover upto Rs. 1.50 crores)
GSTR – 3B	Summary return (including casual taxable person)	20 th of Succeeding Month
FORM GST CMP-08	Composition Dealer u/s 10 or person paying tax by availing the benefit of Notification 02/2019 - Central Tax (Rate), Dated the 7th March, 2019	18th day of the month succeeding quarter
GSTR – 4	Annual return for Composition Dealer u/s 10 or person paying tax by availing the benefit of Notification 02/2019 - Central Tax (Rate), Dated the 7th March, 2019	30 th April following the end of such financial year
GSTR – 5	Return for NRTP	20 th Day from end of month or within 7 days after the last day of validity of registration whichever is earlier
GSTR – 5A	Return for OIDAR	20 th of Succeeding Month
GSTR – 6	Return for ISD	13 th Day of Succeeding Month
GSTR – 7	Registered person required to deduct tax at source	10th of the next month
GSTR – 8	E-commerce operator required to collect tax at source	10th of the next month
GSTR – 9	Annual Return (Not applicable to ISD, NRTP, Casual Taxable Person, Government, TDS & TCS)	31 st December of Next Financial Year
GSTR – 9A	Registered person paying tax under composition scheme	31 st December of Next Financial Year
GSTR – 9B	E-commerce operator required to collect tax at source	31 st December of Next Financial Year
GSTR – 9C	GST Reconciliation Statement	With annual return
GSTR – 10	Final Return (Every registered person whose registration has been cancelled)	Within 3 months of the date of cancellation of registration or order of cancellation whichever is later.
GSTR – 11	Details of inward supplies to be furnished by a person having UIN and claiming refund	28 th Day of Succeeding Month

All the returns under GST laws are to be filed electronically

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Section 37 Furnishing Details of Outward Supplies

Details of outward supplies [Section 37 (1) read with rule 59 (1)]

Every registered person including casual registered person excluding:

- Input Service Distributor
- Non-resident taxable person
- Person paying tax under composition scheme
- Person deducting TDS
- Person collecting tax at source i.e. ECO, not being an agent
- OIDAR

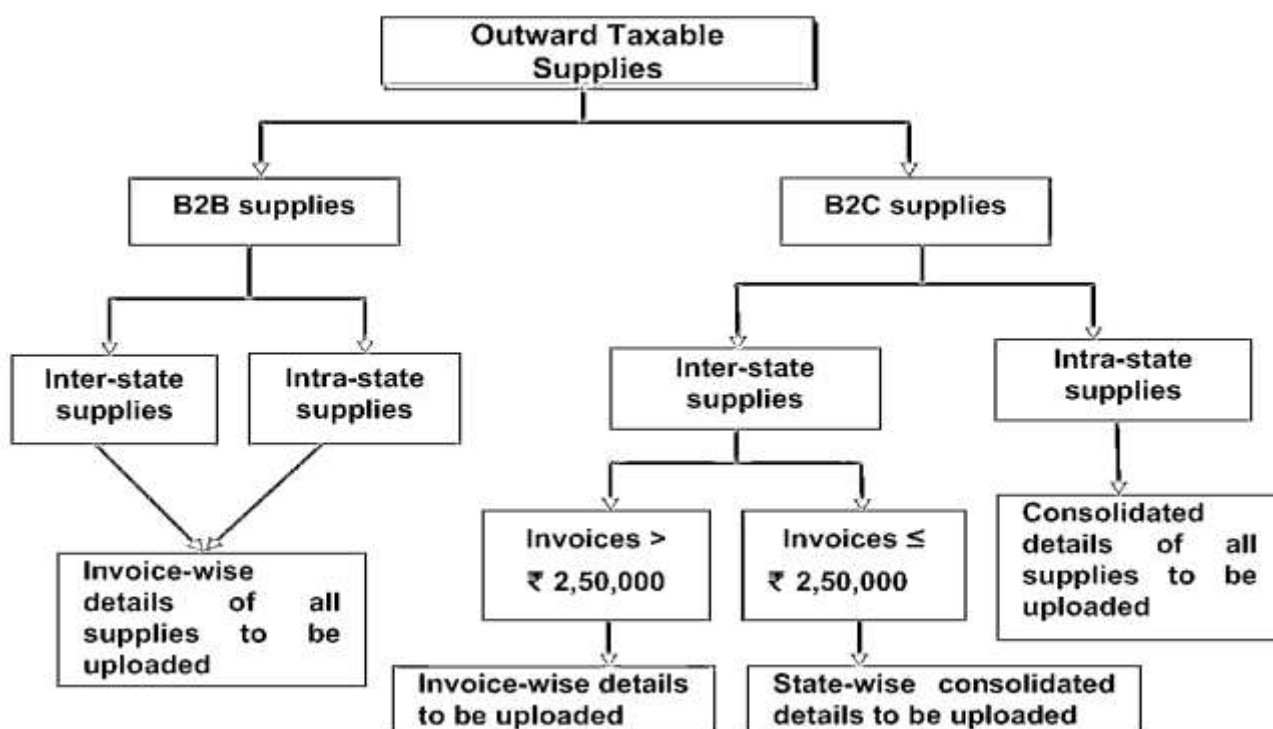
Form & Due Date: FORM GSTR 1 & due date is on or before 10th of succeeding month. GSTR-1 cannot be filed between 11th & 15th of the succeeding month. GSTR-1 can be filed on or after 16th of month., if due date of 10th of the month is missed.

The due date of filing GSTR-1 may be extended by the Commissioner/Commissioner of State GST/Commissioner of UTGST for a class of taxable persons by way of notification.

A taxpayer cannot file GSTR-1 before the end of current tax month period except

- Casual taxpayers, after the closure of their business
- Cancellation of GSTIN of a normal taxpayer

Details of outward supplies are required to be furnished in GSTR-1 [Explanation to section 37 read with rule 59(2) of CGST Rules]



- Invoices can be modified/deleted any number of times till the final submission.
- If there is no consideration as per Schedule I, the taxable value needs to be worked out
- HSN details Upto 1.5 crores (NIL), more than 1.5 crores and upto Rs. 5 crores (2 digits) & More than Rs. 5 crores (4 digits)

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

Basic & Other Details	Details of Outward Supplies
•GSTIN •Legal name and Trade name •Aggregate turnover in previous year •Tax period •HSN-wise summary of outward supplies •Details of documents issued •Advances received/advances adjusted	•B2B •B2C •Zero rated and Deemed exports •Debit/ Credit notes issued •Nil rated/ Exempted/ Non GST •Amendments for prior period

Prior periods amended [Section 37 (3)]

A. Scope of amendment/correction entries

The supplier can make amendments in the particulars furnished in GSTR-1 filed by him for the prior periods if he agrees to the mismatch report communicated to him by the system every month, after the processing of the return.

The details of original debit notes/credit notes/refund vouchers issued by the tax-payer in the current tax period as also the revision in the debit notes/credit notes/refund vouchers issued in the earlier tax periods are required to be shown in Table 9 of GSTR-1.

Ordinarily in Amendment Table the supplier is required to give details of original invoice (No. and Date), the particulars of which have been wrongly entered in GSTR-1 of the earlier months and are now sought to be amended. However, it may happen that, a supplier altogether forgets to include the entire original invoice while furnishing the GSTR-1 for a particulars month. In such cases also, he would be required to show the details of the said missing invoice which was issued in earlier month in the Amendment Table only, as such type of errors would also be regarded as data entry error.

B. Time limit for rectification

Suppose for some reason, supplier could not make correction at the time of filing of GSTR-1 then he can make correction in the subsequent periods but maximum time limit permissible:

- Date of filing of monthly return u/s 39 for the month of September following the end of financial year to which such details pertain or
- Date of filing of the relevant annual return.

Key Points to remember:

- GSTR 1 needs to be filed even if there is no business activity in the tax period.
- All values like invoice value, taxable value and tax amounts in GSTR 1 are to be declared up to 2 decimal digits. The rounding off of the self-declared tax liability to the nearest rupee will be done in GSTR 3B.
- As a measure of easing the compliance requirement for small tax payers, GSTR-1 has been allowed to be filed quarterly by small tax payers with aggregate annual turnover up to Rs. 1.5 crore in the preceding financial year or the current financial year. Tax payers with annual aggregate turnover above Rs. 1.5 crore will however continue to file GSTR- 1 on a monthly basis.
- Taxpayer opting for voluntary cancellation of GSTIN will have to file GSTR 1 for active period.
- In cases where a taxpayer has been converted from a normal taxpayer to composition taxpayer, GSTR 1 will be available for filing only for the period during which the taxpayer was registered as normal taxpayer. The GSTR 1 for the said period, even if filed with delay would accept invoices for the period prior to conversion.

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Section 39 Furnishing of Returns

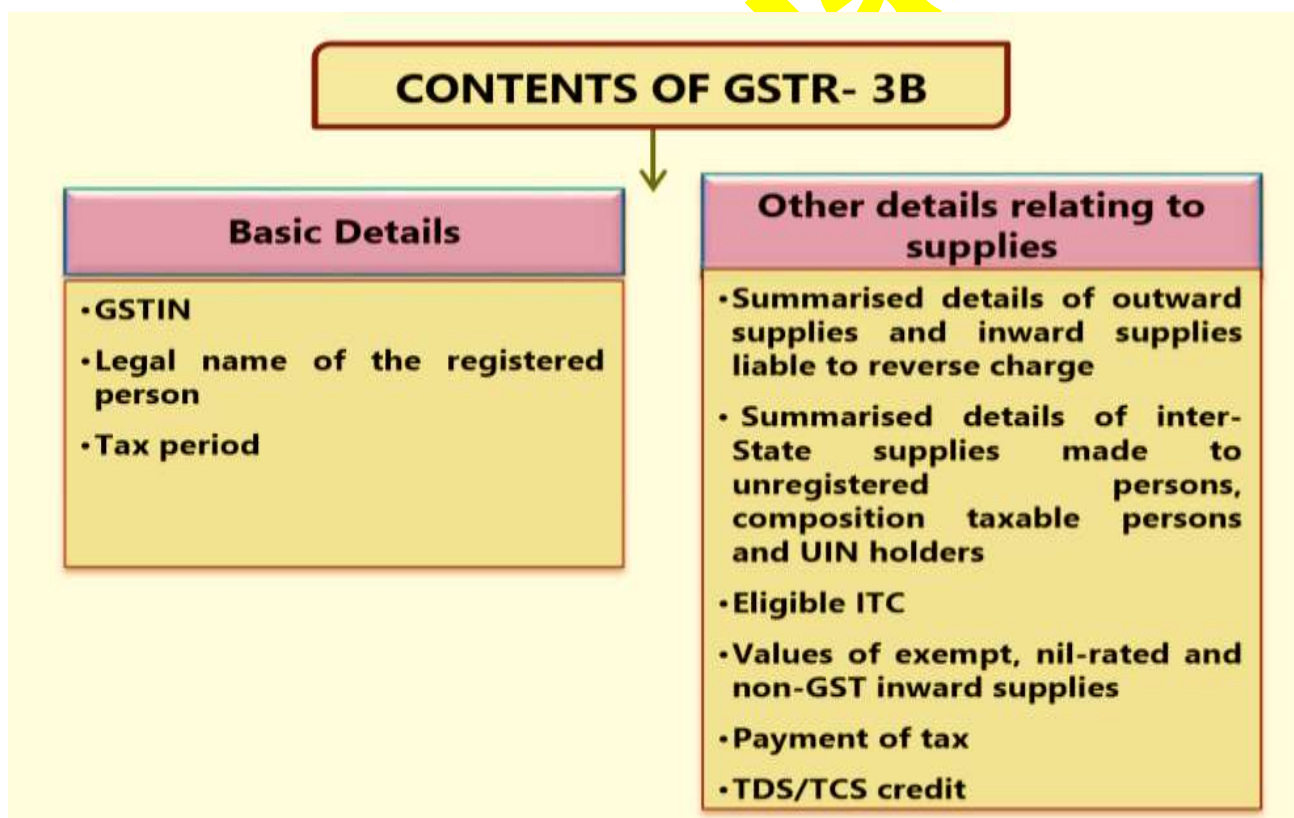
GSTR-3B [Rule 61(5) of the CGST Rules]

Section 39(1) prescribes a monthly return in Form GSTR-3 for every registered person, other than an input service distributor or a non-resident taxable person or a composition tax payer, a person deducting tax at source, an electronic commerce operator and supplier of OIDAR services. GSTR-3 is to be filed by 20th day of the month succeeding the relevant calendar month or part thereof. However, filing of GSTR-3 has been deferred by the GST Council.

Currently, **return in Form GSTR-3B** is being notified as the monthly return to be filed by the registered persons who are required to file GSTR-3. Presently, the due date of submission for GSTR-3B is being notified as 20th day of the month succeeding the relevant month.

GSTR-3B can be submitted electronically through the common portal, either directly or through a notified Facilitation Centre.

GSTR-3B is a simple return containing summary of outward supplies, inward supplies liable to reverse charge, eligible ITC, payment of tax etc. Thus, GSTR-3B does not require invoice-wise data of outward supplies.



GSTR 3B filed without payment of self-assessed tax disclosed therein, is not be regarded as a valid return in terms of section 2(117).

The return in Form GSTR-3B is the return under section 39(1) and where a return in GSTR-3B is furnished by a person then such person shall not be required to furnish the return in Form GSTR-3.

**Compare this Book with any Book including ICAI
SM, you are going to find this Book Best**

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

GSTR-4 – Return for composition supplier u/s 10 and person paying tax under Notification No. 2/2019 CT (R) dated 07.03.2019 [Section 39(2) read with Notification No. 21/2019 CT dated 23.04.2019 issued under section 148, and rule 62 of the CGST Rules]

The following persons are required to file an annual return in FORM GSTR-4:

Every registered person paying tax under section 10 i.e., composition supplier; or

Every registered person paying tax by availing the benefit of Notification No. 2/2019 CT (R) dated 07.03.2019.

GSTR-4 for a financial year or part of a financial year should be filed electronically through the common portal either directly or through a notified Facilitation Centre.

Quarterly statement for payment of self-assessed tax: The persons required to file GSTR-4 are also required to furnish a statement in the FORM GST CMP-08 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.

Due Date: GSTR-4 for a financial year should be furnished by 30th April of the succeeding financial year.

GST CMP-08 (quarterly statement for payment of self-assessed tax) should be furnished by 18th day of the month succeeding such quarter.

The inward supplies of a composition supplier/person paying tax under Notification 2/2019 CT (R) received from registered persons filing GSTR-1 will be auto populated in FORM GSTR-4A for viewing.

CONTENTS OF GSTR- 4

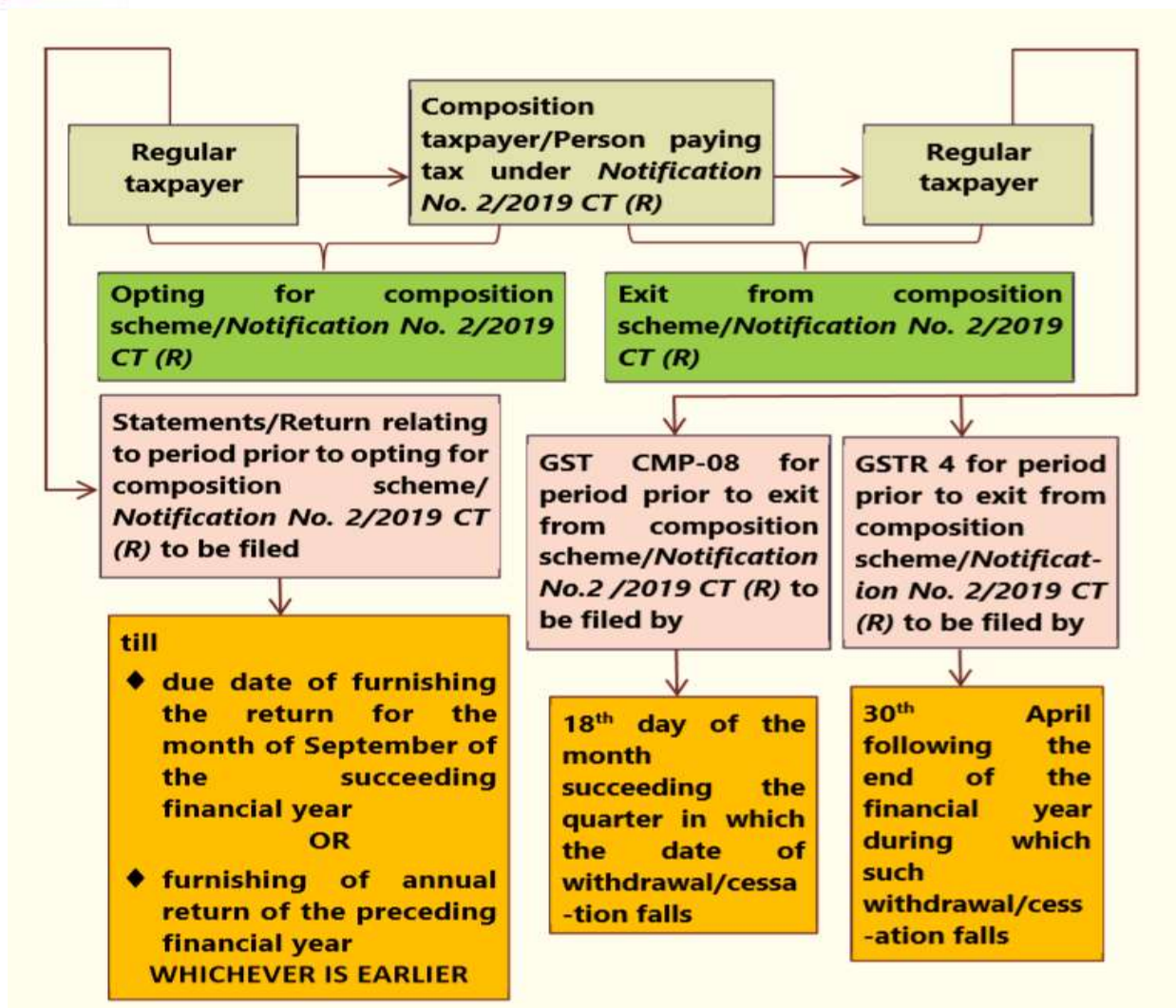
Basic & Other Details

- GSTIN
- Legal name and Trade name
- TDS/TCS credit received [Table 7]
- Tax, interest, late fee payable and paid [Table 8]
- Refund claimed from Electronic cash ledger [Table 9]

Details regarding Inward and Outward Supplies

- Invoice-wise details of all inward supplies (i.e., intra and inter-State supplies and from registered and unregistered persons) including reverse charge supplies and import of services [Table 4]
- Summary of self assessed liability as per GST CMP-08 (Net of advances, credit & debit notes and any other adjustments due to amendments etc.) [Table 5]
- Tax rate wise details of outward supplies/inward supplies attracting reverse charge (Net of advances, credit & debit notes and any other adjustments due to amendments etc.) - Consolidated details of outward supplies [Table 6]

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.



GSTR 5 (NRTP) [Section 39 (5) read with rule 63]

A registered NRTP is not required to file separately the Statement of Outward, Inward supplies. A simplified monthly tax return has been prescribed in Form GSTR 5 which they need to file 20 days after the end of the calendar month or within 7 days after the last day of validity period of the registration, whichever is earlier.

A NRTP is not required to file an annual return.

NRTPs or casual taxable persons are required to make advance deposit of an amount equivalent to their estimated tax liability for the period for which registration is sought or extension of registration is sought in terms of section 27(2).

GSTR 6 Return for ISD [Section 39 (4) read with rule 60 (5) & rule 65]

An ISD is required to distribute both eligible as well as ineligible credit as per rule 39.

ISD is not required to file separate statements of outward and inward supplies with its return.

Form GSTR 6 contains the details of input tax credit received for distribution, total ITC/eligible/ineligible ITC to be distributed for the tax period, distribution of ITC, details of debit/credit notes etc. Return needs to be filed after 10th of the month and before 13th of the month succeeding the tax period.

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

The details of ITC received for distribution by an ISD will be auto populated in Form GSTR-6A. Such details are auto-populated in Form GSTR-6A when the registered suppliers file their GSTR-1.

ISD can view the auto-populated details of ITC received for distribution in GSTR-6A and, where required, after adding, correcting or deleting the details, furnish GSTR-6.

ISD will not have reverse charge supplies. If ISD wants to take reverse charge supplies, in that case it has to separately register as a Normal taxpayer.

Basic & Other Details	Details regarding Inward and Outward Supplies
• GSTIN • Legal name and Trade name • Late Fee [Table 10] • Refund claimed from electronic cash ledger [Table 11]	• Input tax credit received for distribution [Table 3] • Total ITC/ Eligible ITC/ Ineligible ITC to be distributed for tax period [Table 4] • Distribution of input tax credit reported in Table 4 [Table 5] • Amendments in information furnished in earlier returns [Table 6] • Input tax credit mis-matches and reclaims to be distributed in the tax period [Table 7] • Distribution of input tax credit reported in Table No. 6 and 7 (plus/minus) [Table 8] • Redistribution of ITC distributed to wrong recipient (plus/minus) [Table 9]

GSTR 7 Return for TDS [Section 39 (3) read with rule 60 (6) & rule 66]

Deductor shall furnish a monthly return in Form GSTR-7 electronically through the common portal.

The details in GSTR-7 should be furnished on/before 10th of the month succeeding the calendar month in which tax has been deducted at source.

The details of TDS furnished by the deductor in GSTR-7 shall be made available electronically to each of the deductees on the common portal after filing of Form GSTR-7 for claiming the amount of tax deducted in his electronic cash ledger after validation. (Similar provision is also there for GSTR-8 TCS)

A TDS certificate is required to be issued by deductor (the person who is deducting tax) in Form GSTR-7A to the deductee (the supplier from whose payment, TDS is deducted), within 5 days of crediting the amount to the Government. It contains the details pertaining to value on which tax has been deducted, rate of deduction, amount of tax deducted at source and amount paid to the Government.

This is not return u/s 39

GSTR-8 Statement for TCS [Section 52 (4) read with rule 60 (4) & rule 67]

An ECO liable to collect tax at source shall furnish a monthly return in Form GSTR-8 electronically through the common portal.

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Telegram Group for Doubt Clearance

<https://telegram.me/cafinalidtamtjain>

The details in **GSTR-8** should be furnished on/before 10th of the month succeeding the calendar month in which tax has been collected at source. Further, the amount of tax collected by ECO (TCS amount) is required to be deposited by the 10th of the month succeeding the calendar month in which tax has been collected at source.

The details of TCS furnished by the ECO in GSTR-8 is made available electronically to each of the supplier on the common portal after filing of Form GSTR-8 for claiming the amount of tax collected in his electronic cash ledger after validation.

If after submission of GSTR-8, the ECO discovers any discrepancy therein on his own - not being the result of any scrutiny, audit, inspection or enforcement proceedings - he should rectify such discrepancy in GSTR-8 to be filed for the month during which such discrepancy is noticed, subject to payment of interest under section 50. The rectification is not allowed after the due date of filing of GSTR-8 for the month of September following the end of the financial year [i.e. 10th October of next financial year] or the actual date of filing of the relevant annual statement [GSTR-9B], whichever is earlier.

The supplier who has supplied the goods and/or services through the ECO claims credit, in his electronic cash ledger of the TCS reported by the ECO in the GSTR-8 filed by it.

Due date for payment of tax

- Due dates for payment of tax in respect of the persons required to file GSTR3B, GSTR-5 and GSTR-7 are linked with the due dates for filing of such returns, i.e. the last dates (due dates) of filing such returns are also the due dates for payment of tax in respect of persons required to file such returns.
- However, in case of registered persons paying tax under composition scheme or Notification No. 2/2019 CT (R) dated 07.03.2019, the due date for payment of tax and filing of GSTR-4 is delinked. While GSTR-4 for a financial year is required to be filed by 30th April of the following year, tax for a quarter is to be paid by 18th of the month succeeding such quarter.
- Also, NRTPs or casual taxable persons are required to make advance deposit of an amount equivalent to their estimated tax liability for the period for which registration is sought or extension of registration is sought in terms of section 27(2).

GSTR 11 (UIN) [Rule 82]

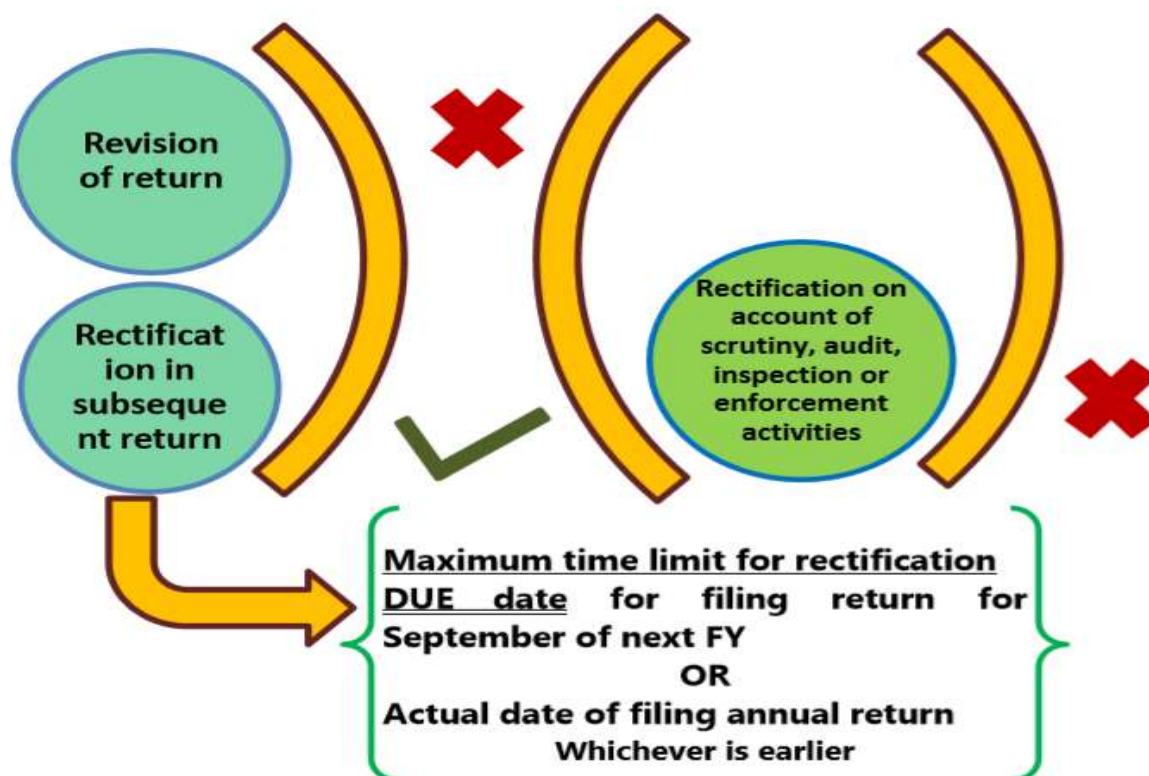
Such person shall furnish the details of those inward supplies of taxable goods and/or services on which refund of taxes has been claimed in Form GSTR-11, along with application for such refund claim.

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

Rectification of errors/omissions [Section 39(9)]



Section 40 First Return

Every registered person who has made outward supplies in the period between the date on which he became liable to registration till the date on which registration has been granted shall declare the same in the first return furnished by him after grant of registration.

Section 44 Annual Return

(1) Every registered person, **other than an**

- Input Service Distributor,
- a person paying tax under section 51 or section 52,
- a casual taxable person, and
- a non-resident taxable person,

shall furnish an annual return for every financial year electronically in such form and manner as may be prescribed on or before the **thirty-first day of December following the end of such financial year**.

Provided that the Commissioner may, on the recommendations of the Council and for reasons to be recorded in writing, by notification, extend the time limit for furnishing the annual return for such class of registered persons as may be specified therein:

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

(2) Every registered person who is required to get his accounts audited in accordance with the provisions of sub-section (5) of section 35 shall furnish, electronically, the annual return under sub-section (1) along with a copy of the audited annual accounts and a reconciliation statement,

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Telegram Group for Doubt Clearance

<https://telegram.me/cafinalidtamitjain>

reconciling the value of supplies declared in the return furnished for the financial year with the audited annual financial statement, and such other particulars as may be prescribed.

However, the department of the Central/State Government or a local authority, whose books of account are subject to audit by the Comptroller and Auditor-General of India or an auditor appointed for auditing the accounts of local authorities under any law for the time being in force, are exempt from the requirement of getting its accounts audited and furnishing the copy of audited annual accounts and a duly certified reconciliation Statement.

As per Rule 80 (2), every electronic commerce operator required to collect tax at source under section 52 shall furnish annual statement referred to in sub-section (5) of the said section in FORM GSTR -9B.

The Government has notified the persons compulsorily registered under section 24(xi) of the CGST Act read with rule 14 of CGST Rules supplying **OIDAR** services from a place outside India to a person in India, other than a registered person, as the class of registered persons **who shall not be required to furnish** –

- (i) the **annual return** under section 44(1) of the CGST Act read with rule 80(1) of the CGST Rules, and
- (ii) the **reconciliation statement** under section 44(2) of the CGST Act read with rule 80(3) of the CGST Rules

As per amended Rule 80 (3), every registered person whose aggregate turnover during the financial year 2018-2019 exceeds five crore rupees shall get his accounts audited as specified under sub-section (5) of section 35 and he shall furnish a copy of audited annual accounts and a reconciliation statement, duly certified, in FORM GSTR-9C for the financial year 2018-2019, electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner.

Filing of annual return (GSTR- 9) under section 44(1) of CGST Act read with rule 80(1) of CGST Rules, in respect of financial years 2017-18 and 2018-19, has been made voluntary for the registered persons whose aggregate turnover in a financial year doesn't exceed Rs. 2 crore & who have not furnished the said annual return before the due date. The annual return shall be deemed to be furnished on the due date if it has not been furnished before the due date. A person paying tax U/s 10 (Composition Scheme) is required to furnish the annual return in Form GSTR-9A (now annual return is GSTR 4), it is also optional for such person.

Circular No. 124/43/2019 dated 18th November 2019 clarifying that Section 73 provides for voluntary payment of tax dues by the taxpayers at any point in time. Therefore, irrespective of the time and quantum of tax which has not been paid or short paid, the taxpayer has the liberty to self-ascertain such tax amount and pay it through FORM GST DRC-03. Accordingly, it is clarified that if any registered tax payer, during course of reconciliation of his accounts, notices any short payment of tax or ineligible availment of input tax credit, he may pay the same through FORM GST DRC-03.

As per Notification No.09/2020– Central Tax dated 16th March 2020, the Central Government, on the recommendations of the Council, hereby notifies the persons who are foreign company which is an airlines company covered under the notification issued under sub-section (1) of section 381 of the Companies Act, 2013 and who have complied with the sub-rule (2) of rule 4 of the Companies (Registration of Foreign Companies) Rules, 2014, as the class of registered persons who shall follow the special procedure as mentioned below:-

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

The said persons shall not be required to furnish reconciliation statement in FORM GSTR-9C to the Central Goods and Services Tax Rules, 2017 under subsection (2) of section 44 of the said Act read with sub-rule (3) of rule 80 of the said rules:

Provided that a statement of receipts and payments for the financial year in respect of its Indian Business operations, duly authenticated by a practicing Chartered Accountant in India or a firm or a Limited Liability Partnership of practicing Chartered Accountants in India is submitted for each GSTIN by the 30th September of the year succeeding the financial year.

Section 45 Final Return

Every registered person who is required to furnish a return U/s 39 (1) and whose registration has been cancelled shall furnish a final return **within three months of the date of cancellation or date of order of cancellation, whichever is later**, in such form and manner as may be prescribed. (Form GSTR 10)

Section 46 Notice to Return Defaulters

Where a registered person fails to furnish a return under section 39 (Normal Return) or section 44 (Annual Return) or section 45 (Final Return), a notice shall be issued requiring him to furnish such **return within fifteen days** in such form and manner as may be prescribed.

Section 47 Levy of late fee

- (1) Any registered person who fails to furnish the details of outward or inward supplies required under section 37 (Statement of Outward Supplies) or ~~section 38 (Statement of Inward Supplies)~~ or returns required under section 39 (Returns) or section 45 (Final Return) by the due date shall pay a **late fee of one hundred rupees for every day during which such failure continues subject to a maximum amount of five thousand rupees**.
- (2) Any registered person who fails to furnish the return required under section 44 by the due date shall be **liable to pay a late fee of one hundred rupees for every day** during which such failure continues subject to a maximum of an amount calculated **at a quarter per cent (0.25%) of his turnover** in the State or Union territory.

Section 48 Goods & Services Tax Practitioners (Read with Rule 83)

- (1) The manner of approval of goods and services tax practitioners, their eligibility conditions, duties and obligations, manner of removal and other conditions relevant for their functioning shall be such as may be prescribed.
- (2) A registered person may authorize an approved goods and services tax practitioner to furnish the details of outward supplies under section 37, the details of inward supplies under section 38 and the return under section 39 or section 44 or section 45, and to perform such other functions in such manner as may be prescribed.
- (3) **Notwithstanding anything contained in sub-section (2), the responsibility for correctness of any particulars furnished in the return or other details filed by the goods and services tax practitioners shall continue to rest with the registered person on whose behalf such return and details are furnished.**

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Telegram Group for Doubt Clearance

<https://telegram.me/cafinalidtamtjain>

GST Practitioner – Eligibility Criteria

Any person who is a citizen of India having necessary qualification, of sound mind and not convicted or adjudicated as insolvent can become a GST Practitioner. To be qualified as a GST Practitioner, the person must be:

- A retired officer of the Commercial Tax Department of any State Government or of the Central Board of Excise and Customs, Department of Revenue, Government of India, who, during his service under the Government, had worked in a post not lower in rank than that of a Group-B gazetted officer for a period of not less than two years; or
- Has been enrolled as a sales tax practitioner or tax return preparer under the existing law for a period of not less than five years;
- Has the following degree or qualification:
 - A graduate or postgraduate degree or its equivalent examination having a degree in Commerce, Law, Banking including Higher Auditing, or Business Administration or Business Management from any Indian University established by any law for the time being in force; or
 - A degree examination of any Foreign University recognized by any Indian University as equivalent to the degree examination having a degree in Commerce, Law, Banking including Higher Auditing, or Business Administration or Business Management; or
 - Any other examination notified by the Government, on the recommendation of the Council, for this purpose; or
 - Has passed any of the following examinations, namely:
 - Final examination of the Institute of Chartered Accountants of India;
 - Final examination of the Institute of Cost Accountants of India;
 - Final examination of the Institute of Company Secretaries of India.

Duties of a GST Practitioner {Rule 83 (8)}

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

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

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

GST Practitioner – Application Procedure

Any person who is eligible to become a GST Practitioner as per the criteria above can apply using FORM GST PCT-01 through the GST Common Portal or through a GST Facilitation Centre notified by the Commissioner for GST Practitioner enrolment. On receiving the application, the GST officer would process the application and make enquires as considered necessary for enrolment. If the Officer is satisfied, a GST Practitioner certificate would be issued in GST PCT 02.

**Compare this Book with any Book including ICAI
SM, you are going to find this Book Best**

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

Rule 83A inserted vide notification No. 60/2018 – CT Dated 30.10.2018, which is related to Examination of Goods and Services Tax Practitioners. The National Academy of Customs, Indirect Taxes and Narcotics (hereinafter referred to as “NACIN”) shall conduct the examination. The rules contains syllabus, frequency of examination, examination centers, period for passing the examination and number of attempts allowed, nature of examination, qualifying marks, guidelines for the candidates etc.

Validity of License

GST Practitioner license would valid until its cancelled by the relevant authority. However, any person holding a GST Practitioner license would be required to pass examinations held by the GST Authority and notified by the Commissioner from time to time. Further, all persons applying to become a GST Practitioner through the sales tax practitioner or tax return preparer route are required to pass an exam conducted by the GST Authority within thirty months from the implementation of GST.

Further, a goods and services tax practitioner enrolled in any State or Union Territory shall be treated as enrolled in the State/Union territory for the purposes.

Filing GST Returns as GST Practitioner

Once a person is enrolled as a GST Practitioner, his/her client can authorise the Practitioner to file GST returns on the taxpayers behalf by filing Form GST PCT-05 on the GST Common Portal. The GST Practitioner can then prepare GST return on behalf of taxpayer with diligence and affix his/her digital signature on the GST return prepared by him/her or electronically verify the credentials.

When a GST return is prepared by a GST Practitioner, the GST return will be held for filing and the filing must be approved by the registered person. Confirmation for filing the return prepared by the GST Practitioner will be requested from the registered person through email and SMS. If the registered person fails to respond to the request for confirmation till the last date of furnishing of such statement, then the return prepared by the GST practitioner will be automatically filed.

In case a GST taxpayer is not satisfied with the services of a GST Practitioner, the taxpayer can withdraw a Practitioner's authorisation at any time through the GST Common Portal. If any GST Practitioner is found guilty of misconduct, then a GST Officer can provide a reasonable opportunity for being heard and then if required, disqualify him/her from practising as a GST Practitioner.

Section 150 Information Return

(1) Any person, being—

- (a) a taxable person; or
- (b) a local authority or other public body or association; or
- (c) any authority of the State Government responsible for the collection of value added tax or sales tax or State excise duty or an authority of the Central Government responsible for the collection of excise duty or customs duty; or
- (d) an income tax authority; or
- (e) a banking company; or
- (f) a State Electricity Board or an electricity distribution or transmission licensee under the Electricity Act, 2003, or any other entity entrusted with such functions by the Central Government or the State Government; or
- (g) the Registrar or Sub-Registrar appointed under section 6 of the Registration Act, 1908; or
- (h) a Registrar within the meaning of the Companies Act, 2013; or
- (i) the registering authority empowered to register motor vehicles; or
- (j) the Collector referred to in clause (c) of section 3 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013; or

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

- (k) the recognised stock exchange referred to in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956; or
- (l) a depository referred to in clause (e) of sub-section (1) of section 2 of the Depositories Act, 1996; or
- (m) an officer of the Reserve Bank of India as constituted under section 3 of the Reserve Bank of India Act, 1934; or
- (n) the Goods and Services Tax Network, a company registered under the Companies Act, 2013; or
- (o) a person to whom a Unique Identity Number has been granted under sub-section (9) of section 25; or
- (p) any other person as may be specified, on the recommendations of the Council, by the Government,

who is responsible for maintaining record of registration or statement of accounts or any periodic return or document containing details of payment of tax and other details of transaction of goods or services or both or transactions related to a bank account or consumption of electricity or transaction of purchase, sale or exchange of goods or property or right or interest in a property under any law for the time being in force, shall furnish an information return of the same in respect of such periods, within such time, in such form and manner and to such authority or agency as may be prescribed.

- (2) Where the Commissioner, or an officer authorised by him in this behalf, considers that the information furnished in the information return is defective, he may intimate the defect to the person who has furnished such information return and give him an opportunity of rectifying the defect within a period of thirty days from the date of such intimation or within such further period which, on an application made in this behalf, the said authority may allow and if the defect is not rectified within the said period of thirty days or, the further period so allowed, then, notwithstanding anything contained in any other provisions of this Act, such information return shall be treated as not furnished and the provisions of this Act shall apply.
- (3) Where a person who is required to furnish information return has not furnished the same within the time specified in sub-section (1) or sub-section (2), the said authority may serve upon him a notice requiring furnishing of such information return within a period not exceeding ninety days from the date of service of the notice and such person shall furnish the information return.

Section 123 Penalty for failure to furnish Information Return

If a person who is required to furnish an information return under section 150 fails to do so within the period specified in the notice issued under sub-section (3) thereof, the proper officer may direct that such person shall be liable to pay a penalty of one hundred rupees for each day of the period during which the failure to furnish such return continues:

Provided that the penalty imposed under this section shall not exceed five thousand rupees.

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

Question & Answer

Q1. ABC Ltd. furnished annual returns for the year 2017-18 on September 15, 2018. An error is discovered in respect of a transaction pertaining to outward supplies of January 2018. Determine the time limit to rectify the mistake in case return of Sept'18 furnished on October 15, 2018.

A. Annual return has been furnished by September 15, 2018 and return for the month of Sept'18 filed on October 15, 2018. The rectification of error pertaining to January 2018 cannot be done beyond September 15, 2018.

Q2. In some period of the year, there may not be any business activity like in case of seasonal business. Whether a taxable person will be required to file return in such case also?

A. Every registered taxable person is required to file returns. Without filing the return of the period, next return cannot be filed. Therefore, even if there is no taxable supplies made or received during any period, such person is required to file a NIL return but not filing the return is not an option in GST.

Q3. What are the different means available to taxpayer for filing the returns?

A. The taxpayer can file the return on GSTN by using one of the followings:-

- 1) By taxpayer himself by using the user id and password issued to such taxpayer
- 2) By the authorized representative using the login and password issued to such authorized representative. Such authorized representative should have been selected by the taxpayer before such filing and such authorized representative should be linked to such taxpayer account.
- 3) Through the Facilitation Centre (FC) by using the login and password of such FC. Post filing by FC, system generates a message for taxpayer by mail and SMS.

Facilitation Centre is a facility for digitization and uploading of returns on the GSTN data base. This facility is created with the approval of Central Board of Indirect Taxes or by respective State Governments. Small taxpayers who don't have facility for digitization of their data and/or uploading their returns can use this facility of facilitation centers for doing this function.

Q4. How would a supplier who has taken a new registration, file his first return under GST?

A. There might be cases wherein a person is liable to be registered under the law from a particular date and there is time gap between the date from when he was liable to be registered under the law and the date on which registration is granted to such person. He would have made outward supplies in this period between the date when he was liable to be registered under the law and the date from which is granted registration.

In such case the registered person who has made outward supplies in the period between the dates on which he became liable to registration till the date on which registration has been granted shall declare the details of such outward supplies in the first return filed by him after the date of grant of registration.

Q5. Whether credit of Input Tax can be used for making payment of Interest, Fees, Penalty and any other Amount?

A. No, Input Tax Credit can only be utilized for making payment towards output tax liability. It can't be used for making payment towards Interest, Fees, Penalty or any other amount payable under this Act.

Q6. Whether GSTR 3B can be revised after filing? Whether there is any column in GSTR 3B for reporting any discrepancies which have taken place while filing returns for previous months?

A. No, GSTR 3B filed, can't be revised. Form GSTR 3B doesn't contain any column for reporting of differential figures for past month(s).

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Telegram Group for Doubt Clearance

<https://telegram.me/cafinalidtamtjain>

Q7. If a return has been filed, how can it be revised if some changes are required to be made?

A. In GST since the returns are built from details of individual transactions, there is no requirement for having a revised return. Any need to revise a return may arise due to the need to change a set of invoices or debit/ credit notes. Instead of revising the return already submitted, the system will allow changing the details of those transactions (invoices or debit/credit notes) that are required to be amended. They can be amended in any of the future GSTR- 1 in the tables specifically provided for the purposes of amending previously declared details.

Q8. What will be the legal position in regard to the reversed input tax credit if the supplier later realizes the mistake and feeds the information?

A. At any stage, but before September of the next financial year, supplier can upload the invoice and pay duty and interest on such missing invoices in his GSTR-3B of the month in which he had earlier failed to upload the invoice. The recipient shall be eligible to reduce his output tax liability to the extent of the amount in respect of which the supplier has rectified the mis-match. The interest paid by the recipient at the time of reversal will also be refunded to the recipient by crediting the amount in corresponding head of his electronic cash ledger.

Q9. During the course of inspection/audit/scrutiny/enforcement activity, the department has pointed out certain omissions or incorrect particulars in the returns. Whether the assessee can rectify the returns to correct the omissions or incorrect particulars in its returns?

A. As per Section 39(9), provides for correction in the returns on account of Omission of wrong particulars filed other than as a result of audit/inspection/scrutiny/enforcement, the assessee can rectify such omissions/incorrect particulars in the returns. In the month/quarter in which such omission/ incorrect particulars are noticed, the due tax and interest shall be payable thereon.

CA Amit Jain

**Compare this Book with any Book including ICAI
SM, you are going to find this Book Best**

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

Chapter 14: - Import & Export under GST

Section 14 (IGST)	OIDAR
Section 2 (10) & 2 (11) (IGST)	Import of Goods/Services
Section 2 (5) & 2 (6) (IGST)	Export of Goods/Services
Section 16 (IGST)	Zero Rated Supply
Section 15 (IGST)	Refund of Integrated Tax Paid on Supply of Goods to Tourist Leaving India

Section 14 OIDAR (IGST Act)

Both the following conditions must be satisfied to be a OIDAR service. If one is not satisfied, the service is not OIDAR {Section 2(17) of IGST}.

- Delivery is mediated through internet.
- The supply is essentially automated involving minimal human intervention and impossible without information technology.

Examples of OIDAR services:

- Advertising on internet
- Providing cloud services (Google Drive)
- Provision of e-books, movie, music, software and other intangibles via internet (Hotstar, Amazon Prime Video)
- Providing data or information, retrievable or otherwise, to any person, in electronic form through a computer network;
- Online gaming

Non-OIDAR services

- Supplies of goods, where the order and processing is done electronically
- Supplies of physical books, newsletters, newspapers or journals
- Services of lawyers and financial consultants who advise clients through email
- Booking services or tickets to entertainment events, hotel accommodation or car hire
- Educational or professional courses, where the content is delivered by a teacher over the internet
- Offline physical repair services of computer equipment
- Advertising services in newspapers, on posters and on television

Applicability of GST for OIDAR Services

Location of Supplier of service	Location of recipient of service	Taxability	Forward Charge/ Reverse Charge	Examples
India	India	Yes	Forward Charge (GST payable by the service provider)	Hotstar (registered in India) allows Indian users to register and watch movies.

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Telegram Group for Doubt Clearance

<https://telegram.me/cafinalidtamitjain>

Outside India	India	Yes	Reverse Charge (GST payable by the recipient)	An Indian Co.(registered) asks Blue Host (US) for web hosting services. GST is payable by the Indian Co. under RCM.
	Recipient: Registered			
	Recipient: Non-Taxable Person	Yes	Forward Charge (GST payable by the service provider)	A student in India registers in Netflix (US) for watching movies. Netflix has to pay IGST.
India	Outside India	No (Export of service)	NA	Hotstar allows foreigners to register and watch movies. GST is not applicable as it is an export of service.
Outside India	Outside India	No (Not covered under GST)	NA	Netflix (US) provides online movie streaming services to people in US. This is not covered in Indian GST.

Who will register and pay GST for OIDAR services when the service provider is located outside India?

In respect of import of online information and database access or retrieval services (OIDAR) by unregistered, non-taxable recipients, the supplier located outside India will be responsible for payment of taxes.

The service provider (or intermediary as the case may be) will be required to take a single registration for paying IGST under the Simplified Registration Scheme to be notified by the Government.

Either he will have to take registration or he will have to appoint a person in India to pay GST.

The person receiving any such services i.e. OIDAR should pay the IGST to the government only if he is registered under GST as a taxable person.

The peculiarity of OIDAR service is that it can be provided online from a remote location outside India.

- If a similar service is provided by an Indian Service Provider, from India to recipients in India then such service would be taxable.
- If such services are received by a registered entity in India then GST will be payable under reverse charge.

This gives the overseas suppliers of such services an unfair tax advantage if their services are left out of the tax net.

Again, as the service provider is located overseas and might not have a presence in India, the compliance becomes difficult. So, the government has a simplified scheme of registration for such service providers located outside India.

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

Other important points: -

- Where the supplier of OIDAR service is located outside India and the recipient is located in India, the place of supply would be the location of the recipient of service,
- Intermediary located outside India arranges or facilitates supply of such service to a non-taxable online recipient in India, the intermediary would be deemed to be the supplier of the said service, except when the intermediary satisfies the following conditions: -
 - ❖ The invoice or customer's bill or receipt issued by such intermediary taking part in the supply clearly identifies the service in question and its supplier in non-taxable territory
 - ❖ If intermediary neither collects or processes payment in any manner nor is responsible for the payment between the non-taxable online recipient and the supplier of such services
 - ❖ The intermediary involved in the supply doesn't authorize delivery
 - ❖ The general terms & conditions of the supply are not set by the intermediary involved in the supply but by the supplier of services.

Section 2(10) & 2(11) Import of Goods/Services (IGST Act)

Import of Goods

Import of Goods {Section 2(10) of IGST Act}

"Import of goods", means bringing goods into India from a place outside India;

- Supply of goods into India till they cross the customs frontiers of India is deemed to be an inter-State supply and thus, attracts levy of IGST. IGST on goods imported into India is levied and collected in accordance with the provisions of section 3 of the Customs Tariff Act, 1975. Thus, though goods imported into India are leviable to IGST under IGST Act, the machinery of customs law is used to collect IGST.
The place of supply of goods, imported into India is the location of the importer [Section 11]. Thus, if an importer say is located in Karnataka, the state tax component of the IGST accrues to the State of Karnataka.
- IGST on goods imported into India is levied and collected at the point when duties of customs are levied on the said goods under the Customs Act, 1962. Customs duty is leviable when importation of goods gets complete, i.e. when the goods become part of the mass of goods within the country; the taxable event being reached at the time when the goods reach the customs barriers and bill of entry for home consumption is filed. Thus, the point of levy and collection of IGST will also be the point when the bill of entry for home consumption is filed.
- In addition, GST Compensation Cess, may also be leviable on certain luxury and de-merit goods under the Goods and Services Tax (Compensation to States) Cess Act, 2017.
- Value of the goods for the purpose of levying IGST shall be, assessable value plus basic custom duty & any other duty chargeable on the said goods under any law for the time being in force as an addition to, and in same manner as, a duty of customs.
- Value of the goods for the purpose of levying Cess shall be, assessable value plus basic custom duty & any other duty chargeable on the said goods under any law for the time being in force as an addition to, and in same manner as, a duty of customs.

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Telegram Group for Doubt Clearance

<https://telegram.me/cafinalidtamitjain>

- In cases where imported goods are liable to Anti-Dumping Duty or Safeguard Duty, **value for calculation of IGST as well as GST Compensation Cess also includes Anti-Dumping Duty and Safeguard duty.**
- There is **no GST liability on high sea sales.** GST is payable only when goods are cleared from customs. Circular No. 33/2017 Cus Dated 01.08.2017 has also clarified that IGST on high sea sale(s) transactions of imported goods, whether one or multiple, shall be levied and collected only at the time of importation, i.e. when the import declarations are filed before the Customs authorities for the customs clearance purposes for the first time. Further, value addition accruing in each such high sea sale shall form part of the value on which IGST is collected at the time of clearance. The importer (last buyer in the chain) would be required to furnish the entire chain of documents, such as original invoice, high seas sales contract, details of service charges/commission paid etc. to establish a link between the first contracted price of the goods and the last transaction.
- Goods imported by a unit or a developer in the Special Economic Zone (SEZ) for authorised operations are exempted from the whole of IGST leviable under section 3(7) of the Customs Tariff Act, 1975 vide Notification No. 64/2017 Customs Dated 05-07-2017.
- Goods imported by 100% EOU's are governed by Notification No. 52/2003 Cus as amended by Notification No. 65/2018 Cus Dated 24.09.2018. EOUs are allowed duty free import of goods (exempt from Customs duties, IGST & GST Compensation Cess) under the said notifications. However, exemption from IGST & GST Compensation Cess are available only till 31.03.2020.

Import of Services

Import of Services {Section 2(11) of IGST Act}

"Import of services" means the supply of any service, where—

- (i) the supplier of service is located outside India;
- (ii) the recipient of service is located in India; and
- (iii) the place of supply of service is in India;

- Services imported by a unit or a developer in the SEZ for authorized operations, are exempt from the whole of the IGST {Notification No. 18/2017-IT (R) Dated 05-07-2017}
- Import of service (please recollect Schedule I): -

Nature of Service	Consideration	Business Test
Import of services	Necessarily Required	Not Required
Import of services by a person from a related person or from a distinct person	Not required	Necessarily Required

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

Section 2(5) & 2(6) Export of Goods/Services (IGST Act)

Export of goods and services are important for any nation. Goods and services are to be exported, taxes are not to be exported. Supplies to SEZ Unit & SEZ Developer are treated at par with physical exports.

Export of Goods {Section 2(5) of IGST Act}

“Export of goods”, means taking goods out of India to a place outside India.

Example 1: ABC Ltd. having place of business in Delhi receives an order for supply of goods worth Rs. 1,00,000 from XYZ Ltd., Sri Lanka. ABC Ltd. supplied goods to XYZ Ltd., Sri Lanka. This is export of goods by ABC Ltd. to XYZ Ltd.

If suppose ABC Ltd. received order for supply of goods worth Rs. 1,00,000 from XYZ Ltd., Sri Lanka, but it is mentioned that goods may directly be supplied to the XYZ Ltd.'s client site in Hyderabad. In this case, such supply of goods will not qualify as export of goods since, goods are not taken out of India.

Export of Services {Section 2(6) of IGST Act}

“Export of services” means the supply of any service when, -

- (i) the supplier of service is located in India;
- (ii) the recipient of service is located outside India;
- (iii) the place of supply of service is outside India;
- (iv) the payment for such service has been received by the supplier of service in convertible foreign exchange or in Indian Rupees wherever permitted by the Reserve Bank of India; and
- (v) the supplier of service and the recipient of service are not merely establishments of a distinct Person in accordance with Explanation 1 in section 8;

Example 2: Indian branch office of ABC Ltd., supplies consultancy services to Head Office of UK. Supply of services in this case will not be treated as export of services since Head Office & Branch Office are treated as establishment of distinct persons.

Example 3: ABC Ltd. is wholly owned subsidiary of XYZ Ltd. (a UK based company). ABC Ltd. supplies consultancy services to its parent company in UK. Supply of services in this case will be treated as export of services since holding and subsidiary company under different PAN cannot be treated as establishment of distinct persons. Thus, benefit of export of services will be available.

Section 16 Zero Rated Supply (IGST Act)

“Zero-rated supply” means a supply of any goods or services or both in terms of section 16 of IGST Act – Section 2(23) of IGST Act.

Section 16 (1) of IGST Act: Export of goods or services or both and supplies of goods or services or both to SEZ unit or SEZ developer will be zero rated supply.

Section 16 (2) of IGST Act: ITC may be availed for making zero-rated supplies, even if such supply is exempted supply.

Section 16 (3) of IGST Act: The registered person making zero rated supply can claim refund under either of two options –

- a. supply of goods under bond or LUT without payment of IGST and claim refund of unutilized ITC.

The facility of export under LUT has been now extended to all registered persons who intend to supply goods or services for export without payment of IGST except those who have been prosecuted for any

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Telegram Group for Doubt Clearance

<https://telegram.me/cafinalidtamtjain>

offence under the CGST Act or the IGST Act or any of the existing laws and the amount of tax evaded in such cases exceeds Rs. 2,50,00,000. A bond in all cases, shall be accompanied by a bank guarantee of 15% of the bond amount.

b. supply goods on payment of IGST and claim refund of IGST paid on goods and services.

The refund will be in accordance with section 54 of CGST Act.

“Manufacturer exporter” means a person who exports goods manufactured by him or intends to export such goods – para 9.32 of [FTP 2015-2020](#)

“Merchant exporter” means a person engaged in trading activity and exporting or intending to export goods – para 9.33 of [FTP 2015-2020](#)

Special Provisions for Export

It may be noted that Export may be seen for any of the two aspects:-

1. **First way (Refund):** Export without paying IGST, so need of LUT arises and assessee may get refund of ITC. Generally LUT is furnished before export but by way of Circular No. 37/11/2018-GST issues on 15th March 2018, it is clarified that the delay in furnishing of LUT in such cases may be condoned and the facility for export under LUT may be allowed on for previous cases also taking into account the facts and circumstances of each case.

It need to be borne in mind that in terms of Rule 89 (4) of the CGST Rules, which prescribes the formula for computing eligible amount of refund of utilized ITC in the case of zero-rated supply of goods or services or both made without payment of tax under bond/LUT, meaning of “Net ITC” is defined as ITC availed on inputs and input services during the relevant period. Thus under this, there will be no refund of credit paid on capital goods.

2. **Second way (Rebate):** Export by paying IGST, so no need of LUT arises and refund of IGST can be availed.

It is worthwhile here to note that rebate model of zero-rated supply is beneficial for faster processing of refund and under this option, there will not be any bar on refund of credit of capital goods, as the same can be utilized along with credit of inputs and input services for discharging IGST liability on outward supply and then claiming full refund of IGST so paid.

If one is not paying the tax (i.e. IGST being inter-State supply) on exports then he will have to file LUT and he may get refund of ITC and if one exports by way of paying IGST then no need of LUT arises and so, the need of refund arises in second case.

Submission of LUT to be made in form GST RFD-11 online and no physical documentation is to be submitted to department as specified by Circular No. 40/14/2018-GST issued on 6-4-2018.

Though the theme behind GST was to keep refund based on online working but due to non-availability of online module, circular was issued stating that refund process will be handled manually which will go on till online module is operationalised. (Circular No. 17/17/2017 Dated 15-11-2017 and Circular No. 24/24/2017-GST Dated 21-12-2017). This is the reason, new rule 97A inserted w.e.f. 15th November 2017 allowing manual filing & processing, in respect of refund process.

But now refund process is online according to Circular No. 125/44/2019-GST dated 18 November 2019 (Details of this circular discussed in Chapter 15).

**Compare this Book with any Book including ICAI
SM, you are going to find this Book Best**

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

Other Points: -

- Exporter will be eligible for refund of Compensation Cess paid on goods exported by him {on similar lines as refund of IGST}. No compensation Cess if export is under bond or LUT and he can claim refund of accumulated ITC on Compensation Cess like IGST.
- Exporter need to only file shipping bill with the customs. The shipping bill filed with the custom is treated as an application for refund of IGST (if he opt for "rebate" explained above).
- Export will be under self-sealing & self-certification.
- Duty credit scrip under the export incentive schemes of FTP (MEIS and SEIS) can be utilized only for payment for BCD or additional duties of customs.
- Benefits of exemption under Advance Authorization scheme, EPCG scheme and duty credit scrips such as MEIS and SEIS shall be restricted only to BCD, safeguard duty, transitional product specific safeguard duty and Anti-dumping duty in respect of goods leviable to IGST.
- It has been clarified vide CBE&C circular no. 37/11/2018-GST Dated 15-3-2018 that BRC (Bank Remittance Certificate) or FIRC (Foreign Inward Remittance Certificate) is required only in case of export of services and not in case of export of goods.
- Services supplied by establishment of person in India to own establishment out of India is exempt, if place of supply is out of India (it is not zero-rated).
- All exporters registered under GST can export goods or services without payment of IGST, on execution of LUT, except those who have been prosecuted for offence under any law where tax evade exceeds Rs. 250 Lakhs. The LUT is valid for whole financial year. However, if payment is not received within prescribed period, facility of LUT is deemed to have been withdrawn. If payment is received later, the facility to export under LUT is restored. Export can be done under bond while LUT is not allowed.
- Where date of filing GSTR-1 has been extended by Commissioner, the supplier shall furnish information relating to export invoices in Table 6A of form GSTR-1 after return in form GSTR-3B has been furnished.
- LUT not required in case of export of exempted or non GST goods. The exporter may follow procedure under Central Excise or State Vat Laws or Customs Act – CBI&C circular No. 45/19/2018-GST Dated 30-5-2018.

Circular no. 78/52/2018-GST Dated 31 December 2018

The circular clarifies the GST implications where the Indian exporter of services outsources part of the activities to a person outside India and the consideration relating to such outsourced services is not received by the exporter in India. In such case, the Indian exporter would be liable to pay IGST on reverse charge basis on import of services on such portion which has been provided by the supplier located outside India to the recipient of services located outside India. Furthermore, the Indian exporter would be eligible for taking input tax credit (ITC) of the integrated tax so paid.

Even if the full consideration for the services exported is not received in convertible foreign exchange in India due to the fact that the recipient of services located outside India has directly paid to the supplier of services located outside India, such portion of the consideration shall also be treated as consideration received for export in terms of section 2(6)(iv) of the IGST Act. This is subject to the conditions that:

- ✓ IGST has been paid by the Indian exporter for import of services; and
- ✓ RBI, by general instruction or by specific approval, has allowed part of the consideration for such exports to be retained outside India.

Example 4: ABC Ltd. India has received an order for supply of services amounting to \$ 5,00,000/- to a US based client. ABC Ltd. India is unable to supply the entire services from India and asks XYZ Ltd. Mexico (who is not

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Telegram Group for Doubt Clearance

<https://telegram.me/cafinalidtamitjain>

merely an establishment of a distinct person viz. ABC Ltd. India, in accordance with the Explanation 1 in Section 8 of the IGST Act) to supply a part of the services (say 40% of the total contract value).

- ✓ ABC Ltd. India shall be the exporter of services for the entire value if the invoice for the entire amount is raised by ABC Ltd. India. The services provided by XYZ Ltd. Mexico to the US based client shall be import of services by ABC Ltd. India and it would be liable to pay integrated tax on the same under reverse charge and also be eligible to take input tax credit of the integrated tax so paid.
- ✓ Further, if the provisions contained in section 2(6) of the IGST Act are not fulfilled with respect to the realization of convertible foreign exchange, say only 60% of the consideration is received in India and the remaining amount is directly paid by the US based client to XYZ Ltd. Mexico, even in such a scenario, 100% of the total contract value shall be taken as consideration for the export of services by ABC Ltd. India provided integrated tax on import of services has been paid on the part of the services provided by XYZ Ltd Mexico directly to the US based client and RBI (by general instruction or by specific approval) has allowed that a part of the consideration for such exports can be retained outside India. **In other words, in such cases, the export benefit will be available for the total realization of convertible foreign exchange by ABC Ltd. India and XYZ Ltd. Mexico.**

Circular No. 108/27/2019-GST dated 18th July 2019

Goods taken out of India for exhibition or on consignment basis for export promotion:

As per section 7 of CGST Act, for any activity or transaction to be treated as supply, it should be in course or furtherance of business and for a consideration. Some of the exception are carved out in Schedule I to CGST Act, wherein certain activities are treated as supply even if made without consideration. As per section 16 of IGST Act, supplies which are either 'exports' or 'made to SEZ unit/developer' would qualify as zero-rated supply.

Accordingly, the circular clarifies that activity of sending/taking goods out of India for exhibition or on consignment basis for export promotion would not be considered as supply since there is no consideration at that point of time (unless the same is covered under schedule I of CGST Act). Such activity which is not a supply could not be regarded as 'zero-rated supply'.

As per section 31(7) of CGST Act, where the goods are sent on approval for sale or return, tax invoice is required to be issued before or at the time of supply or six months from the date of removal, whichever is earlier.

The circular also clarifies on the following issues: -

- Records to be maintained: The registered person shall maintain record of such goods in the format prescribed.
- Documentation: As the activity is in the nature of 'sale on approval basis', the goods shall be accompanied with a delivery challan. Since it is not a zero-rated supply, execution of bond or LUT is not required.
- Supply of goods: If the goods are sold partially or fully, then the supply is made, in respect of quantity so sold, on the date of such sale. However, if the goods are neither sold nor brought back within six months, then supply would be deemed to have taken place on the expiry of six months.
- Invoice: If the goods are sold within six months, then the supplier needs to raise a tax invoice. Further, if the goods are neither sold nor brought back within six months, then the invoice is required to be raised on the date of expiry of six months.
- Refund: Even in absence of execution of bond or LUT, refund of input tax credit can be preferred provided the supplier is otherwise eligible for refund under GST law.

**Compare this Book with any Book including ICAI
SM, you are going to find this Book Best**

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

Further, refund claim cannot be preferred under Rule 96 of CGST Rules, 2017 i.e. refund for export with payment of tax, as supply is taking place at a time after goods have already been sent/ taken out of India.

The illustration provides that in case where out of 100 units sent outside India, 60 units were sold and 40 units were not brought back, the refund of accumulated ITC can be claimed in respect of zero-rated supply of 60 units.

Refund claim in case of Deemed Export

Supplies to EOU units, supplies against annual advance authorization etc. are deemed export. These don't leave the country at the time of supply and payment is in Indian rupees. EOU units have to procure goods on payment of GST as applicable. Supplies to EOU are like any other supplies. Zero rating is applicable to EOU only in case of goods or services exported by them. EOU units clearing goods in Domestic Tariff Area or to other EOU unit will be required to pay IGST/CGST/SGST/UTGST as applicable.

In respect of supplies regarded as deemed exports, the application may be filed by

- The recipient of deemed export supplies; or
- The supplier of deemed export supplies in cases where the recipient doesn't avail of ITC on such supplies and furnishes an undertaking to the effect that the supplier may claim the refund – third proviso to Rule 89 (1) of CGST & SGST Rules 2017 as amended w.e.f. 18-10-2017.

If supplier has claimed benefit of deemed export under Notification No. 48/2017-CT Dated 18-10-2017, refund of ITC, availed in respect of other inputs or input services is available if the recipient makes a zero rated supply – 89 (4A) of CGST Rules.

If the supplier is claiming deemed export benefits, export by recipient of goods on payment of IGST not permissible. If still IGST is paid on export of goods or services, its ITC is not available – Rule 96 (10) of CGST Rules.

Merchant Export

Merchant exporter means a person engaged in trading activities and exporting or intending to export such goods. Notification No. 41/2017 – IT (R) Dated 23rd Oct'17, states that inter-State supply made to Merchant exporters will be charged at rate of 0.1% {0.05% CGST(equivalent SGST) in case of intra-State as per Notification No. 40/2017 – CT (R) Dated 23rd Oct'17}. If regular rate of goods is 12% then a registered supplier supplying to merchant exporter (registered recipient) will charge GST only 0.1% which means tax 11.9% will be exempted in such a case, if conditions prescribed in Notification No. 41-2017-IT (R) are satisfied (within 90 days needs to export from the date of tax invoice by the supplier, registered with an Export Promotion Council, move the said goods directly to the port, ICD or registered warehouse etc.).

If goods were procured on payment of 0.1% GST, the merchant exporter can export the goods only under LUT/Bond and cannot export on payment of IGST – Rule 96 (10).

Section 15 Refund of Integrated Tax Paid on Supply of Goods to Tourist Leaving India

The integrated tax paid by tourist leaving India on any supply of goods taken out of India by him shall be refunded in such manner and subject to such conditions and safeguards as may be prescribed.

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Telegram Group for Doubt Clearance

<https://telegram.me/cafinalidtamtjain>

Explanation: For the purposes of this section, the term “tourist” means a person not normally resident in India, who enters India for a stay of not more than six months for legitimate non-immigrant purposes.

Question & Answer

Q1. Who shall be liable to collect and discharge the Integrated tax liability in cases of provision of cross border B2C OIDAR services?

A. Service providers providing OIDAR services to a non-taxable online recipient in taxable territory would be responsible for collection and discharge of integrated tax.

Q2. Under what circumstances an intermediary, who arranges or facilitates the supply of OIDAR services would not be liable to collect tax from non-taxable online recipient?

A. If the intermediary satisfies the following conditions, he shall not be liable to collect tax from non-taxable online recipient;

- the invoice or customer's bill or receipt issued or made available by such intermediary taking part in the supply clearly identifies the service in question and its supplier in non-taxable territory;
- the intermediary involved in the supply does not authorise the charge to the customer or take part in its charge which is that the intermediary neither collects or processes payment in any manner nor is responsible for the payment between the non-taxable online recipient and the supplier of such services;
- the intermediary involved in the supply does not authorise delivery; and
- the general terms and conditions of the supply are not set by the intermediary involved in the supply but by the supplier of services.

Q3. Who is non-taxable online recipient?

A. “Non-taxable online recipient” means any Government, local authority, governmental authority, an individual or any other person not registered and receiving online information and database access or retrieval services in relation to any purpose other than commerce, industry or any other business or profession, located in taxable territory.

Q4. Would a supplier of OIDAR required to take registration in all states in India in GST Act?

A. No. The CBIC has notified the Principal Commissioner of Central Tax, Bengaluru West and all the officers subordinate to him as the officers empowered to grant registration in case of online information and database access or retrieval services provided or agreed to be provided by a person located in non-taxable territory and received by a non-taxable online recipient.

Q5. Mr. A is supplying goods to SEZ Unit. Whether he has to charge IGST on supply of goods.

A. As per the provision of section 16 of IGST Act, 2017, Supply to SEZ Unit are Zero Rated Supplies. Therefore, in such case Mr. A can either supply goods against payment of IGST (which can be claimed as refund) or he can supply goods without payment of IGST (against LUT /Bond).

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

Q6. A person had submitted Bank Guarantee for Issue of Bond for export of goods without payment of tax. He was granted Bond with a validity period upto 31st March 2018. However, in view of Notification No. 37/2017 – Central Tax Dated 4th October 2017, he wants to submit Letter of Undertaking and get the bond released which was submitted earlier. Can he do so.

A. Yes, he can submit a Letter of Undertaking as per the guidelines issued vide Notification No. 37/2017 – Central Tax Dated 4th October 2017 and get the bond submitted earlier released.

Q7. What is the meaning of the term “Zero Rated Supply”?

A. “Zero Rated Supply” refers to supplies made to SEZ units / developers or exports of goods or services or both. Zero rated supply doesn't necessarily mean that the above supplies are not leviable to IGST or will be taxed at “0” (Zero) Rate or will be exempt from IGST unconditionally.

Q8. Are exports and supplies to SEZ units/Developers out of the ambit of GST?

A. No. They are treated as IGST supplies under the IGST Act, 2017. However, the tax burden on the same will be neutralized by granting refunds to persons making such supplies.

Q9. Can SEZ unit / Developers claim refund of IGST charged by his supplier?

A. No. The IGST Act, 2017 allows the supplier of SEZ unit / developer to claim refund of IGST paid by him on supplies to SEZ unit / Developers.

Q10. Are supplies made by SEZ units/Developer are Zero rated supplies?

A. No. only the supplies made to SEZ units/Developer are zero rated supplies. However, exports made by SEZ units/Developer will be zero rated supplies.

Q11. Can the NRI's claim refund of tax paid under Section 15 of IGST Act, 2017?

A. Yes, since the NRI's are not normally resident in India they will be treated as tourist if the stay in India is for legitimate non-immigrant purpose for a period of less than 6 months.

Q12. Whether services of short-term accommodation, conferencing, banqueting etc. provided to a SEZ unit/Developer by a supplier located in the same State as that of the SEZ unit/Developer should be treated as an inter-State supply under section 7(5)(b) or an intra-State supply in terms of section 8(2) read with section 12(3)(c)? Explain. (ICAI Study Material)

A. Circular No. 48/22/2018 GST has clarified on this issue as under: As per section 7(5)(b), the supply of goods and/or services to a SEZ unit/Developer shall be treated to be a supply of goods and/or services in the course of inter-State trade or commerce. Whereas, as per section 12(3)(c), the place of supply of services by way of accommodation in any immovable property for organising any functions shall be the location at which the immovable property is located. Thus, in such cases, if the location of the supplier and the place of supply is in the same State/ Union territory, it would be treated as an intra-State supply. It is an established principle of interpretation of statutes that in case of an apparent conflict between two provisions, the specific provision shall prevail over the general provision. In the instant case, section 7(5)(b) is a specific provision relating to supplies of goods and/or services made to a SEZ unit/Developer, which states that such supplies shall be treated as inter-State supplies. Further, proviso to section 8(2) also lays down that intra-State supply of services do not include supply of services to a SEZ unit/Developer. It is, therefore, clarified that services of short term accommodation, conferencing, banqueting etc., provided to a SEZ unit/Developer shall be treated as an inter State supply.

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Chapter 15: - Refunds

Section 54	Refund of Tax
Section 55	Refund to UN Bodies, Embassies, etc.
Section 56	Interest on Delayed Refunds
Section 57	Consumer Welfare Fund
Section 58	Utilization of Fund
Section 15 [IGST]	Refund of Integrated tax paid on supply of goods to Tourist leaving India

Section 54 Refund of Tax

A. Situation leading to refund claims

Refund may be due to situations discussed U/s 54 or U/s 77 of CGST Act and the requirement of submission of prescribed relevant documents as is an indicator of the various situations that may necessitate a refund claim. A claim for refund may arise on account of any one of the following:

1. Export of goods or services (Unjust enrichment – No)
2. Supplies to SEZs units and developers (Unjust enrichment – Yes)
3. Deemed exports (Unjust enrichment – Yes)
4. Casual Taxable Person (CTP)/Resident Taxable Person (N RTP) (Unjust enrichment – Yes)
5. Refund of taxes on purchase made by UN or Embassies etc. (Unjust enrichment – No)
6. Refund arising on account of judgement, decree, order or direction of the Appellate Authority, Appellate Tribunal or any court (Unjust enrichment – Yes)
7. Refund of accumulated ITC on account of inverted duty structure (Unjust enrichment – No)
8. Finalisation of provisional assessment (Unjust enrichment – No)
9. Refund of pre-deposit (Unjust enrichment – No)
10. Excess payment due to mistake (Unjust enrichment – Yes)
11. Refunds to International Tourists of GST paid on goods in India and carried abroad at the time of their departure from India (Unjust enrichment – No)
12. Refund on account of issuance of refund vouchers for taxes paid on advances against which, goods or services have not been supplied (Unjust enrichment – No)
13. Refund of CGST and SGST paid by treating the supply as intra-State supply which is subsequently held as inter-State supply and vice-versa (Unjust enrichment – No)

However, refund of unutilized ITC shall not be allowed if

- The goods exported out of India are subjected to export duty;
- The supplier of goods or services or both avails of drawback in respect of CGST or claims refund of the IGST paid on such supplies. While claiming refund of accumulated ITC in case of zero rated supplies without payment of tax, a supplier can avail drawback of only basic customs duty and cannot claim drawback of any of the taxes under GST (Central Tax, Integrated Tax, State/Union Territory Tax). In other words, a supplier availing drawback of only basic customs duty shall be eligible for refund of unutilized ITC of central tax/ State tax/ Union territory tax/ integrated tax/ compensation cess under the said provision. It is further clarified that refund of eligible credit on account of State tax shall be available even if the supplier has availed of drawback in respect of central tax [Circular No.24/24/2017 GST Dated 21.12.2017 and Circular No. 37/11/2018 GST Dated 15.03.2018].

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

B. Time limit within which refund claim can be filed

- ❖ Any person claiming refund of any tax, interest, if any paid on such tax or any other amount paid by him, may make an application before the **expiry of 2 years from the 'Relevant Date'** in such form and manner as may be prescribed [Section 54(1)]
- ❖ A registered person may claim refund of any unutilized ITC in case of zero rated supplies {clause (i) U/s 54 (3)} or accumulated ITC on account of inverted duty structure {clause (ii) U/s 54 (3)} at the end of any tax period. Government may, on the recommendations of the Council, notify supplies of certain goods or services or both where no refund of unutilized ITC on account of inverted duty structure is allowed. [Section 54(3)]

C. Meaning of 'Relevant Date' [Explanation 2 to section 54]

Case	Relevant Date
1. Taxable goods are exported by Sea or Air	Date on which the Ship or Aircraft in which such goods are loaded, leaves India
2. Taxable goods are exported by Land	Date on which such goods pass the Frontier
3. Taxable goods are exported by Post	Date of Despatch of goods by the Post Office, to a place outside India
4. Supply of goods regarded as Deemed Export	Date on which return relating to such deemed exports is furnished
5. Export of Services out of India [where the supply of services had been completed prior to the receipt of such payment]	Date of receipt of payment in convertible foreign exchange or in Indian rupees wherever permitted by the Reserve Bank of India
6. Export of Services out of India [where payment for the services had been received in advance prior to the date of issue of the invoice]	Date of issue of invoice
7. Refund of tax as a consequence of judgement, decree, order or direction of Appellate Authority, Tribunal or Court	Date of communication of judgement, decree, order or direction
8. In the case of refund of unutilised input tax credit under clause (ii) of the first proviso to sub-section (3) – Inverted duty structure	The due date for furnishing of return under section 39 for the period in which such claim for refund arises
9. Tax paid on Provisional Assessment	Date of adjustment of tax after final assessment
10. Refund to a person, other than the supplier	Date of receipt of goods or services by such person
11. Any other case	Date of payment of tax

D. Application for refund of tax, interest, penalty, fees or any other amount [Rule 89]

- ❖ Any person, except the persons covered by notification issued under section 55, claiming refund of any tax, interest, penalty, fees or any other amount paid by him, other than refund of integrated tax paid on goods exported out of India, may file an application in Form GST RFD-01 electronically through GST common portal. [Rule 89(1)]
- ❖ Any claim for refund relating to **balance in the Electronic Cash Ledger** in as per Section 49 (6) may also be made through the return furnished for the relevant tax period in Form GSTR 3 or 4 or 7.
- ❖ **Casual Taxable person/NRTP**, shall get the refund only when they furnished all the returns related to period specify in the certificate of registration. [Section 54(13)]
Refund amount, shall be claimed in the last return required to be furnished by him.
- ❖ In respect of supplies regarded as **deemed export**, the application shall be filed by the recipient of deemed export supplies. The supplier of deemed export can also file the application if recipient give undertaking that he has not availed ITC and supplier can claim refund. [Third proviso to rule 89 (1)]
- ❖ In respect of supplies to a SEZ unit/developer, the application shall be filed by the-

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Telegram Group for Doubt Clearance

<https://telegram.me/cafinalidtamtjain>

- a) Supplier of goods after such goods have been admitted in full in the SEZ for authorized operations, as endorsed by the specified officer of the Zone.
- b) Supplier of services along with such evidence regarding receipt of services for authorized operations as endorsed by the specified officer of SEZ. [Second proviso to rule 89(1)]

E. Documents for filing refund claim [Sec. 54(4)]

1. The application for refund shall be accompanied by –

- a) Such documentary evidence as may be prescribed to establish that a refund is due to the applicant, and
- b) Such documentary or other evidence (including the documents referred u/s 33) as the applicant may furnish to establish that the amount of tax and interest or any other amount paid in relation to which refund is claimed was collected from, or paid by, him and the incidence of such tax and interest had not been passed on to any other person.

2. **Self-Declaration:** If the claimed refund amount doesn't exceed Rs. 2,00,000, it is not necessary for the applicant to furnish any documentary and other evidences. Instead, he may file a self-declaration, based on the documentary or other evidences available with him, certifying that the incidence of such tax and interest had not been passed on to any other person.

The application shall be accompanied by any of the following documentary evidences, in Annexure I in Form GST RFD-01 as applicable, to establish that a refund is due to the applicant namely:

Situation	Documents treated as Evidence
Pre-Deposit of Tax U/s 107(6) or 112(8)	Reference number of the order and a copy of the order passed by the proper officer/appellate authority/appellate tribunal/court resulting in refund or reference number of the payment of the pre-deposit of tax
Refund on account of Exports of Goods	A statement containing the number and date of shipping bills or bills of export and the number and date of relevant export invoices
Refund on account of Export of Services	Statement containing the number and date of invoices and the relevant Bank Realization Certificates or Foreign Inward Remittance Certificates
Refund on account of supply of goods to SEZ unit or SEZ developer	Statement containing the number and date of invoices as provided in Rule 46 along with the evidence regarding goods admitted in full for authorized operations as endorsed by the specified officer of SEZ
Refund on account of supply of services to SEZ unit or SEZ developer	Statement containing the number and date of invoices, along with the evidence regarding receipt of services for authorized operations as endorsed by the specified officer of SEZ., and the details of payment
Refund on account of supply of goods or services or both to SEZ unit or SEZ developer	A declaration to the effect that tax has not been collected from the Special Economic Zone unit or the Special Economic Zone developer
Refund is on account of deemed exports	Statement containing the number and date of invoices along with such other evidence as may be notified

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

Refund on account of unutilised ITC due to Inverted Duty Structure (other than nil rated or fully exempt supplies)	A statement containing the number and the date of the invoices received and issued during a tax period
Refund on account of finalization of Provisional assessment	Reference number of the final assessment order and a copy of the said order
Refund u/s 77 for wrong collection and payment of tax to Central and State Government	A statement showing the details of transactions considered as intra-State supply but which is subsequently held to be inter-State supply
Refund on account of excess payment of tax	Statement showing the details of the amount of claim
In case where the amount of refund i) doesn't exceed Rs. 2 Lacs/or ii) exceeds Rs. 2 Lacs (tax paid but incidence has not been passed to the other person)	i) Declaration for the claim. ii) If it exceeds Rs. 2 Lacs then Certificate in Annex 2 of FORM GST RFD-01 issued by a Chartered Accountant or a Cost Accountant to the effect of claim.

Note: If the amount of tax has been recovered from the recipient, it shall be deemed that the incidence of tax has been passed on to the ultimate consumer.

Further, neither a declaration by the applicant nor a certificate by a Chartered Accountant/Cost Accountant is required to be furnished in the following cases:-

- Refund of tax paid on zero-rated supply export of goods or services or both or on inputs or input services used in making such zero-rated supply exports;
- Refund of unutilized ITC in case of zero rated supplies or accumulated ITC on account of inverted duty structure;
- Refund of tax paid on a supply which is not provided, either wholly or partially, and for which invoice has not been issued or where a refund voucher has been issued;
- Refund of tax in pursuance of section 77 which means a registered person who has paid CGST/SGST/UTGST on a transaction considered by him as intra-state supply but held as inter-State supply;
- The tax or interest borne by notified class of applicant.

F. Amount to be claimed as refund in case of zero rated supply of goods or services and on account of inverted duty structure (Rule 89)

As per Rule 89(4), in the case of zero-rated supply of goods or services or both **without payment of tax under bond or letter of undertaking** in accordance with the provisions of sub-section (3) of section 16 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), refund of input tax credit shall be granted as per the following formula –

$$\text{Refund Amount} = (\text{Turnover of zero-rated supply of goods} + \text{Turnover of zero-rated supply of services}) \times \text{Net ITC} \div \text{Adjusted Total Turnover}$$

Where,-

- "Refund amount" means the maximum refund that is admissible;
- "Net ITC" means input tax credit availed on inputs and input services during the relevant period other than the ITC availed for which refund is claimed under **Deemed export {Rule 89(4A)}** or **Merchant export {Rule 89(4B)}** or both.
- "Turnover of zero-rated supply of goods" means the value of zero-rated supply of goods made during the relevant period without payment of tax under bond or letter of undertaking or the value which is 1.5 times the value of like goods domestically supplied by the same or, similarly placed, supplier, as declared by

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Telegram Group for Doubt Clearance

<https://telegram.me/cafinalidtamtjain>

the supplier, whichever is less, other than the turnover of supplies in respect of which refund is claimed under Deemed export {Rule 89(4A)} or Merchant export {Rule 89(4B)} or both.

The value of zero-rated supplies is restricted to 1.5 times of the domestically supplied goods either by the exporter themselves or by other similarly placed supplier. The value adopted by the "similarly placed supplier" prima facie seems to be provided only when the exporter is not having any domestic supply of goods, the requirement is prone to litigation on two counts, i.e. when the value of the similarly placed supplier would be required to be provided and manner of identifying 'similarly placed supplier'.

(D) "Turnover of zero-rated supply of services" means the value of zero-rated supply of services made without payment of tax under bond or letter of undertaking, calculated in the following manner, namely:-

Zero-rated supply of services is the aggregate of the payments received during the relevant period for zero-rated supply of services and zero-rated supply of services where supply has been completed for which payment had been received in advance in any period prior to the relevant period reduced by advances received for zero-rated supply of services for which the supply of services has not been completed during the relevant period;

(E) "Adjusted Total Turnover" means the sum total of the value of-

(a) the turnover in a State or a Union territory, as defined under clause (112) of section 2, excluding the turnover of services; and

(b) the turnover of zero-rated supply of services determined in terms of clause (D) above and non-zero-rated supply of services, excluding-

(i) the value of exempt supplies other than zero-rated supplies; and

(ii) the turnover of supplies in respect of which refund is claimed under sub-rule (4A) or sub-rule (4B) or both, if any,

during the relevant period.

(F) "Relevant period" means the period for which the claim has been filed.

Confused! Don't worry, see below table

(A) Refund Amount	It means the maximum refund that is admissible	
(B) Net ITC	ITC availed on input & input services during relevant period	.....
	Less: ITC availed for which refund is claimed under 89 (4A) Deemed export	.....
	Less: ITC availed for which refund is claimed under 89 (4B) Merchant Exporter	.....
	ITC availed for relevant period	.....
(C) Turnover of zero-rated supply of goods	Turnover Zero-rated Supply of goods under bond/LUT	.....
	Less: Turnover on which refund is claimed under 89 (4A) Deemed export	.....
	Less: Turnover on which refund is claimed under 89 (4B) Merchant Exporter	.....
	Turnover Zero-rated Supply of goods	.....
(D) Turnover of zero-rated supply of services	Aggregate of payment received during the relevant period for zero rated supply of services	.....
	Add: Advances received in any period prior to relevant period but supply completed in this relevant period	.....

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

	Less: Advances received in this relevant period but supply not completed	.....
	Turnover Zero-rated Supply of Services	.....
(E) Adjusted Total Turnover	Turnover of goods in a State / UT (excluding the turnover of services)	.....
	Add: Zero rated supply of services as computed in (D)	.....
	Add: Non-Zero rated supply of services	.....
	Less: Value of exempt supply (Non-zero rated)	.....
	Less: Turnover on which refund is claimed under 89 (4A) Deemed export	.....
	Less: Turnover on which refund is claimed under 89 (4B) Merchant Exporter	.....
	Adjusted Total Turnover	.....
(F) Relevant Period	It means the period for which the claim has been filed.	

As per Rule 89(5), In the case of refund on account of inverted duty structure, refund of input tax credit shall be granted as per the following formula –

$$\text{Maximum Refund Amount} = \{(\text{Turnover of inverted rated supply of goods \& Services}) \times \text{Net ITC} \div \text{Adjusted Total Turnover}\} - \text{tax payable on such inverted rated supply of goods \& Services}$$

Explanation:- For the purposes of this sub-rule, the expressions –

- (a) Net ITC shall mean **input tax credit availed on inputs** during the relevant period other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both; and
- (b) “Adjusted Total turnover” and “relevant period” shall have the same meaning as assigned to them in sub-rule (4).

No refund on input services & capital goods

Circular 79/53/2018-GST:-

Refund of Accumulated ITC on A/c of Inverted Duty Structure-

Input A – GST @ 5%
Input B – GST @ 12%
Input C – GST @ 18% } Output Product @ 12%

The above-mentioned case belongs to the Inverted Duty Structure. Department officers were denying the refund of Accumulated ITC of Input A & B, since GST rate of Tax for these inputs is less than or equal to the GST rate of output supply.

Clarification: – The accumulated ITC on Input A & B will also be included for the calculation of maximum refund amount. Since, the definition of “Net ITC” includes the same as per rule 89(5) of the CGST Rules.

Refund of ITC of GST paid on invoices of earlier tax period but availed in the subsequent tax period-

Goods purchased against a Tax invoice which is issued in Aug 2017. But ITC on that invoice was availed in the GST return of Sept 2017, that ITC cannot be excluded from the calculation of the refund amount for the month of Sept 2017.

Net ITC means input availed during the relevant period but only till the due date of GST return of Sept month of the next FY.

Relevant period means the period for which the refund claim has been filed.

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Telegram Group for Doubt Clearance

<https://telegram.me/cafinalidtamitjain>

In the above case, the relevant period would be Sept 2017. Input will be deemed to have been availed when it is shown in GSTR-3B, and was reflected in the Electronic Credit Ledger. Hence, that ITC would be included in the refund calculation for the month of Sept 2017.

Duration for the GST Refund by department-



If Deficiency Memo is issued, 60 days will be counted from the date of submission of fresh refund application. If GST refund is not credited to the bank A/c of the taxpayer within 60 days as mentioned above, interest @ 6% p.a. on the refund amount will be paid.

Interpretation of the term "Inputs"-

- On certain occasions, departmental officers do not consider ITC on stores and spares, packing materials, materials purchased for machinery repairs, printing and stationery items, as part of Net ITC on the grounds that these are not directly consumed in the manufacturing process and therefore, do not qualify as input.
- The circular clarifies that ITC of the GST paid on inputs shall be available to a registered person as long as he uses or intends to use such inputs for the purposes of his business and there is no specific restriction on the availment of such ITC anywhere else in the GST Act.
- Thus, the GST paid on inward supplies of stores and spares, packing materials etc. shall be available as ITC as long as these inputs are used for the purpose of business and/or for effecting taxable supplies, including zero rated supplies, and the ITC for such inputs is not restricted under section 17(5) of the CGST Act.
- Further, capital goods have been clearly defined in section 2(19) of the CGST Act as goods whose value has been capitalized in the books of account and which are used or intended to be used in the course or furtherance of business. Stores and spares, which has been charged as a revenue expense in the books of account, cannot be held to be capital goods.

Example 1: ABC Ltd. is a registered taxable company having registered office at Hyderabad, engaged in providing consultancy service to its client in India and outside India. It is exporting services without payment of IGST under LUT. The company after adjusting all the taxable liability for the period September 2017 to March 2018, claim excess ITC as refund from the department. The following are the information provided by the company, for calculating amount of ITC eligible for refund (all amount in INR)

Sr. No.	Particular	Turnover	Taxable @ 18% on outward supply	Inward Supply	Tax @ 18% on inward supply
1.	Domestic Outward Supply	1000	180	1250	225
2.	Export (Zero rated supply)	500			
3.	Exempt Supply	250		-	-
	Total	1750	180	1250	225

Additional information:-

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

Sr. No.	Other Inward Supplies	Value	Tax @ 18% on inward supply
1.	Consultancy Services	100	18
2.	Rent	250	45
3.	Food Items (assume 18%)	200	36
4.	Cleaning Services	50	9
	Total	600	108

Note: Impact of Rules 42 & 43 is ignored for simplicity. Assume that the value of zero-rated supplies is restricted to 1.5 times of the domestically supplied goods.

A.

Particular	Amount	Total
Turnover for zero rated supply	500	500
Adjusted total turnover		
+ Total Turnover	1750	
+ Less: Exempt Supply	250	1500
Input Tax Credit		
+ Inward input tax credit	225	
+ Add: Total common input tax credit	108	
+ Less: Blocked credit [U/s 17 (5)]	36	
+ Less: Outward Tax	180	117

Refund Amount = (Turnover of zero-rated supply of goods + Turnover of zero-rated supply of services) x Net ITC ÷ Adjusted Total Turnover

Refund Amount = $500/1500 \times 117 = 39$ i.e. Rs. 39

Example 2: XYZ Ltd. is a registered manufacturing company at Kochi, indulged in the business of processing of woven fabrics which is taxable @ 5%. The inputs used for making such product are taxable @ 12%. The company wants to determine the ITC eligible for refund.

Following are the information provided by the company during the period January to March 2019:

Sr. No.	Particular	Amount	Tax Amount
1.	Raw materials used (inward supply) @ 12%	100	12
2.	Woven fabrics (outward supply) @ 5%	150	7.5
3.	Consultancy service @ 18% (other inward supply)	10	1.8

A.

Maximum Refund Amount = {(Turnover of inverted rated supply of goods & Services) x Net ITC ÷ Adjusted Total Turnover} – tax payable on such inverted rated supply of goods & services

Maximum Refund Amount = $\{150 \times 12 / 150\} / 150 - 7.5 = \text{Rs. } 4.5$

Note:- No refund permissible for accumulated credit on input services i.e. Rs. 10

Example 3: My smart Ltd. furnishes following information. Please compute maximum refund eligible on account of inverted duty structure:

ITC availed on inputs	3,60,000
ITC availed on inputs services	36,000
ITC availed on capital goods	2,00,000
Turnover of inverted rated supply of goods (taxable @ 5%)	30,00,000
Turnover of inverted rated supply of services (taxable @ 5%)	3,00,000
Note:- included in turnover of other supplies of goods & services i.e. Rs. 15,00,000	

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Turnover of other supplies of goods and services (including exempt supplies Rs. 5,00,000)	15,00,000
---	-----------

A.

Net ITC i.e. ITC availed on Inputs	3,60,000
Turnover of inverted rated supply of goods & services (30,00,000+3,00,000)	33,00,000
Total Adjusted Turnover {30,00,000+15,00,000-5,00,000}	40,00,000
Tax paid on inverted rated supply of goods & services (33,00,000*5%)	1,65,000
Maximum Refund {33,00,000 x 3,60,000 ÷ 40,00,000} – 1,65,000	1,32,000

G. Acknowledgement of refund claim [Rule 90]

- I. The application relates to a claim for refund from the electronic cash ledger, shall get acknowledgement (specifying date of filing) through the Common Portal electronically.
- II. The application relates to a claim other than claim for refund from the electronic cash ledger, shall be forwarded to proper officer, who will within a period of 15 days, shall issue acknowledgement through the Common Portal electronically (specifying date of filing) if the application is found to be complete in terms of rule 89.
- III. If any deficiencies are noticed, the proper officer shall communicate the deficiencies through the common portal, requiring him to file a fresh refund application.

H. Order of Refund [Section 54(5), (7) read with rule 92]

- ❖ If, on receipt of any such application, the proper officer is satisfied that the whole or part of the amount claimed as refund is refundable, he may make an order in FORM GST RFD – 06 and the amount so determined shall be credited to the Fund referred to in section 57. [Sec. 54(5)]
- ❖ The proper officer shall issue the order under sub-section (5) within sixty days from the date of receipt of application complete in all respects. [Sec. 54(7)]

Extract of CGST Rule 92

- The proper officer shall issue the order of sanctioning the amount in Form GST RFD-06 stating:
 - The amount of refund due to the applicant,
 - The amount provisionally refunded to the applicant (if any),
 - The amount adjusted against any outstanding demand,
 - The balance amount refundable to the applicant.

In case the whole amount of refund is adjusted against any outstanding demand under this Act or under any of the existing law an order mentioning the details of such adjustment shall be issued in Part A of Form GST RFD-07 {Rule 92(1)}

- Where, upon examination of the application of refund of any amount paid as tax other than the refund of tax paid on zero-rated supplies or deemed export, the proper officer is satisfied that a refund under sub-section (5) of section 54 of the Act is due and payable to the applicant, he shall make an order in FORM RFD-06 sanctioning the amount of refund to be paid, in cash, proportionate to the amount debited in cash against the total amount paid for discharging tax liability for the relevant period, mentioning therein the amount adjusted against any outstanding demand under the Act or under any existing law and the balance amount refundable and for the remaining amount which has been debited from the electronic credit ledger for making payment of such tax, the proper officer shall issue FORM GST PMT-03 re-crediting the said amount as Input Tax Credit in electronic credit ledger. {Rule 92(1A)}
- Where the proper officer is satisfied that the amount refundable under sub-rule (1) or sub-rule (1A) or sub-rule (2) or is payable to the applicant under sub-section (8) of section 54, he shall make an order in FORM GST RFD-06 and issue a payment order in FORM GST RFD-05 for the amount of refund and the same shall be electronically credited to any of the bank accounts of the applicant

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

mentioned in his registration particulars and as specified in the application for refund on the basis of a consolidated payment advice:

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

Provided further that the payment order in FORM GST RFD-05 shall be required to be revalidated where the refund has not been disbursed within the same financial year in which the said payment order was issued {Rule 92(4)}

- The Central Government shall disburse the refund based on the consolidated payment advice issued under sub-rule (4). {Rule 92(4A)}

I. Grant of Provisional refund [Section 54(6) read with rule 91]

Irrespective of Sec. 54(5), 90% of refund may be sanctioned on provisional basis in such manner and subject to such conditions, limitations and safeguard as may be prescribed (paid to the claimant) without verification of documents if following conditions are satisfied:

- Claim for refund on account of zero-rated supply
- Made by registered persons
- Other than such category of registered person as may be notified by the government

Remaining 10% may be refunded after due verification of documents furnished by the applicant.

Extract of CGST Rule 91

(1) The provisional refund of 90% shall be granted to the applicant if the person claiming the refund has not been prosecuted for any offence under the act or under an existing law where the amount of tax evaded exceeds two hundred and fifty lakh rupees during any period of five years immediately preceding the tax period to which the claim for refund relates.

(2) The proper officer, after scrutiny of the claim and the evidence submitted in support thereof and on being prima facie satisfied that the amount claimed as refund under sub-rule (1) is due to the applicant in accordance with the provisions of sub-section (6) of section 54, shall make an order in FORM GST RFD-04, sanctioning the amount of refund due to the said applicant on a provisional basis within a period not exceeding seven days from the date of the acknowledgement under sub-rule (1) or sub-rule (2) of rule 90:

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

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

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

(4) The Central Government shall disburse the refund based on the consolidated payment advice issued under sub-rule (3).

With combined reading of Rule 91 & 92, it can be concluded that Government inserted the proviso to Rule 91(2) and Rule 91(3) to provide that in the case where refund is not disbursed, the order issued by officer in GST RFD-04 form for grant of provisional refund shall not be revalidated and only payment advice issued in FORM GST RFD 05 shall be revalidated if refund is not disbursed within same financial year in which said payment advice was issued.

J. Principal of Unjust Enrichment [Section 54(8) & (9)]

The person who has not passed the incidence of tax will be eligible to claim the refund. Under unjust enrichment, a presumption is always drawn that the businessman will shift the incidence of tax to the final consumer. This

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Telegram Group for Doubt Clearance

<https://telegram.me/cafinalidtamitjain>

is because GST is an indirect tax whose incidence is to be borne by the consumer. It is for this reason that every refund claim if sanctioned is first transferred to the “consumer welfare fund”.

The GST Law makes this test inapplicable in case of refund of accumulated ITC, refund on account of exports, refund of payment of wrong tax (IGST instead of CGST + SGST & vice versa), refund of tax paid on a supply, which is not provided or when refund voucher is issued or if the applicant shows that he has not passed on the incidence of tax to any other person.

If refund claim doesn't exceed Rs. 2 Lacs, then a self-declaration of the applicant and in case of more than Rs. 2 Lacs, a certificate from Chartered Accountant/Cost Accountant will have to be given.

Cases where refundable amount shall be paid to the applicant [Sec. 54(8)]:

The refund shall be sanctioned directly to the claimant, in the following cases –

- (f) Refund of tax paid on ~~zero-rated supply~~ export of goods or services or both or on inputs or input services used in making such ~~zero-rated supply~~ exports;
- (g) Refund of unutilized ITC in case of zero rated supplies or accumulated ITC on account of inverted duty structure;
- (h) Refund of tax paid on a supply which is not provided, either wholly or partially, and for which invoice has not been issued or where a refund voucher has been issued;
- (i) Refund of tax in pursuance of section 77 which means a registered person who has paid CGST/SGST/UTGST on a transaction considered by him as intra-state supply but held as inter-State supply;
- (j) The tax/interest/other amounts paid by the applicant, where the incidence had not passed on to any other person; or
- (k) The tax or interest borne by notified class of applicant.

In all cases other than the one listed above, where the application is found to be in order, the refund amount, shall be credited to consumer welfare fund within 60 days of receipt of the application.

Disbursement [Sec. 54(8A)]:

The Government may disburse the refund of the State tax in such manner as may be prescribed.

K. Issue of SCN and rejection of refund claim [Rule 92(3)]

- The Proper Officer is satisfied that the whole or any part of the refund amount claimed, is not admissible, he shall issue “Show Cause Notice”.
- Applicant will be required to furnish a reply within 15 days of the receipt of notice.
- The proper officer shall, after considering reply and giving him an opportunity of being heard, make an order in Form GST RFD-06, sanctioning the amount of refund in whole or part, or rejecting the said refund claim.

L. Withholding of refund claim & other provisions [Sec. 54(10) to Sec. 54(15)]

Sec. 54(10)

Proper officer may **withhold the refund due in case on non-filing of return or non-payment of tax, interest and penalty** which is not stayed by any court, tribunal or appellate authority by specified date (in case no appeal has been filed – the last date for filing an appeal under this act) until he files return or pay the amount due. Proper officer may also adjust the amount payable from refund amount.

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

Sec. 54(11)

The commissioner/board may, after giving the tax payer an opportunity of being heard, withhold the refund till such time as he may determine in case where he is of the opinion that such refund is –

- Likely to have an adverse effect on the revenue and
- An order giving rise to a refund is the subject matter of an appeal or further proceeding or where any other proceeding under this act is pending on account of malfeasance or fraud committed. (order need to be passed in Part B of Form GST RFD-07)

Sec. 54(12)

If refund has been withheld by commissioner/board U/s 54(11) above and later he becomes entitled to the refund, he shall be entitled to interest @ 6%, irrespective of Section 56.

Sec. 54(13)

The amount of advance tax deposited by a casual taxable person or a non-resident taxable person at the time of taking registration would be refunded only after completion of entire period for which the certificate of registration granted and all the returns required to be furnished U/s 39 are furnished.

Sec. 54(14)

No refund shall be granted or paid to an applicant, if the amount is less than Rs. 1000. The limit of Rs. 1,000 shall apply for each tax head separately and not cumulatively. Further, the limit would not apply in cases of refund of excess balance in the electronic cash ledger. {Circular No. 59/ 33/ 2018 GST Dated 04.09.2018}

M. Any refund claim rejected shall be re-credited to the Electronic Credit Ledger [Rule 93]

N. Refund of taxes to the retail outlets established in departure area of an international Airport beyond immigration counters making tax free supply to an outgoing international tourist [Rule 95A & Circular No. 106/25/2019-GST dated 29-6-2019]

Section 15 of IGST Act, provides that the IGST paid by tourist leaving India, on any supply of goods taken out of India by him, shall be refunded in such manner and subject to such conditions and safeguards as may be prescribed. As per the proviso to section 8(1) read with section 7(5) of IGST Act, supply made to tourist referred in section 15 shall be treated as inter-state supply.

The term “tourist” has been defined to mean a person not normally resident in India, who enters India for a stay of not more than six months for legitimate non-immigrant purposes.

There are two kinds of retail outlets at international airports: -

- ✓ Duty Free Shops (DFS) which supplies goods procured from customs warehouse as well as tax paid indigenous goods.
- ✓ Duty Paid Shops (DPS) which supplies only tax paid indigenous goods.

The procedure and applicable rules as specified under the Customs Act are required to be followed for procurement and supply of imported/ warehoused goods.

Under GST regime there is no special procedure for procurement of indigenous goods for sale by DFS or DPS. Therefore, all indigenous goods would have to be procured by DFS or DPS on payment of applicable tax when procured from the domestic market.

CBIC has issued certain notifications and a circular in this regard. The notifications are effective from 1 July 2019.

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Telegram Group for Doubt Clearance

<https://telegram.me/cafinalidtamitjain>

According to Notification No. 11/2019 - IT(Rate), dated 29 June 2019 issued in exercise of powers conferred under section 6(1) of the IGST Act and 11(1) of GST (Compensation to States) Act, 2017, "Supply of goods by retail outlets established in the departure area of an international airport beyond the immigration counters (retail outlets) supplying goods to outgoing international tourist (tourist) has been exempted from integrated tax and GST Compensation Cess (Cess), if applicable."

Refund of tax paid on inward supply

Rule 95A has been inserted in Central Goods and Services Tax (CGST) Rules, 2017. As per the said rule, the retail outlets supplying indigenous goods to tourist shall be entitled to claim refund of integrated tax or central tax and state tax, as the case may be, and Cess (if applicable) paid on the inward supply of such indigenous goods, subject to the following conditions:

- inward supplies are received by retail outlets from a registered person against the tax invoice;
- goods are supplied to tourist against foreign exchange without charging any tax;
- goods and services tax identification number of the retail outlets is mentioned on the tax invoice for the inward supply;
- such other restrictions or conditions, as may be specified.
- The provisions of rule 92 shall, mutatis mutandis, apply for the sanction and payment of refund under this rule.

Since the outward supplies by retail outlets is exempt, they will not be eligible to claim input tax credit. Thus, it is clarified that the refund to be granted to retail outlets is not on account of the accumulated input tax credit but based on the invoices of the inward supplies of indigenous goods received by them.

For making supplies without payment of tax, the following documents and declaration are required:

- Details of passport (via Passport Reading Machine);
- Details of boarding pass (via a barcode scanning reading device);
- A passenger declaration in the prescribed format;
- Copy of invoice evidencing that no tax was charged from the eligible passenger by the retail outlet.

Manner of filing refund application

The retail outlets shall claim refund in Form GST RFD10B on a monthly or quarterly basis (manually to the jurisdictional proper officer until online application available), as the case may be.

The refund application should be accompanied with following documents:

- Self-certified compiled information of invoices issued for the supply made during the month or quarter;
- Undertaking by retail outlets that the indigenous goods on which refund is being claimed have been received by them and such goods have been sold to tourist;
- Copies of Form GSTR-3B and GSTR-2A for period covered in refund claim;
- Attested hard copies of inward invoices on which refund is claimed but which are not reflected in Form GSTR-2A.

Other Points

- The records with respect to duty paid indigenous goods being brought to the retail outlets and their supplies to tourist shall be maintained in the prescribed manner.
- The retail outlets are required to prominently display a notice that tourist is eligible for purchase of goods without payment of domestic taxes.

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

Processing and sanction of the refund claim

- ✓ Upon receipt of the complete application in GST RFD-10B, an acknowledgement shall be issued manually by the proper officer within 15 days of the receipt of application in GST RFD-02. In case of any deficiencies or any additional information is required, the same shall be communicated to the retail outlets by issuing a deficiency memo manually in GST RFD-03 by the proper officer within 15 days of the receipt of the refund application. Only one deficiency memo should be issued against one refund application which is complete in all respects.
- ✓ The proper officer shall validate the GSTIN details on the common portal to ascertain whether the return in GSTR- 3B has been filed by the retail outlets. The proper officer may scrutinize the details contained in RFD-10B, GSTR-3B and GSTR-2A. The proper officer may rely upon GSTR-2A as an evidence of the account of the supply received by them in relation to which the refund has been claimed by the retail outlets. Normally, officers are advised not to call for hard copies of invoices or details contained in Annexure A. It is reiterated that the retail outlets would be required to submit hard copies of only those invoices of inward supplies that have not been reflected in GSTR-2A.
- ✓ The proper officer shall issue the refund order manually in GST RFD-06 along with the manual payment advice in GST RFD-05 for each head i.e., Central tax/State tax/Union territory tax/Integrated tax/Compensation Cess. The amount of sanctioned refund along with the bank account details of the retail outlets shall be manually submitted in the PFMS system by the jurisdictional Division's DDO and a signed copy of the sanction order shall be sent to the PAO for disbursement of the said amount.
- ✓ Where any refund has been made in respect of an invoice without the tax having been paid to the Government or where the supply of such goods was not made to an eligible passenger, such amount refunded shall be recovered along with interest as per the provisions contained in the Section 73 or Section 74 of the CGST Act.
- ✓ It is clarified that the retail outlets will apply for refund with the jurisdictional Central tax/State tax authority only, however, the payment of the sanctioned refund amount in relation to CGST/ IGST/ Compensation Cess shall be made by the Central tax authority while payment of the sanctioned refund amount in relation to State Tax / Union Territory Tax shall be made by the State tax/Union Territory tax authority. It therefore becomes necessary that the refund order issued by the proper officer of Central Tax is duly communicated to the concerned counter-part tax authority within 7 days for the purpose of disbursement of the remaining sanctioned refund amount. The procedure outlined in para 6.0 of Circular No.24/24/2017GST dated 21-12-2017 should be followed in this regard.

The scheme shall be effective from 01.07.2019 and would be applicable in respect of all supplies made to eligible passengers after the said date. In other words, retail outlets would be eligible to claim refund of taxes paid on inward supplies of indigenous goods received by them even prior to 01.07.2019 as long as all the conditions laid down in Rule 95A of the CGST Rules and this circular are fulfilled.

O. Refund of Integrated tax paid on goods or services exported out of India [Rule 96]

A taxable person has option to pay IGST on goods exported out of India and claim refund. Shipping bill filed by exporter of goods shall be deemed to application for refund of IGST. A Departure Manifest or Export Manifest or Export report covering the number and date of shipping bill should have been filed. The applicant should have filed valid return in Form GSTR 3 or GSTR 3B as the case may be.

Details of export invoices in respect of goods contained in valid return in Form GSTR 3 or GSTR 3B as the case may be, shall be transmitted to system in respect of designated by customs. The system shall confirm that the goods have been exporters out of India.

Where date of filing of GSTR 1 has been extended by Commissioner the supplier shall furnish information relating to export invoices in table 6A of form GSTR 1 after return in form GSTR 3B has been furnished.

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

The system designated by the Customs or the proper officer of Customs, as the case may be, shall process the claim of refund in respect of export of goods and an amount equal to the integrated tax paid in respect of each shipping bill or bill of export shall be electronically credited to the bank account of the applicant mentioned in his registration particulars and as intimated to the Customs authorities.

Refund of IGST paid on services exported shall be filed in form GST RFD – 01 and shall be dealt with in accordance with provisions of rule 89 of CGST Rules – Rule 96 (9) of CGST Rules, 2017.

The Central Government may pay refund of the IGST to the Government of Bhutan on the exports to Bhutan for such class as may be notified in this behalf and where such refund is paid to the Government of Bhutan, the exporter shall not be paid any refund of the integrated tax.

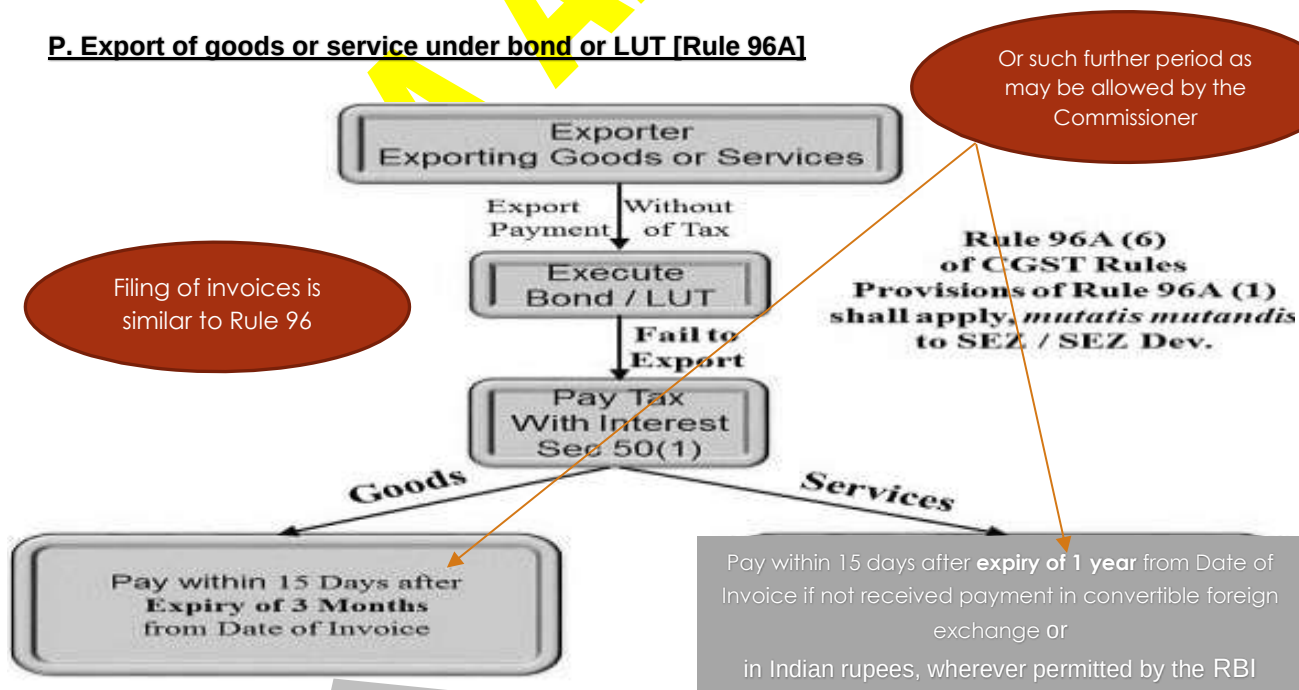
The claim for Refund shall be withheld where-

- A request has been received from jurisdictional Commissioner of Central tax, State tax & Union Territory Tax;
- The proper officer of customs determined that the goods were exported in violation of the provisions of the Customs Act, 1962.

Rule 96(10) of the CGST Rules, 2017 restricted the refund of IGST paid on exports if the exporter had claimed the benefit under certain specified notifications. The rule has been amended and the net effect of the amendment is that any exporter who imported goods by claiming benefit under customs notification nos. 78/2017 and 79/2017 can claim refund of IGST paid on exports till 9 October, 2018 when rule 96(10) of the CGST Rules, 2017 was amended by notification no. 54/2018 Central Tax. After the amendment, such exporters will not be able to claim refund of IGST paid on exports, except for the exporters receiving capital goods under the EPCG scheme. [Circular No. 70/44/2018 Dated 26.10.2018]

For the purpose of Rule 96(10), the benefit of the notifications mentioned therein shall not be considered to have been availed only where the registered person has paid Integrated Goods and Services Tax and Compensation Cess on inputs and has availed exemption of only Basic Customs Duty (BCD) under the said notifications.

P. Export of goods or service under bond or LUT [Rule 96A]



If fails to pay the amount mentioned in specified time, the export as allowed under bond/LUT shall be withdrawn. It shall be restored immediately when the registered person pays the amount due.

Compare this Book with any other book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

Q. Recovery of refund of unutilised input tax credit or integrated tax paid on export of goods where export proceeds not realised [Rule 96B]

- (1) Where any refund of unutilised input tax credit on account of export of goods or of integrated tax paid on export of goods has been paid to an applicant but the sale proceeds in respect of such export goods have not been realised, in full or in part, in India within the period allowed under the Foreign Exchange Management Act, 1999, including any extension of such period, the person to whom the refund has been made shall deposit the amount so refunded, to the extent of non-realisation of sale proceeds, along with applicable interest within thirty days of the expiry of the said period or, as the case may be, the extended period, failing which the amount refunded shall be recovered in accordance with the provisions of section 73 or 74 of the Act, as the case may be, as is applicable for recovery of erroneous refund, along with interest under section 50:
Provided that where sale proceeds, or any part thereof, in respect of such export goods are not realised by the applicant within the period allowed under the Foreign Exchange Management Act, 1999 (42 of 1999), but the Reserve Bank of India writes off the requirement of realisation of sale proceeds on merits, the refund paid to the applicant shall not be recovered.
- (2) Where the sale proceeds are realised by the applicant, in full or part, after the amount of refund has been recovered from him under sub-rule (1) and the applicant produces evidence about such realisation within a period of three months from the date of realisation of sale proceeds, the amount so recovered shall be refunded by the proper officer, to the applicant to the extent of realisation of sale proceeds, provided the sale proceeds have been realised within such extended period as permitted by the Reserve Bank of India.

Circular No. 125/44/2019-GST dated 18th November 2019

The Central Board of Indirect Taxes and Customs (CBIC), in furtherance to the advisory issued by GSTN for implementation of an online refund processing system with disbursal by a single authority, has issued a master circular which supersedes circulars previously issued (although the provisions of such previous circulars would continue to apply for refund applications filed before 26 September 2019, which would be processed manually).

The circular clarifies on new aspects of the procedures to be followed for online applications for refund, process of scrutiny to be followed by refund officers, and disbursal of refund. Simultaneously, the circular places an onerous restriction of filing corrected refund application after issuance of deficiency memo, within the limitation of period of two years provided under the CGST Act.

Processing of refund application:-

- Grant of refund would be sanctioned on the basis of provisionally accepted input tax credit (ITC), i.e., basis credit claimed in return filed in Form GSTR 3B, as the online functionality of Forms GSTR 2 and GSTR 3 remains unimplemented.
- Refunds may be filed for a single tax period or by clubbing successive tax periods but cannot spread across different financial years.
- On issuance of a deficiency memo by the refund officer, a fresh application for refund would be required to be filed. Such rectified application would be required to be submitted within the time limit of two years, as prescribed under the CGST Act, 2017 (CGST Act) for filing of refund application.

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Telegram Group for Doubt Clearance

<https://telegram.me/cafinalidtamtjain>

- The process to recover the refund amount paid provisionally, but subsequently found to be inadmissible, along with interest and penalty under sections 73 and 74 of the CGST Act, has been clarified. Where refund is granted provisionally and final refund is reduced then issue SCN for Rejection of ineligible ITC/Recovery of Erroneously refunded amount with interest and penalty. After hearing according to principles of natural justice, decide final refund amount or recovery. **Where appeal is made** and refund is granted then apply for refund under category "On Account of Assessment/Provisional Assessment/ Appeal/ Any other order"
- Refund applications under all heads (i.e. CGST, SGST, IGST, Compensation Cess), which was previously being disbursed by separate authorities shall be disbursed by a single tax officer.
- The time period of 60 days beyond which interest is payable at 6% in case of delay in the disbursement of refund, as provided under section 56 of the CGST Act, to be counted from the date generation of Application Reference Number until the date of credit of the refund amount in the bank account of the applicant.
- Comprehensive and exhaustive list of all documents to be provided along with the refund application has been prescribed.

Refund of unutilised ITC:-

- Requirement to upload a copy of Form GSTR 2A, for the relevant period in which invoices have been auto populated along with the refund clarified.
- Restrictions on availment of ITC upto 10% of the eligible credit available, where details of the relevant invoice/ debit note have not been uploaded by the supplier in Form GSTR 1 as prescribed in Rule 36(4) of the CGST Rules, 2017 (CGST Rules), would also be applicable in case of refund of unutilised ITC. Self-certified copies of such invoices not uploaded by the supplier required to be submitted along with refund application.
- Order for utilisation of ITC balance for claiming refund under various heads (i.e. CGST, SGST, IGST) prescribed. However, it is not mandatory for the applicant to adhere to this order and the authorities would take no adverse view for noncompliance.
- If a supplier avails drawback of duties rebated under the erstwhile law, the supplier shall be eligible for refund of unutilised ITC of CGST/ SGST/ UGST/ IGST/ Compensation Cess.

Refund for zero rated supply

- Relaxation provided to applicant for refund of ITC for zero-rated supplies made before obtaining Letter of Undertaking (LUT). Field formations are advised to condone delay in filing LUT to and ex post facto facility for export under LUT be allowed so that substantive benefit of zero rating not to be denied where it is established that exports in terms of the relevant provisions have been made. Similar relaxation also provided for payment of tax to be made in case of failure to export goods within three months of issue of export invoice.
- No LUT/ bond required in case of refund claims on account of export of non-GST and exempted goods without payment of tax.
- Where the value of export declared in the tax invoice is different from the export value declared in the corresponding shipping bill uploaded on ICEGAT, the lower of the two values to be taken into account to calculate eligible amount of refund, and outright rejection of refund is not permitted.

Refund for inverted duty structure

- Clarifies that refund of tax paid on input services and capital goods is barred for refund of ITC on inputs in case of an inverted duty structure.

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

- Refund for inverted duty structure would be available where ITC remains unutilised after setting-off available ITC for payment of output liability, irrespective of the individual rate at which the inputs are taxed.

Refund of TDS and TCS:- Tax deducted/ collected (TDS/ TCS) and deposited under incorrect heads leading to excess balance in the account of deductor/ collector may be claimed as refund of excess balance in electronic cash ledger by the deductor/ collector. Such excess tax deducted/ deposited can be adjusted for discharging output liability or can be claimed as refund by the deductee.

Other Points

- Exporter receiving capital goods under the EPCG Scheme is not covered under the exclusion prescribed under Rule 96(10) of the CGST Rules, and such exporters shall continue to be eligible to claim refund of integrated tax paid on exports.
- Regarding the supply of taxable goods by registered person to another registered person for export, at a concessional rate,² the following prescriptions have been made: (a) the merchant exporter would mandatorily be required to subsequently export under a LUT/ bond, and (b) merchant exporter cannot exercise the option of payment of tax to claim rebate.

Circular No. 135/05/2020-GST dated 31st March 2020

Bunching of refund claims across financial years

- Earlier, CBIC had clarified (Circular No. 125/44/2019-GST dated 18 November 2019) that exporters cannot club tax periods across different financial years while filing refund claim.
- Delhi High Court, in the case of Pitambra Books Pvt. Ltd., had stayed para 8 of the Circular No. 125/44/2019-GST dated 18 November 2019 and observed that:
 - Circulars can supplant but not supplement the law
 - Circulars might mitigate rigors of law by granting administrative relief beyond relevant provisions of the statute, however, Central Government is not empowered to withdraw benefits or impose stricter conditions than postulated by the law.
- Further, on perusal of section 16(3) of the Integrated Goods and Services Tax Act, 2017 and section 54(3) of the Central Goods and Services Tax Act, 2017, there appears to be no bar in claiming refund by clubbing tax periods across successive financial years.

Thus, the restriction on bunching of refund claims across financial years shall not apply.

Refund of accumulated input tax credit (ITC) due to rate reduction

- Section 54(3)(ii) of the CGST Act provides for refund of accumulated ITC on account of rate of tax on inputs being higher than the rate of tax on output supplies.
- It is clarified that the above provision is not applicable in cases where the inversion is due to change in the GST rate on the same goods (i.e. where input and output supplies are same). This is because section 54(3)(ii) does not cover cases where the ITC accumulation is on account of different tax rates applicable at different point in time on the same goods.

Illustration: A trader purchased goods "X" attracting GST at 18%. Subsequently, the GST rate on goods "X" is reduced to 12%. In this case, even though there is credit accumulation due to subsequent rate reduction, the refund of accumulated ITC cannot be claimed.

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Telegram Group for Doubt Clearance

<https://telegram.me/cafinalidtamtjain>

Manner of refund of tax (other than zero rated supplies)

- Presently, the admissible refund amount is paid in cash even in cases where the tax was discharged by utilizing ITC.
- With a view to stop unintended encashment of ITC balances, rule 86(4A) and rule 92(1A) has been inserted in the Central Goods and Services Tax Rules, 2017 (CGST Rules).
- As per the newly inserted rules, refund of tax (other than on account of zero rated supplies) shall be admissible proportionately in the respective original mode of payment.
- Thus, for tax liability discharged by cash, refund shall be paid in cash and for tax liability discharged by utilizing credit, the refund amount will be re-credited in the electronic credit ledger.

Refund of accumulated ITC in respect of invoices reflecting in Form GSTR-2A

- Circular No. 125/44/2019-GST dated 18 November 2019, permitted refund of accumulated ITC even in respect of invoices not reflected in Form GSTR-2A. This was subject to uploading copy of such invoices by the applicant along with the refund application.
- Rule 36(4) was inserted in CGST Rules restricting ITC eligibility in respect of unmatched credit only up to 10% of the matched credit.
- In view of above, it is clarified that refund of accumulated ITC shall be restricted only to those invoices which are uploaded by the supplier in Form GSTR-1 and are reflected in Form GSTR-2A of the applicant.

Harmonized System Nomenclature (HSN)/ Service Accounting Code (SAC) to be mentioned

- A column of HSN/SAC has been inserted in Annexure B (statement of invoices to be submitted along with refund application).
- This is with the intention of distinguishing ITC on capital goods and/or input services out of total ITC, as ITC refund of the same is not permissible in certain cases.
- However, if the supplier is not mandated to mention the HSN/SAC on invoice, the applicant need not mention HSN/SAC in respect of such inward supply.

Circular No. 137/07/2020-GST dated 13th April 2020

Sr. No.	Issue	Clarification
1.	An advance is received by a supplier for a Service contract which subsequently got cancelled. The supplier has issued the invoice before supply of service and paid the GST thereon. Whether he can claim refund of tax paid or is he required to adjust his tax liability in his returns?	In case GST is paid by the supplier on advances received for a future event which got cancelled subsequently <u>and for which invoice is issued before supply of service, the supplier</u> is required to issue a "credit note" in terms of section 34 of the CGST Act. He shall declare the details of such credit notes in the return for the month during which such credit note has been issued. The tax liability shall be adjusted in the return subject to conditions of section 34 of the CGST Act. There is no need to file a separate refund claim. However, in cases where there is no output liability against which a credit note can be adjusted, registered persons may proceed to file a claim under "Excess payment of tax, if any" through FORM GST RFD-01.
2.	An advance is received by a supplier for a Service contract which got cancelled	In case GST is paid by the supplier on advances received for an event which got cancelled subsequently and for which no invoice has been issued in terms of section 31 (2) of the CGST Act, he is

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

	subsequently. The supplier has issued receipt voucher and paid the GST on such advance received. Whether he can claim refund of tax paid on advance or he is required to adjust his tax liability in his returns?	required to issue a "refund voucher" in terms of section 31 (3) (e) of the CGST Act read with rule 51 of the CGST Rules. The taxpayer can apply for refund of GST paid on such advances by filing FORM GST RFD-01 under the category "Refund of excess payment of tax".
3.	Goods supplied by a supplier under cover of a tax invoice are returned by the recipient. Whether he can claim refund of tax paid or is he required to adjust his tax liability in his returns?	In such a case where the goods supplied by a supplier are returned by the recipient and where tax invoice had been issued, the supplier is required to issue a "credit note" in terms of section 34 of the CGST Act. He shall declare the details of such credit notes in the return for the month during which such credit note has been issued. The tax liability shall be adjusted in the return subject to conditions of section 34 of the CGST Act. There is no need to file a separate refund claim in such a case. However, in cases where there is no output liability against which a credit note can be adjusted, registered persons may proceed to file a claim under "Excess payment of tax, if any" through FORM GST RFD-01.
4.	Letter of Undertaking (LUT) furnished for the purposes of zero-rated supplies as per provisions of section 16 of the Integrated Goods and Services Tax Act, 2017 read with rule 96A of the CGST Rules has expired on 31.03.2020. Whether a registered person can still make a zero-rated supply on such LUT and claim refund accordingly or does he have to make such supplies on payment of IGST and claim refund of such IGST?	Notification No. 37/2017-Central Tax, dated 04.10.2017, requires LUT to be furnished for a financial year. However, in terms of notification No. 35/2020 Central Tax dated 03.04.2020, where the requirement under the GST Law for furnishing of any report, document, return, statement or such other record falls during between the period from 20.03.2020 to 29.06.2020, has been extended till 30.06.2020. Therefore, in terms of Notification No. 35/2020-Central Tax, time limit for filing of LUT for the year 2020-21 shall stand extended to 30.06.2020 and the taxpayer can continue to make the supply without payment of tax under LUT provided that the FORM GST RFD-11 for 2020-21 is furnished on or before 30.06.2020. Taxpayers may quote the reference no of the LUT for the year 2019-20 in the relevant documents.
5.	While making the payment to recipient, amount equivalent to one per cent was deducted as per the provisions of section 51 of Central Goods and Services Tax Act, 2017 i. e. Tax Deducted at Source (TDS). Whether the date of deposit of such payment has also been extended vide notification N. 35/2020-Central Tax dated 03.04.2020?	As per notification No. 35/2020-Central Tax dated 03.04.2020, where the timeline for any compliance required as per sub-section (3) of section 39 and section 51 of the Central Goods and Services Tax Act, 2017 falls during the period from 20.03.2020 to 29.06.2020, the same has been extended till 30.06.2020. Accordingly, the due date for furnishing of return in FORM GSTR-7 along with deposit of tax deducted for the said period has also been extended till 30.06.2020 and no interest under section 50 shall be leviable if tax deducted is deposited by 30.06.2020.
6.	As per section 54 (1), a person is required to make an application before expiry of two years from the relevant date. If in a particular case, date for making an application for refund	As per notification No. 35/2020-Central Tax dated 03.04.2020, where the timeline for any compliance required as per sub-section (1) of section 54 of the Central Goods and Services Tax Act, 2017 falls during the period from 20.03.2020 to 29.06.2020, the same has been extended till 30.06.2020. Accordingly, the due date for

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

expires on 31.03.2020, can such person make an application for refund before 29.07.2020?

filing an application for refund falling during the said period has also been extended till 30.06.2020.

Section 55 Refund of UN Bodies, Embassies etc. [Sec. 55 read with Rule 95(2)]

1. Applicability:
 - Specialised Agency of the United Nations Organization or
 - Consulate or Embassy of foreign countries
 - Any Multilateral Financial Institution and Organization notified under the United Nations (Privileges and Immunities) Act, 1947
 - Any other notified person
2. Application for refund shall be made in Form GST RFD-10 once in every quarter. Also, to file a statement of inward supplies of goods or services or both in Form GSTR 11. (Entities covered U/s 55, shall make an application for refund of tax paid by it on inward supplies, to the jurisdictional tax authority, in such form and manner as specified, before the expiry of 18 months from the last date of the quarter in which such supply was received)
3. Acknowledgement for Application of refund shall be given in Form GST RFD-02.
4. Condition for Refund:
 - a. The inward supplies of goods or services or both were received from a registered person against a tax invoice.
 - b. Name and GSTIN or UIN of the applicant is mentioned on the tax invoice and
5. In case of inconsistent provisions, International Treaty will prevail over rules.

In exercise of above power, following persons have been notified, subject to fulfilment of specified conditions:

- i. United Nations or a specified international organization**; and
- ii. Foreign diplomatic mission or consular post in India, or diplomatic agents or career consular officers posted therein.

**Specified international organisation means an international organisation declared by the Central Government in pursuance of section 3 of the United Nations (Privileges and Immunities Act) 1947, to which the provisions of the Schedule to the said Act apply.

Further, in exercise of said power, Canteen Stores Department (CSD), under the Ministry of Defence, has been notified as a person who shall be entitled to claim a refund of 50% of the applicable CGST/IGST paid by it on all inward supplies of goods received by it for the purposes of subsequent supply of such goods to the Unit Run Canteens of the CSD or to the authorized customers of the CSD.

Specialized agencies notified under section 55 of CGST Act entitled to refund of IGST paid on import of goods.

Section 56 Interest on Delayed Refunds

In case of refund arising from an order passed by the adjudicating authority, appellate authority or appellate tribunal	Government shall pay an interest of 9% from the date immediately after the expiry of 60 days from the date of receipt of application of refund.
Other Cases	The Government shall pay an interest of 6% from the date immediately after the expiry of 60 days from the date of receipt of application of refund.

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

Section 57 Consumer Welfare Fund

The Government shall constitute a Fund, to be called the Consumer Welfare Fund and there shall be credited to the Fund,—

- (a) the amount referred to in sub-section (5) of section 54;
- (b) any income from investment of the amount credited to the Fund; and
- (c) such other monies received by it,

in such manner as may be prescribed.

Amounts to be credited to/paid from Consumer Welfare Fund [Rule 97 of the CGST Rules, 2017]

- ✓ All amounts of duty CGST/ SGST/ IGST/ UTGST/ cess and income from investment along with other monies specified in section 12C(2) of the erstwhile Central Excise Act, 1944, section 57 of the CGST Act, 2017 read with section 20 of the IGST Act, 2017, section 21 of the UTGST Act, 2017 and section 12 of the GST (Compensation to States) Act, 2017 shall be credited to the Fund [discussed earlier in this chapter] [Rule 97(1)].
- ✓ An amount equivalent to 50% of the amount of IGST determined under section 54(5) of the CGST Act, read with section 20 of the IGST Act, shall be deposited in the Fund [Proviso to rule 97(1)].
- ✓ An amount equivalent to 50% of the amount of compensation cess determined under section 54(5) of the CGST Act, read with section 11 of the GST (Compensation to States) Act, shall be deposited in the Fund. [Second Proviso to rule 97(1)]
- ✓ Any amount, having been credited to the Consumer Welfare Fund, ordered or directed as payable to any claimant by orders of the proper officer, Appellate Authority or Appellate Tribunal or Court, shall be paid from the Fund [Rule 97(2)].
- ✓ Accounts of the Fund maintained by the Central Government shall be subject to audit by the Comptroller and Auditor General of India [Rule 97(3)].

Section 58 Utilization of Fund

- (1) All sums credited to the Fund shall be utilised by the Government for the welfare of the consumers in such manner as may be prescribed.
- (2) The Government or the authority specified by it shall maintain proper and separate account and other relevant records in relation to the Fund and prepare an annual statement of accounts in such form as may be prescribed in consultation with the Comptroller and Auditor-General of India.

Section 15 (IGST) Refund of Integrated Tax paid on supply of goods to tourist leaving India

The integrated tax paid by tourist leaving India on any supply of goods taken out of India by him shall be refunded in such manner and subject to such conditions and safeguards as may be prescribed.

Explanation: For the purposes of this section, the term “tourist” means a person not normally resident in India, who enters India for a stay of not more than six months for legitimate non-immigrant purposes.

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Question & Answer

Q1. What are the cases under which refund of unutilized input tax credit shall not be allowed?

A. As per first proviso to Sec. 54(3), no refund of unutilized ITC shall be allowed except in following cases:

- (i) Zero rated supplies made without payment of tax, or
- (ii) Credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than Nil rated or exempt supplies). However, such refund should not relate to supply of goods or services or both as may be notified by the government on recommendation of GST council.

Thus, except the above two exceptions, refund of unutilized credit will not be allowed.

Q2. Whether refund of unutilized ITC can be allowed in case where export of goods is subject to export duty?

A. As per second proviso to Sec. 54(3), no such refund will be allowed in case goods exported out of India are subject to levy of export duty.

Q3. Whether refund of unutilized ITC can be allowed in case where exporter of goods or services claims drawback or refund of taxes paid on such supplies?

A. The export of goods has to be free from the effect of any taxes. It is important to note that refund of unutilized credit is only one of the methods to free export transactions from the burden of taxes. The other 2 methods are drawback of taxes or refund of taxes paid on such supplies. As per second proviso to sec. 54(3), refund of input taxes shall not have allowed in case supplier of goods or services avail drawback of central taxes or claims refund of IGST paid on such supplies.

Q4. Whether the principle of unjust enrichment be applicable to export?

A. The principle of unjust enrichment will not be applicable in case of export of goods and services.

Q5. In case of rejection of refund application, what would happen to the amount debited from Input Tax Ledger?

A. As provided in rule 93(2), in case of rejection of refund application wholly or partly, the amount of claim rejected will be re-credited in the electronic ledger of the applicant.

Example: A Ltd. made an application of refund of unutilized ITC amounting to Rs. 7 Lacs. A Ltd. reduced the balance of Rs. 7 lacs from their electronic credit ledger. The proper officer was not satisfied with claim of Rs. 2 Lacs. He approved the claim of Rs. 5 lacs and rejected the claim of Rs. 2 lacs. Rs. 5 lacs will be credited to the bank account of A Ltd and Rs. 2 lacs will be re-credited to electronic credit ledger of A Ltd.

Q6. ABC Ltd., filed an application for refund of tax amounting Rs. 9,00,000 on 1st Nov'17. The refund was granted on 25th Jan'18. Compute the interest payable?

A. Interest is payable after 60 days which is completing on 31st Dec'17 (60 days from 1st Nov'17). So, interest is payable for 25 days @ 6% i.e. $\text{Rs. } 9,00,000 \times 6\% \times 25/365 = \text{Rs. } 3,698$

Q7. Mr. A has opted for Export against LUT / Bond without payment of taxes. LUT/ Bond issued by the Jurisdictional Officer is valid till 31st March 2018. He has exported goods against such LUT / Bond till December 2017. Can he start to export goods against payment of IGST from January 2018?

A. Yes, even though validity of LUT / Bonds is till 31st March 2018, Mr. A can start exporting goods against payment of IGST from January, 2018.

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

Q8. Mr. A is supplying goods to SEZ Unit. Whether he has to charge IGST on supply of goods?

A. As per the provision of section 16 of IGST Act, 2017, Supply to SEZ Unit are Zero Rated Supplies. Therefore, in such case Mr. A can either supply goods against payment of IGST (which can be claimed as refund) or he can supply goods without payment of IGST (against LUT /Bond).

Q9. Can goods be sold to EOU without payment of GST as was being done prior to implementation of GST?

A. No, goods cannot be supplied to EOU without payment of taxes, however, as per Notification No. 48/2017 – Central Tax Dated 18th October 2017, domestic supplies to holder of Advance Authorization / EPCG and EOUs would be treated as deemed exports under section 147 of CGST / SGST Act and refund of tax paid on such supplies can be claimed by the supplier.

Following supplies have been treated as deemed exports under section 147 of the CGST Act:

Sr. No.	Description of supply
i.	Supply of goods by a registered person against Advance Authorisation Provided that goods so supplied, when exports have already been made after availing input tax credit on inputs used in manufacture of such exports, shall be used in manufacture and supply of taxable goods (other than nil rated or fully exempted goods) and a certificate to this effect from a chartered accountant is submitted to the jurisdictional commissioner of GST or any other officer authorised by him within 6 months of such supply,; Provided further that no such certificate shall be required if input tax credit has not been availed on inputs used in manufacture of export goods.
ii.	Supply of capital goods by a registered person against Export Promotion Capital Goods Authorization.
iii.	Supply of goods by a registered person to Export Oriented Unit
iv.	Supply of gold by a bank or Public Sector Undertaking specified in the notification No. 50/2017 – Customs, Dated the 30th June, 2017, (as amended) against Advance Authorization.

Explanation – For the purposes of this notification, -

“Advance Authorization” means an authorization issued by the Director General of Foreign Trade under Chapter 4 of the Foreign Trade Policy 2015 – 20 for import or domestic procurement of inputs on pre – import basis for physical exports.

Export Promotion Capital Goods Authorization means an authorization issued by the Director General of Foreign Trade under Chapter 5 of the Foreign Trade Policy 2015 – 20 for import of capital goods for physical exports.

“Export Oriented Unit” means an Export Oriented Unit or Electronic Hardware Technology Park Unit or Software Technology Par Unit or Bio – Technology Par Unit approved in accordance with the provisions of Chapter 6 of the Foreign Trade Policy 2015 – 20.

Q10. Will unutilized ITC at the end of the financial year (after introduction of GST) be refunded?

A. There is no such provision to allow refund of such unutilized ITC at the end of the financial year in the GST Law. It shall be carried forward to the next financial year.

Q11. Are SEZ Units liable to pay taxes on their inward supplies? Who will be eligible for refund of taxes paid on supplies to SEZ?

A. No. SEZ units shall not be charged with taxes for supplies made to them.

In respect of supplies to a SEZ unit or a SEZ developer, the application for refund shall be filed by the –

- supplier of goods after such goods have been admitted in full in the SEZ for authorised operations,
- supplier of services along with such evidence regarding receipt of services for authorised operations; as endorsed by the specified officer of the Zone.

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Telegram Group for Doubt Clearance

<https://telegram.me/cafinalidtamtjain>

Q12. Can the refund of balance in cash ledger be claimed?

A. Yes, as per provisions of Section 49 (6), the balance of cash ledger after payment of tax, interest, penalty, fee or any other amount payment refund can be claimed as per provisions of Section 54. Once the refund is claimed, the amount of credit of CGST/SGST/IGST (as the case may be) would be reduced to that extent.

Q13. Whether separate applications need to be filed for refund in case of export of goods and export of services?

A. Yes, there shall be separate application and different procedure for refund of export of goods and export of services.

Q14. Who can file an application for refund in case of deemed export?

A. In terms of third proviso to Rule 89 inserted vide Notification No. 47/2017 – Central Tax Dated 10.10.2017, application for refund in case of deemed export can be filed by:

- the recipient of deemed export supplies; or
- the supplier of deemed export supplies in cases where the recipient does not avail of input tax credit on such supplies and furnishes an undertaking to the effect that the supplier may claim the refund

Q15. Discuss the provisions relating to refund of the amount of advance tax deposited by a casual taxable person under section 27(2) of the CGST Act, 2017.

A. The amount of advance tax deposited by a casual taxable under section 27(2), shall be refunded only when such person has, in respect of the entire period for which the certificate of registration granted to him had remained in force, furnished all the returns required under section 39 [Section 54(13)]. Further, refund of any amount, after adjusting the tax payable by the applicant out of the advance tax deposited by him under section 27 at the time of registration, shall be claimed in the last return required to be furnished by him [Fourth proviso to rule 89(1)].

**Compare this Book with any Book including ICAI
SM, you are going to find this Book Best**

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

Chapter 16: - Job Work

Section 2 (68)	Job Work definition
Section 19	ITC in respect of goods & capital goods sent to job worker
Section 143	Job Work Procedures

Section 2 (68) Job Work Definition

It means any treatment or process undertaken by a person by goods belonging to another registered person and the expression "job worker" shall be construed accordingly.

- ★ The characteristics of job work, 1. Process or treatment carried out by "Job worker: as per instructions of "Principal" 2. Ownership remain with "Principal". 3. "Principal" shall be registered.

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

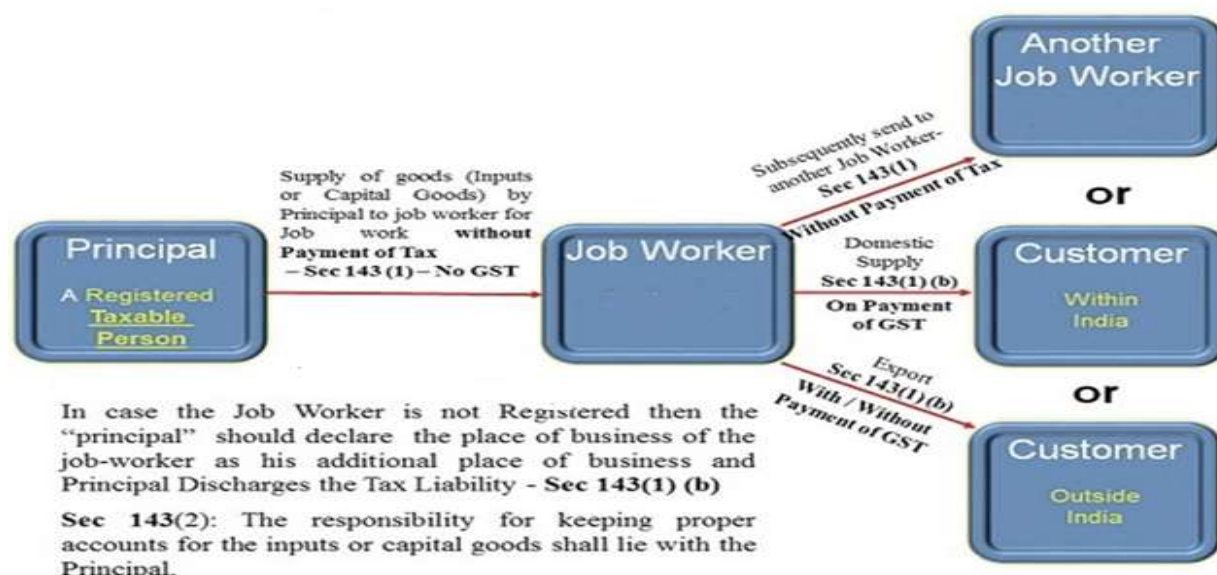
Principal is entitled to take ITC of inputs sent for job worker. If it is directly sent to job worker from supplier premises then principal can avail ITC when these inputs received by job worker. Same rule applies in case of capital goods.

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

This 1 year or 3 years can be further extended by the Commissioner for a further period not exceeding 1 year or 2 years respectively.

If the inputs or capital goods are not returned within time limit specified, the principal is liable to pay tax along with interest @18% from the day goods sent out by deeming the activity as an outward supply. In case principal, directly deliver to job worker from supplier then date of receipt at Job worker's premises.

Section 143 Job Work Procedures



Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Telegram Group for Doubt Clearance

<https://telegram.me/cafinalidtamitjain>

Job worker can clear waste/scrap on payment of GST. If unregistered then, principal has to discharge GST Liability as per section 143 (5).

Section 143 (1) is amended to give power to commissioner: The period of one year and three years may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding one year and two years respectively.

Other key points: -

- Supply under job work will be considered as principal's turnover.
- Job worker can use his own goods for providing the services of job work (Circular 38/12/2018 Dated 26th March 2018).
- As per valuation Rule 27, "Value of supply of goods or services where the consideration is not wholly in money". So, what will be treatment of wastage/scrap generated during the process (CCE, Jaipur V/s General Engineering Works, SC, 2007)? It may be an issue of litigation if job worker is retaining the scrap and selling it to scrap dealer without adding that amount in assessable value charge to principal.
- The principal shall prepare in triplicate, the challan, for sending goods to job worker. Two copies of challan may be sent to the job worker along with goods. The job worker should send one copy of the said challan along with goods, while returning them to the principal.
- Where goods are sent from one job worker to another job worker, the goods may move under the cover of a challan issued either by the principal or the job worker. Alternatively, the challan issued by the principal may be endorsed by the job worker sending the goods to another job worker, indicating therein the quantity and description of goods being sent. The same process may be repeated for subsequent movement of the goods to other job workers, indicating therein the quantity and description of goods.
- Where the goods are sent directly by the supplier to the job worker, the goods may move from the place of business of the supplier to the place of business/premises of the job worker with a copy of the invoice issued by the supplier in the name of the buyer (i.e., the principal) wherein the job worker's name and address should also be mentioned as the consignee in such invoice. Further, the buyer (i.e., the principal) shall issue the challan [required to be issued under rule 45] and send the same to the job worker directly.
In case of import of goods by the principal which are then supplied directly from the customs station of import, the goods may move from the customs station of import to the place of business/premises of the job worker with a copy of the Bill of Entry and the principal shall issue the challan under rule 45 and send the same to the job worker directly.
- In case the goods after carrying out the job work, are sent in piecemeal quantities by a job worker to another job worker or to the principal, the challan issued originally by the principal cannot be endorsed and a fresh challan is required to be issued by the job worker.
- It is clarified that it is the responsibility of the principal to include the details of all the challans relating to goods sent by him to job worker and its return therefrom during a quarter in Form GST ITC-04 by the 25th day of the month succeeding the relevant quarter. This period can be extended by the Commissioner/Commissioner of State GST/Commissioner of UTGST. The Form GST ITC-04 will serve as the intimation as envisaged under section 143 of the CGST Act.

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

Question & Answer

Q1. Are transactions of repair included in job work?

A. The activity of carrying out repairs on goods will get covered on job work and thus would be covered by provisions of section 143.

Q2. Whether job worker has to be a different person or can some other unit of principal can also become job worker?

A. Job worker has been defined to mean undertaking of treatment or process by a person on the goods belonging to another registered taxable person. In view of the fact that another unit of the same person has been categorized as a distinct person. As a distinct person, it has got all the obligations as are applicable to separately registered person, it can be concluded that even if the job worker happens to be another unit of the same person, it would be covered by provisions of sec 143 of the GST Act.

Q3. What would happen in case job worked goods are not received back by the principal within a period of one year?

A. In case job worked goods are not received back by the principal within one year of their being sent for job work, it shall be deemed that such goods were supplied by the job worker on the day when these goods were sent out and the principal is required to pay GST on the goods so sent for job work along with interest at the appropriate rate.

Q4. Can goods be sent by the principal for further job work from one job to another job worker?

A. Yes, inputs/capital goods can be sent for further job work from one job worker to another job worker. However, time limit of one year/three year to bring back inputs/capital goods after completion of job work, would be counted from the date when they were first sent for job work.

Q5. If job worker purchased additional material and incorporate the same in the goods received from the principal amount to supply?

A. Yes, it amounts to supply in the hands of the job worker as composite supply or otherwise.

Q6. Can a job worker take input credit on the inputs used in the process of job work?

A. Yes, the job worker is eligible to claim input tax credit since the processing charges received in respect of labour charges and the supply of additional goods added is taxable in the hands of the job worker.

Q7. If the job-worker subsequently registers, should the principal amend his registration by cancelling the job-workers premises as his additional place of business?

A. Yes.

Q8. Whether intermediate goods can also be sent for job work?

A. Yes. The term inputs, for the purpose of job work, includes intermediate goods arising from any treatment or process carried out on the inputs by the principal or job worker.

Q9. Whether the goods of principal directly supplied from the job worker's premises will be included in the aggregate turnover of the job worker?

A. No, it will be included in the aggregate turnover of principal. However, the value of goods or services used by the job worker for carrying out the job work will be included in the value of services supplied by the job worker.

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Telegram Group for Doubt Clearance

<https://telegram.me/cafinalidtamtjain>

Q10. ABC Ltd. sends the goods to XYZ & Co. for making finished goods on 30-08-2017. What are the tax implications, in the following cases if GST @ 18% is levied:

- XYZ & Co. sends the goods back to ABC Ltd. within one year of being sent.
- XYZ & Co. sells the goods directly to the customer on behalf of ABC Ltd.

A. As per Section 143 of CGST Act 2017, supply of goods to a job worker without payment of tax is permissible upon an intimation. In the given example, the implications are as follows:

- On supply of goods to XYZ & Co., as per the section 143 of CGST Act 2017, no tax shall be payable on supply of goods to XYZ & Co., However, the tax will be payable if finished goods is not returned before one year from 30-08-2017.
- XYZ & Co. sends the finished goods back to ABC Ltd.: As per the act, there is no tax liability on returning of goods back to the principal i.e. ABC Ltd. within a period of one year. Hence, post completion of Job work, no tax is leviable on finished goods returned to ABC Ltd.
- XYZ & Co. sells the finished goods on behalf of ABC Ltd.: Section 143 also allows the job worker to directly sell the goods on behalf of principal, wherein the liability to pay tax is of the principal and not the job worker. ABC Ltd. is liable to pay GST on sale of finished goods to customer by XYZ & Co. However, ABC Ltd. must declare the premises of XYZ & Co., as 'additional place of business' and the sale of finished goods will form part of aggregate turnover of ABC Ltd.

Such a declaration is not required in case where:

- Job worker is registered under section 25; or
- Principal is engaged in supply of notified goods.

Q11. ABC Ltd. sends the goods (inputs) to XYZ & Co. for further processing on 30-08-2017. The value of goods sent for Job work is Rs. 2,00,000. What are the tax implications, in following cases, if GST @ 18% is levied:

- XYZ & Co. sends the processed goods back to ABC Ltd on 30-11-2017
- XYZ & Co. sends the processed goods back to ABC Ltd on 30-10-2018.

A. XYZ & Co. sends the processed goods back to ABC Ltd. on 30-11-2017: As per Section 143 of the Act, Principal can remove the goods without payment of tax and take input tax credit provided inputs sent for job work are returned back within one year of removal. Otherwise, it shall be treated as supply from principal to Job worker as on 30-08-2017 and subject to tax along with interest.

- In the present case, as the inputs are received back on 30-11-2017 i.e. before completion of one year, and hence no tax is payable.
- XYZ & Co. sends the processed goods back to ABC Ltd. on 30-10-2018: In the present case, the goods are received after the period of one year and hence, ABC Ltd. needs to pay the tax along with the interest on the supply made by him to XYZ & Co. Hence, ABC Ltd. need to pay Rs. 18,000 (CGST) and Rs. 18,000 (SGST) along with specified interest.

Q12. Under what circumstances can the principal directly supply goods from the premises of job worker without declaring the premises of job worker as his additional place of business?

A. The goods can be supplied directly from the place of business of job worker without declaring it as additional place of business in two circumstances namely where the job worker is a registered taxable person or where the principal is engaged in supply of such goods as may be notified by the Commissioner.

Q13. Who is responsible for the maintenance of proper accounts related to job work?

A. It is completely the responsibility of the principal to maintain proper accounts of job work related inputs and capital goods.

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

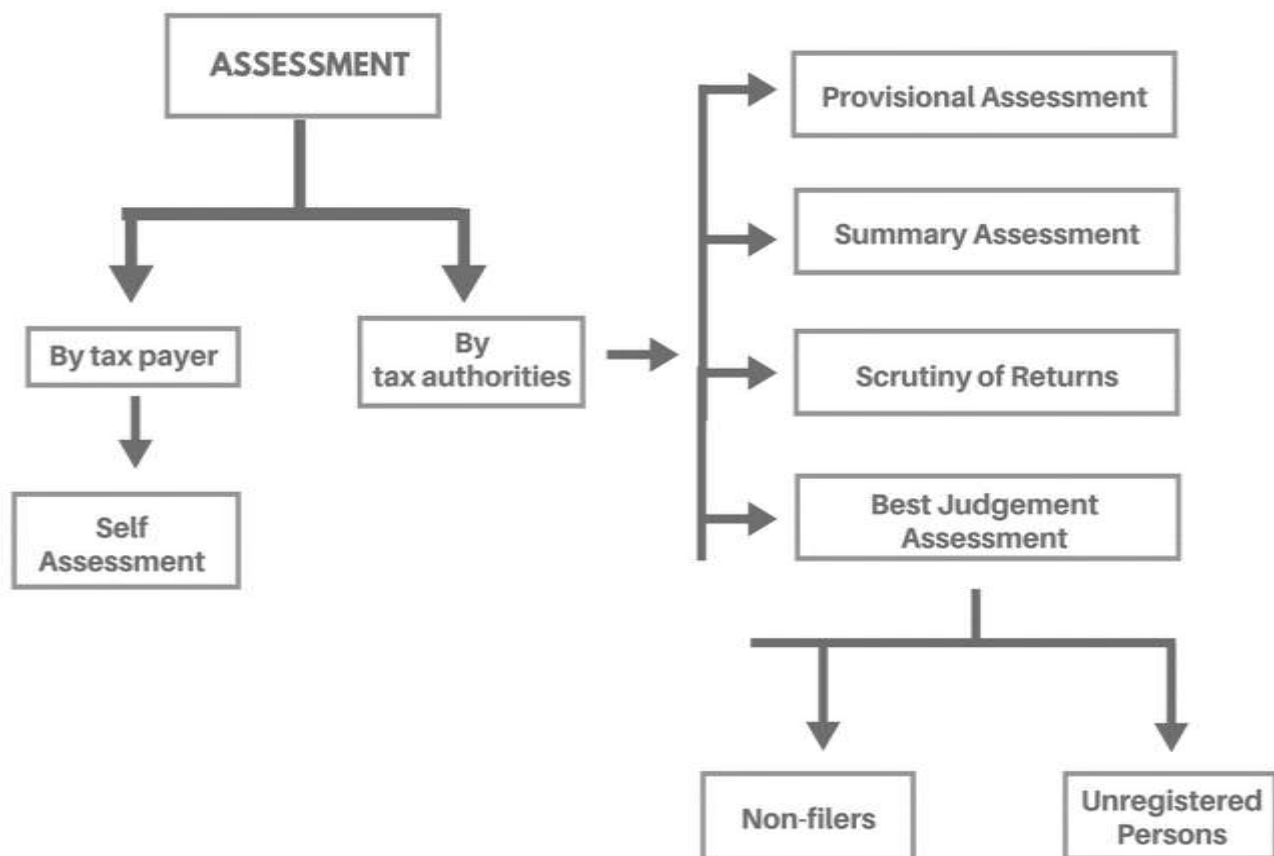
Chapter 17: - Assessment & Audit

Section 59	Self-Assessment
Section 60	Provisional Assessment
Section 61	Scrutiny of Returns
Section 62	Assessment of Non-Filers of Returns
Section 63	Assessment of Unregistered Persons
Section 64	Summary Assessment in Certain Cases
Section 65	Audit by Tax Authorities
Section 66	Special Audit

Assessment means determination of tax liability under GST law and also the tax payable thereon, which is paid/payable by the taxable person, 'audit' refers to a systematic & independent examination of books, accounts, statutory records, etc., of an organization to ascertain how far the financial statements as well as non-financial statements disclose a true and fair view of the concern. Below are the various types of assessment under GST. Types of Assessment under GST:

- Self-assessment
- Provisional assessment
- Scrutiny assessment
- Assessment of non-filers of returns
- Assessment of unregistered persons
- Summary assessment

Only self-assessment is done by the taxpayer himself. All the other assessments are by tax authorities.



Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Section 59 Self-Assessment

Every registered person shall self-assess the taxes payable under this Act and furnish a return for each tax period as specified under section 39.

Self-Assessment is the first stage for all the assessments now. The registered person is required to compute his output, take the available input credit and pay the balance amount and file the returns in the prescribed forms. Prima-Facie the department shall accept such self-assessed returns and declarations, subject to scrutiny and other modes of assessment in the selected cases and in the prescribed manner.

Section 60 Provisional Assessment

(1) The taxable person is

- unable to determine the value of goods or services or both or
- unable to determine the rate of tax

he may request the proper officer in writing giving reasons for payment of tax on a provisional basis. The proper officer may request additional information by issuing notice and request person to appear in person. The proper officer shall pass an order, within a period not later than ninety days from the date of receipt of such request, allowing payment of tax on provisional basis at such rate or on such value as may be specified by him.

Normally, provisional assessment is done in the case of imports and in a case of foreign ships doing business through Indian ports. Provisional assessment also opts in certain cases of manufacturing and processing which may attract litigation as to taxability and valuation.

(2) The payment of tax on provisional basis may be allowed, if the taxable person executes a bond in such form as may be prescribed, and with such surety or security as the proper officer may deem fit, binding the taxable person for payment of the difference between the amount of tax as may be finally assessed and the amount of tax provisionally assessed. Rule 98 (3) in this regard provides that proper officer will decide the amount of security to be furnished, the amount of which will not exceed 25% of the amount covered under bond. Rule 98 (4) provides that the security will be in the form of bank guarantee of the amount as determined in rule 98 (3). For the purposes of this rule, the expression "amount" shall include the amount of integrated tax, central tax, State tax or Union territory tax and cess payable in respect of the transaction.

These kind of surety clauses exist along with the provisional assessment clauses, so as to ensure that the revenue is not at loss post such provisional assessment, which is normally done in haste.

(3) The proper officer shall, within a period not exceeding six months from the date of the communication of the order issued under sub-section (1), pass the final assessment order after taking into account such information as may be required for finalising the assessment:

Provided that the period specified in this subsection may, on sufficient cause being shown and for reasons to be recorded in writing, be extended by the

- Joint Commissioner or Additional Commissioner for a further period not exceeding six months and
- Commissioner for such further period not exceeding four years.

(4) The registered person shall be liable to pay interest on any tax payable on the supply of goods or services or both under provisional assessment. In simple words, in case any tax amount becomes payable subsequent to finalization of the provisional assessment, then interest at the specified rate will also be payable by the supplier from the first day after the due date of payment of the tax till the date of actual payment, whether such amount is paid before or after the issuance of order for final assessment.

(5) Where the registered person is entitled to a refund consequent to the order of final assessment under sub-section (3), subject to the provisions of sub-section (8) of section 54, interest shall be paid on such refund as provided in section 56. In simple words, in case any tax amount becomes refundable

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

subsequent to finalization of the provisional assessment, **then interest** (subject to the eligibility of refund and absence of unjust enrichment) at the **specified rate** will be payable to supplier.

The applicant may file an application for release of security furnished after issue of final assessment order. The proper officer shall release the security furnished after ensuring that the applicant has paid the amount, within a period of seven working days from the date of the receipt of the application.

Example 1: ABC Ltd. is in business of manufacturing various components and caters to various industries. In the course of its business, ABC Ltd. receives order for manufacturing some specialized components for which the required moulds are provided free of cost (FOC) by recipient. ABC Ltd. was unsure as to whether amortized cost of tools was to be added to arrive at the value of the components supplied for the purpose of GST. Accordingly, ABC Ltd. made an application to proper officer, for assessment on provisional basis on 01.10.2018. Time period for passing provisional order, 90 days to be calculated from 01.10.2018 i.e. 30.12.2018. Suppose, in this case the provisional assessment order was passed and communicated to ABC Ltd. on 30.11.2018. Now, the final order shall be passed by the proper officer within 6 months from 30.11.2018 i.e. by 29.05.2019. For sufficient reasons, the time limit of 6 months can be extended upto:-

- By Joint/Additional Commissioner – 28.11.2019 (i.e. 6 months from 29.05.2019)
- Order by Commissioner – 28.05.2023 (4 years from 29.05.2019)

Section 61 Scrutiny of Returns

- (1) The proper officer may scrutinise the return and related particulars furnished by the registered person to **verify the correctness of the return and inform him of the discrepancies noticed**, if any, in such manner as may be prescribed and seek his explanation thereto.

As per Rule 99, proper officer shall issue a notice to the said person, informing him of such discrepancy and seeking his explanation thereto **within such time, not exceeding thirty days** from the date of service of the notice or such further period as may be permitted by him and also, where possible, quantifying the amount of tax, **interest** and any other amount payable in relation to such discrepancy.

- (2) In case the explanation is found acceptable, the registered person shall be informed accordingly and no further action shall be taken in this regard.
- (3) In case **no satisfactory explanation is furnished within a period of thirty days** of being informed by the proper officer or **such** further period as may be permitted by him or where the registered person, after accepting the discrepancies, **fails to take the corrective measure in his return for the month in which the discrepancy is accepted**, the proper officer may initiate appropriate action including those under section 65 (audit by tax authorities) or section 66 (special audit) or section 67 (inspection, search & seizure), or proceed to determine the tax and other dues under section 73 or section 74.

Section 61, deals with discretionary power to a proper officer to scrutinize returns filed by registered persons to verify the correctness of the return. It is a pre-adjudication process. The process of adjudication is provided in Section 73 to Section 75. The return's scrutiny process is entirely automated in GST regime as compared to earlier regime.

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Section 62 Assessment of Non-Filers of Returns

- (1) Notwithstanding anything to the contrary contained in section 73 or section 74, where a registered person fails to furnish the return under section 39 or section 45, **even after the service of a notice under section 46**, the proper officer may proceed to assess the tax liability of the said person to **the best of his judgment taking into account all the relevant material** which is available or which he has gathered and **issue an assessment order within a period of five years from the date specified under section 44 for furnishing of the annual return** for the financial year to which the tax not paid relates.
- (2) Where the registered person furnishes a valid return within thirty days of the service of the assessment order under sub-section (1), the said assessment order shall be deemed to have been withdrawn but the liability for payment of interest under subsection (1) of section 50 or for payment of late fee under section 47 shall continue.

This is a provision similar to “Best Judgement Assessment (BJA)” under the Income Tax Act, 1961. Noticeably, issuing notice U/s 46 to return defaulter appears to be a pre-condition for initiating proceedings of best judgement assessment U/s 62. Therefore, it can be seen that non-compliance with the notice U/s 46, paves the way for initiating the proceedings under this section. If the assessee fails to furnish the return within 15 days of issue of notice U/s 46, then the proper officer may assess the tax liability based on his judgement. It may be noted that consequences of late fee U/s 47 and interest U/s 50 of the CGST Act will both be applicable in case of best judgement assessment made under this section.

Example 2: if a person defaults in filing of return for any tax period falling in FY 2017-18, period of 5 years shall be reckoned from the due date of filing of Annual Return for FY 2017-18 i.e. 31st December 2018. Accordingly, the best judgement assessment can be made by Proper Officer on or before 31st December 2023.

Circular No. 129/48/2019-GST dated 24th December 2019

Standard Operating Procedure to be followed in case of non-filers of returns – reg

- (i) Preferably, a system generated message would be sent to all the registered persons 3 days before the due date to nudge them about filing of the return for the tax period by the due date.
- (ii) Once the due date for furnishing the return under section 39 is over, a system generated mail / message would be sent to all the defaulters immediately after the due date to the effect that the said registered person has not furnished his return for the said tax period; the said mail/message is to be sent to the authorized signatory as well as the proprietor/partner/director/karta, etc.
- (iii) Five days after the due date of furnishing the return, a notice in FORM GSTR-3A (under section 46 of the CGST Act read with rule 68 of the CGST Rules) shall be issued electronically to such registered person who fails to furnish return under section 39, requiring him to furnish such return within fifteen days;
- (iv) In case the said return is still not filed by the defaulter within 15 days of the said notice, the proper officer may proceed to assess the tax liability of the said person under section 62 of the CGST Act, to the best of his judgement taking into account all the relevant material which is available or which he has gathered and would issue order under rule 100 of the CGST Rules in FORM GST ASMT-13. The proper officer would then be required to upload the summary thereof in FORM GST DRC07;

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

- (v) For the purpose of assessment of tax liability under section 62 of the CGST Act, the proper officer may take into account the details of outward supplies available in the statement furnished under section 37 (FORM GSTR-1), details of supplies auto populated in FORM GSTR-2A, information available from e-way bills, or any other information available from any other source, including from inspection under section 71;
- (vi) In case the defaulter furnishes a valid return within thirty days of the service of assessment order in FORM GST ASMT-13, the said assessment order shall be deemed to have been withdrawn in terms of provision of sub-section (2) of section 62 of the CGST Act. However, if the said return remains unfurnished within the statutory period of 30 days from issuance of order in FORM ASMT-13, then proper officer may initiate proceedings under section 78 and recovery under section 79 of the CGST Act;

Above general guidelines may be followed by the proper officer in case of non-furnishing of return. In deserving cases, based on the facts of the case, the Commissioner may resort to provisional attachment to protect revenue under section 83 of the CGST Act before issuance of FORM GST ASMT-13.

Further, the proper officer would initiate action u/s 29 (2) of the CGST Act for cancellation of registration in cases where the return has not been furnished for the period specified in section 29.

Section 63 Assessment of Unregistered Persons

Notwithstanding anything to the contrary contained in section 73 or section 74, where a taxable person fails to obtain registration even though liable to do so or whose registration has been cancelled under sub-section (2) of section 29 but who was liable to pay tax, the proper officer may proceed to **assess the tax liability of such taxable person to the best of his judgment for the relevant tax periods and issue an assessment order within a period of five years from the date** specified under section 44 for **furnishing of the annual return** for the financial year to which the tax not paid relates:

Provided that no such assessment order shall be passed without giving the person an opportunity of being heard.

As per Rule 100 (2), the proper officer shall issue a notice to a taxable person containing the **grounds on which the assessment is proposed** to be made on best judgment basis and shall also serve a summary thereof electronically in FORM GST DRC-01, and **after allowing a time of fifteen days** to such person to furnish his reply, if any, pass an order in FORM GST ASMT-15 and summary thereof shall be uploaded electronically in FORM GST DRC07.

Section 64 Summary Assessment in Certain Special Cases

- (1) The proper officer may, on any evidence showing a tax liability of a person coming to his notice, with the previous permission of Additional Commissioner or Joint Commissioner, **proceed to assess the tax liability of such person to protect the interest of revenue and issue an assessment order**, if he has sufficient grounds to believe that any delay in doing so may adversely affect the interest of revenue:
Provided that where the taxable person to whom the liability pertains is not ascertainable and such liability pertains to supply of goods, the person in charge of such goods shall be deemed to be the taxable person liable to be assessed and liable to pay tax and any other amount due under this section.

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Telegram Group for Doubt Clearance

<https://telegram.me/cafinalidtamitjain>

- (2) On an application made by the taxable person within thirty days from the date of receipt of order passed under sub-section (1) or on his own motion, if the Additional Commissioner or Joint Commissioner considers that such order is erroneous, he may withdraw such order and follow the procedure laid down in section 73 or section 74.

This provision gives a right to the proper officer to carry out assessment and pass orders in case of special cases, where the department has 'sufficient grounds' to believe adverse effect to the revenue. In this case, the liability can be raised either by the taxable person or if the taxable person is not known (E.g. – In the case of confiscation of goods), the person-in-charge of the goods can be deemed as 'taxable person' and liability can be raised on him accordingly.

Within 30 days of such an order, either on application and representation made by a taxable person or on its own motion, an order under this section can be withdrawn if found to be erroneous.

Though section does not specifically say so, principles of natural justice like issue of SCN, opportunity of hearing, order with reasons etc. have to be followed.

Summary of various assessment orders to be uploaded on portal

The summary of assessment orders under section 62, 63 and 64 of the CGST Act is required to be uploaded electronically in the prescribed forms.

[Notification No. 16/2019 CT Dated 29.03.2019]

Section 65 Audit by Tax authorities & Section 66 Special Audit

Sec. 65 Audit by Tax authorities	Sec. 66 Special Audit
- The Commissioner or a person authorised by him may undertake an audit of a registered person for the period, frequency and manner prescribed - As per Rule 101 (1), the period of audit to be conducted, shall be a financial year or part thereof or multiples thereof. - Audit can be carried out either in the premises of the registered person or may also be done at the office of the proper officer, by calling for information and documents 15 days clear notice shall be provided to the person before initiation of such an audit - The audit proceedings have to be closed within 3 months from the date of initiation of audit (where the date of commencement of audit shall be the date on which all the documents and information called for are provided or audit actually initiated at the business premises, whichever is later)	- During any stage of any investigation, scrutiny, assessment or any other proceedings under this act, if the proper officer, not below the rank of Assistant Commissioner, with the prior approval of Commissioner, may get the books of accounts audited by a CA or Cost Accountant nominated by the Commissioner, if so required in interest of revenue keeping in view of the complexity of transactions or business or claim of input credit - Such CA or Cost Accountant is required to submit duly signed and certified report within 90 days to such Assistant Commissioner, extendable to further period of 90 days in case of an application in writing by such CA or Cost Accountant or for a sufficient reason - Such audit report is subject to principle of natural justice, wherein, an opportunity to be heard shall also be provided to the registered person

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

- Also, if the Commissioner is satisfied that the audit cannot be completed in 3 months, he can record the reasons in writing extend the time for a further period of maximum 6 more months - The registered person is obliged to provide all necessary details, documents and information required for completion of an audit - On conclusion of an audit, the proper officer shall, within thirty days, inform the registered person, about the findings, his rights & obligations and the reasons for such findings - Once the above are done, the proper officer may determine tax payable and interest and penalty (Sec. 73 & Sec. 74), if any, thereon, and also initiation collection proceedings	- Remuneration or fee of such nominated person shall be decided by the commissioner and his decision shall be final All other provisions of tax, interest, penalty and collection shall apply to audit under this section too (Sec. 73 & Sec. 74)
---	---

Under GST, power has been given specifically to the department to conduct audit of any registered person. This matter was highly debated under pre GST service tax era.

However, still in the GST Law, there is no provision which prescribes that if any tax authority has conducted audit of an assessee for a particular period, then another tax authority would not conduct audit for the same period, otherwise it would create undue-hardship to the assessee.

Question & Answer

Q1. Can a person who has furnished a return on self-assessment basis make a request for provisional assessment?

A. For provisional assessment a request needs to be made to proper officer for filing return on provisional basis. In case the taxable person furnishes the return on self-assessment basis, he foregoes the right to make an application for permission to furnish return and pay tax on provisional basis.

Q2. Please provide brief summary on various assessments.

Section	Type of Assessment	Assessment by	Conditions precedent to assessment
59	Self-assessment	Taxable Person	Where registered taxable person assesses his tax liability himself.
60	Provisional assessment	Proper Officer	Where registered taxable person is unable to determine following: - Value of supply, and/or - Rate of applicable tax on supply
61	Scrutiny assessment	Proper Officer	Verifying the correctness of the return by scrutinizing the return and particulars furnished by taxable person.
62	Assessment of non-filers of return (Best Judgement Assessment)	Proper Officer	Where the registered taxable person fails to furnish return U/s 39 or Sec. 45 even after service of notice U/s 46.

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

63	Assessment of unregistered person (Best judgment assessment)	Proper Officer	Where a taxable person fails to obtain registration, even though liable to do so.
64	Summary Assessment	Proper Officer	To protect the interest of revenue with previous permission of Additional/Joint Commissioner.

Q3. Audit has to be completed within a stipulated period of three months (subject to extension) from the date of commencement. What is implied by date of commencement of audit?

A. 'Commencement of audit' shall imply that date on which the records and other documents, called for by the tax authorities, are made available by the taxable person or date of actual institution of audit at the place of business, whichever is later. The period of three months can be extended by six months for reasons to be recorded in writing.

Example:

Date of which documents requested	1 st April 2017
Date of which documents/recorded made available	20 th April 2017
Date of actual institution of audit at auditee's placed	5 th May 2017
The date of commencement of audit will be taken as	5 th May 2017
Date by which audit should be completed in normal course	4 th Aug 2017
Last date by which audit should be completed (including extended period)	4 th Feb 2018

Q4. What is the difference between the two audit Sec. 65 and Sec. 66?

Issue	Audit U/s 65	Audit U/s 66
Trigger Point	General audit; audit of business transaction, no specific reason to be cited	Nature & complexity of case, interest of revenue, incorrect value of supply or abnormal availment of credit
Nature of Audit	Departmental Audit	Special Audit
Conducted by	Officers of department authorized by commissioner	Chartered Accountant/Cost Accountant appointed by Commissioner
Frequency	Discretionary	Discretionary
Prior notice to auditee	Yes, 15 days' notice is required	No such notice/intimation envisaged
Time for conclusion of audit	3 months, further extension of 6 months allowed	90 days, further extension of 90 days allowed
Audit findings report	To be intimated soon on completion of audit	Report to Deputy/Assistant Commissioner
Audit expenses	Borne by department	Borne by department
Opportunity of being heard	No specific provision	Yes, where material gathered during audit is to be used in any proceedings against the auditee
Action based on report	If results in demand of tax, shall be recovered U/s 73 or 74	If results in demand of tax, shall be recovered U/s 73 or 74

Q5. What would be the process of Scrutiny of Returns?

A. The proper officer would inform registered person of the discrepancies noticed during the course of scrutiny of returns. The proceedings would be dropped if the explanation submitted by the registered person is found

Compare this Book with any Book including ICAI SM, you are going to find this Book Best

100% Result with 40+ exemptions

30 out of 30 in MCQs by studying from this book

acceptable. However, if no explanation is furnished within the stipulated period by the registered person or no corrective action is taken by the registered person after accepting discrepancy, proper officer may initiate appropriate action against the registered person.

Q6. What are the consequences on conclusion of provisional assessment by way of passing final assessment order in so far as short/excess remittance of tax is concerned?

A. The consequences on concluding the provisional assessment by way of passing final assessment order would be as follows:

- Additional tax liability: In case of short remittance of taxes in terms of final assessment order, the additional tax liability, if any should be remitted along with interest at the rate prescribed U/s 50 (1) for delay in remittance of taxes viz., from the 1st day after the due date of remittance of taxes as prescribed U/s 39 (7) till the date of actual payment.
- Excess remittance of tax on provisional basis: In case of excess remittance of taxes in terms of final assessment order, the registered person is entitled to refund of such excess remittance in the manner as provided in Section 54 (8) along with interest as provided under Section 56.

Q7. Whether any time limit has been specified to issue notice for scrutiny?

A. No, the provisions relating to scrutiny assessments do not specify time limit for issuing notice for scrutiny of assessments.

Q8. Whether any reason to believe or evidence is required for initiate audit U/s 65?

A. No, Section 65 doesn't specify any such requirements. Commissioner can initiate audit on any taxable person for such period, at such frequency and in such manner as may be prescribed.

Q9. Is there any additional opportunity provided for taxable person to submit a return even after passing an assessment order under Section 62 (1)?

A. Yes, if the registered person furnishes a valid return within 30 days from the date of service of best judgement assessment order u/s 62 (1), the said assessment order shall be deemed to have been withdrawn.

Q10. Whether Self-Assessment and provisional assessment are mutually exclusive?

A. Yes, if the taxable person opts for self-assessment, he cannot opt for provisional assessment for the same period for same supply. However, he can opt for provisional assessment if he is unable to determine taxable value / tax liability/ (rate of tax) for any subsequent periods.

Q11. Whether audit by officer can be done for a person other than registered person U/s 65?

A. Audit by officer cannot be ordered for a person who is not registered even if he is required to be registered as per the provisions of the law. [S. 65(1)]

Q12. What process of audit is required to be followed by the officer in case audit is conducted U/s 65?

A. Following process is to be followed for conduct of audit by officer:

1. Proper Officer shall verify the documents, correctness of turnover, exemptions and deductions claimed, the rate of tax applied, input tax credit availed and utilized and refund claimed. [R.101(3)]
2. Proper Officer shall record the observations in audit notes. [R. 101(3)]
3. Proper Officer may inform discrepancies noticed during audit to registered person [R.101(4)]
4. Registered Person shall reply to discrepancies [R. 101(4)]
5. Proper officer shall finalize findings of audit only after due consideration of reply [R. 101(4)]
6. On the conclusion of audit, Proper Officer shall inform the Registered Person whose records are

Watch the Demo Lectures, read the reviews on Quora, Telegram, YouTube, LinkedIn etc. No one can beat us in doubt clearance. Complete IDT in 20 days including self-study.

Telegram Group for Doubt Clearance

<https://telegram.me/cafinalidtamitjain>

audited about the:

- findings
- reasons for findings,
- assessee's rights and obligations. [S. 65(6)]

7. Information of findings, reasons, right and obligations shall be made within 30 days (in FORM GST ADT-02) [S. 65(6)]

Q13. What action will be initiated when the audit conducted u/s 65(1) results in a demand?

A. Where the audit u/s 65(1) results in detection of tax not paid or short paid or erroneously refunded, or input tax credit wrongly availed or utilized, the proper officer may initiate action under Section 73 or Section 74.

Q14. At what stage the directions of special audit can be given?

A. At any stage of scrutiny, inquiry, investigation or any other proceedings, having regard to the nature and complexity of the case and interest of revenue, a direction to Registered Person to get its accounts examined and audited can be given [S.66(1)]

Q15. Whether already audited accounts are also covered by special audit?

A. Special Audit may be directed even if accounts of the registered person have been audited under any other provisions of this Act or any other law for the time being in force.[S.66(3)]

Q16. How to deal with detection of short paid taxes as a result of special audit?

A. Where audit results in detection of tax not paid/short paid /erroneous paid or ITC wrongly availed or utilized, Proper Officer may initiate action u/s 73 or 74 [S.66(6)]

Q17. Whether the phrase "nature and complexity of the case" is defined in the Act?

A. No, Section 66 does not define the phrase "nature and complexity of the case". However, there is enough jurisprudence under the Income Tax Laws to determine what will constitute complexity of the case.

Q18. Who can conduct audit of taxpayers?

A. There are three types of audit prescribed in the GST Act(s) as explained below:

- (a) Audit by Chartered Accountant or a Cost Accountant: Every registered person whose turnover exceeds the prescribed limit, shall get his accounts audited by a chartered accountant or a cost accountant.

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

(Section 35(5) of the CGST Act)

- (a) Audit by Department: The Commissioner or any officer of CGST or SGST or UTGST authorized by him by a general or specific order, may conduct audit of any registered person. The frequency and manner of audit will be prescribed in due course. (Section 65 of the CGST Act)
- (b) Special Audit: If at any stage of scrutiny, inquiry, investigations or any other proceedings, if department is of the opinion that the value has not been correctly declared or credit availed is not within the normal limits, department may order special audit by chartered accountant or cost accountant, nominated by department. (Section 66 of the CGST Act)

Compare this Book with any Book including ICAI SM, you are going to find this Book Best