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# MKG CA EDUCATION

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GST

IN

94 PAGES

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# GOODS AND SERVICES TAX

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## GOODS AND SERVICES TAX

# COMPUTATION OF GST LIABILITY

## ITC/OUTPUT TAX/ NET TAX

**Concept of GST** was introduced first of all in France in 1954.

Goods and Services Tax in fact includes the following taxes:

1. Central Goods and Services Tax (Regulated through Central Goods and Services Tax Act, 2017).
2. State Goods and Services Tax (Regulated through State Goods and Services Tax Act, 2017).
3. Integrated Goods and Services Tax (Regulated through Integrated Goods and Services Tax Act, 2017).
4. Union Territory Goods and Services Tax (Regulated through Union Territory Goods and Services Tax Act, 2017).
5. Goods and Services Tax, Compensation to States (Regulated through Goods and Services Tax (Compensation to States) Act, 2017)

**Syllabus of CA-INTER covers only Central GST and Integrated GST.**

Prior to the concept of GST, there was multiple taxation in indirect taxes and also there was cascading effect i.e. tax on tax but after GST there is no multiple taxation and also no cascading effect and it can be explained with the help of the illustration given below:

**Illustration 1:** ABC Ltd. has purchased raw material for ₹10,00,000 plus excise duty 10% plus VAT @ 10%. The company has incurred ₹5,00,000 being processing charge and sold the final product at a profit of ₹2,00,000 and charged output excise duty @ 10% plus VAT @ 10%.

Discuss tax treatment.

**Solution:**

**BEFORE GST**

	₹
Raw Material	10,00,000
Add: Excise Duty @ 10%	1,00,000
Total	11,00,000
Add: VAT @ 10%	1,10,000
	12,10,000
Add: Processing charges	5,00,000
Cost	17,10,000
Add: Profit	2,00,000
Transaction Value	19,10,000
Add: Output Excise Duty 10%	1,91,000
Total	21,01,000
Add: VAT @ 10%	2,10,100
Amount payable by the buyer	23,11,100

The raw material has been taxed twice and also there is **cascading effect** i.e. tax on tax.

**MODIFIED TAX STRUCTURE BEFORE GST**

Raw Material	10,00,000
Add: Excise Duty @ 10%	1,00,000
Total	11,00,000
Add: VAT @ 10%	1,10,000
Cost	12,10,000

Assessee shall be allowed input Tax credit as given below:

Excise Duty	1,00,000
VAT	1,10,000

Since tax credit has been allowed, cost of final product shall be as given below:

Cost of Raw Material	10,00,000
Add: Processing charges	5,00,000
Add: Profit	2,00,000
Transaction Value	17,00,000
Add: Excise Duty 10%	1,70,000
Total	18,70,000
Add: VAT @ 10%	1,87,000
Amount payable by the buyer	20,57,000
Payment of taxes by ABC Ltd. to Government	
(i) Excise Duty	
On output	1,70,000
Less: Input Tax Credit	(1,00,000)
Net Excise Duty	70,000
(ii) Output VAT	1,87,000
Less: Input Tax Credit	(1,10,000)
Net Payable	77,000

Excise duty/VAT paid by ABC Ltd. on raw material shall be called input tax and its tax credit is allowed. Excise duty/VAT on final product shall be called output tax. Input tax credit shall be deducted from output tax and balance shall be called net tax.

Still it has defects because there is VAT on Excise duty i.e. it has cascading effect.

### **AFTER GST**

There is no multiple taxation and also there is no cascading effect and now under GST it will work in the manner given below:

ABC Ltd. has purchased raw material for ₹10,00,000 plus CGST @ 10% and SGST 10% The company has incurred ₹5,00,000 being processing charge and sold the final product at a profit of ₹2,00,000 and charged output CGST @ 10% plus SGST @ 10%.

Discuss tax treatment.

### **Solution:**

	₹
Raw Material	10,00,000
Add: CGST @ 10%	1,00,000
Add: SGST @ 10%	1,00,000
Total	12,00,000
Input tax credit	
CGST	1,00,000
SGST	1,00,000
Cost of Raw Material	10,00,000
Add: Processing charges	5,00,000
Cost	15,00,000
Add: Profit	2,00,000
Transaction Value	17,00,000
Add: Output CGST @ 10%	1,70,000
Add: Output SGST @ 10%	1,70,000
Total	20,40,000

**Computation of Net Tax**

	<b>CGST ₹</b>
Output tax	1,70,000
Less: ITC Raw material - CGST	(1,00,000)
Net Tax Payable	70,000
	<b>SGST ₹</b>
Output tax	1,70,000
Less: ITC Raw Material - SGST	(1,00,000)
Net Tax Payable	70,000

There is no multiple taxation and no cascading effect (Tax on Tax).

Before the concept of GST, Excise duty was charged on manufacture and Value added tax also called sales tax was charged on sale of goods. Excise duty was payable on cost plus profit and sales tax was payable on cost plus profit plus excise duty and accordingly sales tax was charged on excise duty also i.e. there is tax on tax and it is called cascading effect (as shown above) but after GST there is no cascading effect and the manufacturer shall charge CGST plus SGST instead of excise and VAT. Also CGST/SGST shall be charged on cost plus profit.

**Payment of GST**

A supplier shall be required to pay GST **upto 20<sup>th</sup> of next month** and has to file **challan no. PMT-06** and payment is to be made online. However over the Counter payment can be made through authorised banks for deposits up to ten thousand rupees per challan per tax period, by cash, cheque or demand draft:

**As per section 170**, GST shall be rounded off in the **multiple of rupee 1** and if there is 50 paise or more, it will be rounded off to the higher multiple otherwise it will be ignored.

In case of delay in payment of tax, **as per section 50** interest shall be charged @ **18% per annum** for the period of delay.

In case of excess payment, refund shall be granted within 60 days from the date of application otherwise interest shall be allowed u/s **56 @ 6% per annum** for the period after 60 days.

**Illustration 2:** ABC Ltd is a manufacturer and is registered in GST in Delhi and has purchased raw material/spare parts etc. for ₹6,00,000 plus CGST @ 9% plus SGST @ 9% and incurred ₹ 4,00,000 on processing. Profit @ 40% on cost and entire product was sold to a wholesaler and charged CGST @ 12% and SGST @ 12%. Compute input tax credit/ output tax and net tax.

The wholesaler has further sold it to retailer at a profit of 30% on cost and charged CGST @ 12% and SGST @ 12%. Compute input tax credit/ output tax and net tax of the wholesaler.

The retailer has further sold it to a consumer Mr. X at a profit of 30% on cost and charged CGST @ 12% and SGST @ 12%. Compute input tax credit/ output tax and net tax of the retailer.

**Solution:****Computation of Net Tax Liability of ABC Ltd.**

	<b>₹</b>
Raw Material	6,00,000
Add: CGST @ 9%	54,000
Add: SGST @ 9%	54,000
Total	7,08,000
Input tax credit	
CGST	54,000
SGST	54,000
Cost of Raw Material	6,00,000

Add: Processing charges	4,00,000
Cost	10,00,000
Add: Profit @ 40% of ₹10,00,000	4,00,000
Transaction Value	14,00,000
Add: Output CGST @ 12%	1,68,000
Add: Output SGST @ 12%	1,68,000
Total	17,36,000

**Computation of Net Tax**

	<b>CGST ₹</b>
Output tax	1,68,000
Less: ITC Raw material - CGST	(54,000)
Net Tax	1,14,000

	<b>SGST ₹</b>
Output tax	1,68,000
Less: ITC Raw material - SGST	(54,000)
Net Tax	1,14,000

**Computation of Net Tax Liability of wholesaler**

	<b>₹</b>
Purchase price of wholesaler	17,36,000
Less: ITC Goods – CGST	(1,68,000)
Less: ITC Goods – SGST	(1,68,000)
Cost to Wholesaler	14,00,000
Add: Profit @ 30% of ₹14,00,000	4,20,000
Transaction Value	18,20,000
Add: CGST @ 12%	2,18,400
Add: SGST @ 12%	2,18,400
Total	22,56,800

**Computation of Net Tax**

	<b>CGST ₹</b>
Output tax	2,18,400
Less: ITC Goods - CGST	(1,68,000)
Net Tax payable	50,400

**Computation of Net Tax**

	<b>SGST ₹</b>
Output tax	2,18,400
Less: ITC Goods - SGST	(1,68,000)
Net Tax payable	50,400

**Computation of Net Tax of Retailer**

	<b>₹</b>
Purchase price of Retailer	22,56,800
Less: ITC Goods – CGST	(2,18,400)
Less: ITC Goods – SGST	(2,18,400)
Cost to Retailer	18,20,000
Add: Profit @ 30% of ₹18,20,000	5,46,000
Transaction Value	23,66,000
Add: CGST @ 12%	2,83,920
Add: SGST @ 12%	2,83,920
Total	29,33,840

**Computation of Net Tax**

	<b>CGST ₹</b>
Output tax	2,83,920
Less: ITC Goods – CGST	(2,18,400)
Net Tax Payable	65,520

	<b>SGST ₹</b>
Output tax	2,83,920
Less: ITC Goods – SGST	(2,18,400)
Net Tax Payable	65,520

**Illustration 3:** Mr. X is a dealer in Delhi purchased goods for ₹ 10,00,000 plus CGST 10% and SGST 10% and sold the goods at a profit of ₹ 2,00,000 and he is not a registered dealer, in this case tax treatment shall be as given below:

	<b>₹</b>
<b>Solution:</b>	
Purchase price	10,00,000
Add: CGST @ 10%	1,00,000
Add: SGST @ 10%	1,00,000
Total	12,00,000

Input tax credit of CGST & SGST is not allowed because Mr. X is not registered.

Cost	12,00,000
Add: profit	2,00,000
Sale Value	14,00,000

(b) presume he is registered.

	<b>₹</b>
<b>Solution:</b>	
Purchase price	10,00,000
Add: CGST @ 10%	1,00,000
Add: SGST @ 10%	1,00,000
Total	12,00,000

Input tax credit of CGST & SGST is allowed.

Cost	10,00,000
Add: profit	2,00,000
Sale Value	12,00,000
Add: CGST @ 10%	1,20,000
Add: SGST @ 10%	1,20,000
Total	14,40,000

**Computation of Net Tax**

<b>CGST</b>	
Output	1,20,000
Less: ITC	(1,00,000)
Net Tax	20,000

<b>SGST</b>	
Output	1,20,000
Less: ITC	(1,00,000)
Net Tax	20,000

**Illustration 4:**

ABC Ltd. purchased raw material ₹7,00,000 + CGST @ 10% + SGST @ 10% . Processing charge ₹3,00,000 profit 40% on cost entire product was sold and output CGST @ 10%/ SGST @ 10%.

Compute ITC/ Output tax/ Net Tax . Also amount for which product is sold.

(a) Registered in GST

(b) Unregistered in GST.

**Solution (a):****Computation of Net Tax Liability of ABC limited**

	₹
Raw Material	7,00,000
Add: CGST @ 10%	70,000
Add: SGST @ 10%	70,000
Total	8,40,000
Input tax credit	
CGST	70,000
SGST	70,000
Cost of Raw Material	7,00,000
Add: Processing cost	3,00,000
COST	10,00,000
Add: Profit @ 40% on cost	4,00,000
Transaction Value	14,00,000
Add: CGST @ 10%	1,40,000
Add: SGST @ 10%	1,40,000
Total	16,80,000

**Computation of Net Tax****CGST**

Output	1,40,000
Less: ITC	(70,000)
Net Tax	70,000

**SGST**

Output	1,40,000
Less: ITC	(70,000)
Net Tax	70,000

**(b) Computation of Net Tax Liability of ABC limited**

	₹
Raw Material	7,00,000
Add: CGST @ 10%	70,000
Add: SGST @ 10%	70,000
Total	8,40,000
Input tax credit	
CGST	Nil
SGST	Nil
Cost of Raw Material	8,40,000
Add: Processing cost	3,00,000
COST	11,40,000
Add: Profit @ 40% on cost	4,56,000
Transaction Value	15,96,000

**Illustration 5:**

Mr. X is a dealer registered in GST and he has purchased goods from Haryana for ₹10,00,000 plus IGST @ 12% and goods were sold in Delhi at a profit of ₹1,00,000 and charged CGST @ 6% and SGST @ 6%. In this case sale value and tax charged shall be as given below:



**Solution:**

Purchase price	₹ 10,00,000
Add: IGST @ 12%	1,20,000
Total	11,20,000

Input tax credit of IGST is allowed of ₹ 1,20,000.

Cost	10,00,000
Add: profit	1,00,000
Sale Value	11,00,000
Add: CGST @ 6%	66,000
Add: SGST @ 6%	66,000
Sale value inclusive of tax	12,32,000

**Computation of Net Tax**

	<b>CGST ₹</b>
Output tax	66,000
Less: ITC Raw Material-IGST	(66,000)
Net Tax Payable	Nil

	<b>SGST ₹</b>
Output tax	66,000
Less: ITC Raw Material-IGST	(54,000)
Net Tax Payable	12,000

There is no multiple taxation and no cascading effect (Tax on Tax).

**Illustration 6:** Mr. X is a registered dealer in GST Act in Delhi and has submitted information as given below:

- Purchased goods 'A' from Haryana ₹6,00,000 IGST @ 20% and sold the goods in Delhi at a profit of 20% on purchase price plus CGST @ 10% plus SGST @ 10%.

- Purchased goods 'B' from Delhi ₹5,00,000 and CGST @ 10% plus SGST @ 10% and sold goods at a profit of 30% of cost price + CGST @ 10% plus SGST @ 10%.

- Purchased goods 'C' from Delhi ₹7,00,000 plus CGST @ 10% plus SGST @ 10% and the goods were sold in inter-state sale in UP and charged IGST @ 20% and the dealer has taken profit of 40% on cost.

Discuss tax treatment and Compute Net Tax Payable.

**Solution:****Goods 'A'**

	6,00,000
Add: IGST @ 20%	1,20,000
	7,20,000
Input Tax Credit - IGST	1,20,000
	6,00,000
Add: Profit @ 20%	1,20,000
	7,20,000
Add: CGST @ 10%	72,000
Add: SGST @ 10%	72,000

**Goods 'B'**

	5,00,000
Add: CGST @ 10%	50,000
Add: SGST @ 10%	50,000

Input Tax Credit	
CGST	50,000
SGST	50,000
	5,00,000
Add: Profit @ 30%	1,50,000
	6,50,000
Add: CGST @ 10%	65,000
Add: SGST @ 10%	65,000

**Goods 'C'**

	7,00,000
Add: CGST @ 10%	70,000
Add: SGST @ 10%	70,000
Input Tax Credit	
CGST	70,000
SGST	70,000
	7,00,000
Add: Profit @ 40%	2,80,000
	9,80,000
Add: IGST @ 20%	1,96,000

**Computation of Net Tax**

Particulars	IGST ₹
Output Tax	
Goods C	1,96,000
Less: ITC Raw Material A – IGST	(1,20,000)
<b>Net Tax Payable</b>	<b>76,000</b>

**Computation of Net Tax**

Particulars	CGST ₹
Output Tax	
Goods A	72,000
Goods B	65,000
<b>Total</b>	<b>1,37,000</b>
Less: ITC Raw Material B – CGST	(50,000)
Less: ITC Raw Material C – CGST	(70,000)
<b>Net Tax Payable</b>	<b>17,000</b>

**Computation of Net Tax**

Particulars	SGST ₹
Output Tax	
Goods A	72,000
Goods B	65,000
<b>Total</b>	<b>1,37,000</b>
Less: ITC Raw Material B - SGST	(50,000)
Less: ITC Raw Material C – SGST	(70,000)
<b>Net Tax Payable</b>	<b>17,000</b>

**GST Network**

GST is being controlled or monitored by **GST network** which is a section 8 company i.e. an NPO and 49% shares are held by Central and State Govt. and balance by private persons mainly banks. GSTN is maintaining a portal which is called common portal and entire GST work is done through common Portal which is further designed and updated by **Infosys**. Govt. has given control in the private hands for efficient

and smooth functioning. GST is regulated through Central GST Act 2017 and State GST Act 2017 and Integrated GST Act 2017.

## **TIME OF SUPPLY**

**Question 1: Explain Time of Supply of goods under direct charge/normal charge/forward charge.**

**Answer: Time of supply of goods Section 12 (1) & 12 (2).**

Time of supply means the particular date when a registered person shall have the liability to pay GST but GST has to be paid in the subsequent month on the date applicable to such registered person.

The time of supply of goods shall be the earlier of the following dates, namely:—

- (a) the date of issue of invoice by the supplier or the last date on which he is required, to issue the invoice with respect to the supply.

e.g. If invoice is issued on 28<sup>th</sup> July 2022 and goods are delivered on 31<sup>st</sup> July 2022 and payment is received on 10<sup>th</sup> August 2022, TOS is 28<sup>th</sup> July 2022 but if invoice is issued on 01<sup>st</sup> August 2022, TOS is 31<sup>st</sup> July 2022.

**Question 2: Explain TOS in case of additional consideration.**

**Answer: TOS in case of Additional consideration Section 12 (6).**

The time of supply to the extent it relates to an addition in the value of supply by way of interest, late fee or penalty for delayed payment of any consideration shall be the date on which the supplier receives such addition in value, eg. Mr. X sold certain goods on credit and because of delay beyond the permitted time, interest of ₹ 10,000 was charged, such additional consideration shall also be considered to be value of supply and TOS shall be the time when such payment is received.

**Question 3: Explain TOS in case of supply of voucher of goods.**

**Answer: Supply of Voucher of Goods Section 12 (4).**

In case of supply of vouchers by a supplier, the time of supply shall be—

- (a) the date of issue of voucher, if the supply is identifiable at that point; or  
(b) the date of redemption of voucher, in all other cases.

**As per section 2 (118), "voucher"** means an instrument where there is an obligation to accept it as consideration for a supply of goods. Further the identities of their potential suppliers including the terms and conditions of use of such instrument may be indicated either on the voucher or some other documents.

**Example 1:** ABC Limited sells food coupons to a company, which gives these to its employees as part of the agreed perquisites. The coupons can be redeemed for purchase of any item of food /other goods in the outlets. As the supply against which the coupon will be redeemed is not known on the date of the sale of the coupon, the time of supply of the coupon will be the date on which the employee redeems it against food /other goods of his choice.

**Example 2:** With each purchase of a large pizza during the Christmas week from DOMINOS Pizza, one can buy a voucher for ₹20 which will be redeemable till 5 Jan for a small pizza. As the supply against which the voucher will be redeemed is known on the date of the sale, the time of supply is the date of issue of the voucher.

**Question 4: Explain Time of Supply of services under direct charge/normal charge/forward charge.**

**Answer: Time of supply of services Section 13 (1) & (2).**

The liability to pay tax on services shall arise at the time of supply. Time of supply of services shall be the date of invoice or the date of receiving payment whichever is earlier but if invoice is not issued within 30 days of supply of service, TOS shall be the date of supply of service or the date of payment whichever is earlier, eg. If services are rendered on 23<sup>rd</sup> July, 2022 and invoice issued 10<sup>th</sup> August, 2022 and payment received 20<sup>th</sup> September, 2022, TOS shall be 10<sup>th</sup> August 2022 but if invoice is issued on 27<sup>th</sup> August 2022, TOS shall be 23<sup>rd</sup> July, 2022.

**Question 5: Explain Payments in excess of amount of invoice.**

**Answer: Payments in excess of amount of invoice**

Wherever the supplier of service receives a payment up to ₹1,000 in excess of the amount indicated in the invoice, the time of supply to the extent of such excess amount, at the option of the provider of taxable

service, shall be determined on the basis of invoice or completion of service, as the case may be, rather than payment.

**Example:** A telephone company receives ₹5000 against an invoice of ₹4800. The excess amount of ₹200 can be adjusted against the next invoice. The company has the option to take the date of the next invoice as the time of supply of service in relation to the amount of ₹200 received in excess against the earlier invoice

**Question 6: Explain meaning of receiving of payment.**

**Answer: Meaning of receiving payment**

Date of receiving payment shall be date on which the payment is entered in the books of accounts or date on which payment is credited to the bank account of the person liable to pay tax, whichever is earlier. e.g. If payment is entered in the books on 10.07.2022 and it is credited in the bank account on 16.07.2022, date of receiving payment shall be 10.07.2022 but if it was entered in the books of accounts on 20.07.2022, date of receiving payment shall be 16.07.2022.

**Question 7: Explain TOS in case of additional consideration.**

**Answer: TOS in case of Additional consideration Section 13 (6).**

The time of supply to the extent it relates to an addition in the value of supply by way of interest, late fee or penalty for delayed payment of any consideration shall be the date on which the supplier receives such addition in value, eg. Mr. X has given certain services on credit and because of delay beyond the permitted time, interest of ₹ 10,000 was charged, such additional consideration shall also be considered to be value of supply and TOS shall be the time when such payment is received.

**Question 8: Explain TOS in case of supply of voucher of services.**

**Answer: Supply of Voucher Section 13 (4).**

In case of supply of vouchers by a supplier, the time of supply shall be—

- (a) the date of issue of voucher, if the supply is identifiable at that point; or
- (b) the date of redemption of voucher, in all other cases.

**As per section 2 (118), "voucher"** means an instrument where there is an obligation to accept it as consideration for a supply of services. Further the identities of their potential suppliers including the terms and conditions of use of such instrument may be indicated either on the voucher or some other documents.

**Example:** Best Hospitality Services enters into agreement with Drive Marketing Ltd by which Drive Marketing Ltd. markets Best Hospitality Services' hotel rooms and sells coupons / vouchers redeemable for a discount against stay in the hotel. As the supply against which the voucher will be redeemed is identifiable, the time of supply of the voucher will be its date of issue.

## VALUE OF SUPPLY

**Question 1: Explain Value of Supply under GST.**

**Answer: Value of taxable supply Section 15**

**As per section 15(1),** The value of a supply of goods or services or both shall be the transaction value, which is the price actually paid or payable for the said supply of goods or services or both where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply.

**As per section 15 (2),** The value of supply shall include—

**(a) any taxes, duties, cesses, fees and charges levied under any law for the time being in force other than GST, if charged separately by the supplier;** e.g. Mr. X imported certain goods and has paid basic custom duty and IGST, in this case IGST shall be charged on the total of value of goods plus custom duty i.e. IGST shall be charged even on the amount of custom duty.

**Example:** Mr. X imported certain goods of the value of ₹ 1,00,000 and paid basic custom duty 10% and IGST 20%, in this case tax treatment shall be as given below:

Value of goods	1,00,000
Add: Basic Custom Duty 10%	10,000
Transaction Value	1,10,000
IGST 20%	22,000

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

**(c) incidental expenses, including commission, packing or weightment charges, charged by the supplier to the recipient of a supply and any amount charged for anything done by the supplier in respect of the supply of goods or services or both at the time of, or before delivery of goods or supply of services.**

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

**Example:** ABC limited sold certain goods for ₹ 10,00,000 plus GST 2,00,000 on credit and payment was received by the company after 6 months and the company has received interest ₹ 15,000, in this case ₹ 15,000 shall be considered to be additional consideration and GST is payable.

**(e) Any subsidy except subsidies given by the Government.**

**Example:** A philanthropic association makes a substantial donation each year to a reputed private management institution to subsidise the education of low income group students who have gained admission there. The fee for these individuals is reduced thereby, coming to ₹3 lakh a year compared to ₹5 lakh a year for other students.

What would be the taxable value of the service of coaching and instruction provided by the institution?

**Answer:** As per section 15, the value of a supply includes subsidies directly linked to the price, excluding State Government and Central Government subsidies. In this case, the subsidy is not from the Government but is from a philanthropic association. Therefore, the subsidy is to be added back to the price to arrive at the taxable value, which comes to ₹5 lakh a year.

**Question 2: Explain Treatment of Discount while computing Transaction Value.**

**Answer: Discount while computing Transaction Value Section 15(3)**

If the supplier has given any discount before or at the time of supply, it will be allowed to be deducted, if such discount has been duly recorded in the invoice issued in respect of such supply; and

Discount allowed after supply shall also be allowed to be deducted provided such discount is established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices and further the supplier shall issue credit note for such discount and shall be allowed to reduce his tax liability but the recipient should also reverse/ reduce tax credit taken by him.

**Example:** Crunch Bakery Products Ltd sells biscuits and cakes through its dealers, to whom it charges the list price minus standard discount and pays GST accordingly. When goods remain unsold with the dealers, it offers additional discounts on the stock as an incentive to push the sales.

Can this additional discount be reduced from the price at which the goods were sold and concomitant tax adjustments made?

**Answer:** The discounts were not known or agreed at the time of supply of goods to the dealers. Therefore, such discounts cannot be reduced from the price on which tax had been paid in terms of section 15(3).

(4) Where the value of the supply of goods or services or both cannot be determined under sub-section (1), the same shall be determined in such manner as may be prescribed (such rules are not covered in syllabus Rule No. 27 to 35).

(5) The value of such supplies as may be notified by the Government on the recommendations of the Council shall be determined in such manner as may be prescribed.

**TCS under Income-Tax Act, 1961 not includible in the taxable value for the purpose of GST:**

The CBIC vide Circular No. 76/50/2018 GST dated 31.12.2018 (amended vide corrigendum dated 7.03.2019) 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.

**Meaning of "Recipient" of supply of goods or services or both section 2 (93)**

**"Recipient" of supply of goods or services or both, means—**

- (a) where a consideration is payable for the supply of goods or services or both, the person who is liable to pay that consideration;
- (b) where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available; and
- (c) where no consideration is payable for the supply of a service, the person to whom the service is rendered,

and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply and shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied;

**Section 2(105)**

"supplier" in relation to any goods or services or both, shall mean the person supplying the said goods or services or both and shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied;

**CLARIFICATIONS**

**Buy one get one free offer**

Sometimes, companies announce offers like *'Buy One, Get One free'* For example, „buy one soap and get one soap free“ or „Get one tooth brush free along with the purchase of tooth paste“. It may appear at first glance that in case of offers like „Buy One, Get One Free“, one item is being „supplied free of cost“ without any consideration. In fact, it is not an individual supply of free goods but a case of two or more individual supplies where a single price is being charged for the entire supply. It can at best be treated as *supplying two goods for the price of one*.

## **RETURNS**

**Question 1: Explain Furnishing of statement of outward supplies under section 37 / Rule 59 (GSTR-1)**

**Answer: Furnishing of statement of outward supplies under section 37 / Rule 59**

1. Every registered person shall be required to file a statement of outward supply in **GSTR-1 on monthly basis upto 11<sup>th</sup> of the month succeeding the relevant month**
2. If turnover in the preceding year is **upto 5 crores, such person has the option to file such statement on quarterly basis upto 13<sup>th</sup> on the month succeeding the relevant quarter.** If turnover has crossed 5 Crores, such person shall be required to file the return on monthly basis from the first month of next quarter. (NN 83/2020 CT 10/11/2020)
3. If statement is filed on quarterly basis, in that case, the details of outward supply for first and second month of a quarter may be furnished using invoice furnishing facility till 13<sup>th</sup> of subsequent month but only upto ₹50 lakh for each month. It will include debit note and credit note also.
4. A registered person shall **not be allowed to furnish GSTR-1, if he has not furnished GSTR-1 or GSTR-3B for the earlier tax period.**
5. A taxpayer cannot file GSTR-1 before the end of the current tax period. However, following are the exceptions to this rule:
  - a. Casual taxpayers, after the closure of their business
  - b. Cancellation of GSTIN of a normal taxpayer. A taxpayer who has applied for cancellation of registration will be allowed to file GSTR-1 after confirming receipt of the application.

**The return shall contain the following particulars:**

1. GSTIN
2. Legal name / Trade name.
3. Aggregate Turnover in the preceding financial year
4. Taxable outward supplies (invoice wise) made to registered persons.
5. Taxable outward Inter-State supplies (invoice wise) to unregistered persons where the invoice value is more than ₹2.5 lakh.
6. Zero rated supplies
7. Consolidated details of Taxable Supplies to unregistered persons except table 5 (Rate wise and State wise)
8. Nil rated, exempted and non GST outward supplies
9. Amendments to table 4,5,6 including debit note, credit note etc.
10. Amendments to table no. 7
- 11(I). Advances received/advance adjusted in the current tax period.
- 11 (II). Amendments of 11(I).
12. HSN-wise summary of outward supplies
13. Serial number of Documents issued during the tax period.

**Question 2: Whether Nil GSTR-1 is to be filed**

**Answer:** Filing of GSTR-1 is mandatory for all normal and casual taxpayers, even if there is no business activity in any particular tax period. For such tax period, a Nil GSTR-1 is required to be filed.

**A Nil GSTR-1 can be filed through an SMS using the registered mobile number of the taxpayer. GSTR-1 submitted through SMS is verified by registered mobile number-based OTP facility.**

A taxpayer can file Nil GSTR-1, anytime from 1st of the month subsequent of the tax period onwards. For example, GSTR-1 for the calendar month of April, can be filed from 1st May onwards. GSTR-1 for the quarter of April to June can be filed from 1st July onwards.

Taxpayer opting for voluntary cancellation of GSTIN has 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.

**Question 3: How are the details of outward supply furnished in prior periods amended? [Section 37(3)]**

**Answer:**

**(a) Amendment/ Correction**

Tables 9, 10 and 11(II) of GSTR-1 provide for amendments in details of taxable outward supplies furnished in earlier periods. 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 the 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 particular 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.

#### **(b) Rectification of errors**

If the supplier discovers any error or omission, he shall rectify the same in the tax period during which such error or omission is noticed, and pay the tax and interest, if any, in case there is short payment, in the return to be furnished for such tax period.

The maximum time limit within which such amendments are permissible is earlier of the following dates:

- **30<sup>th</sup> November** following the end of the financial year to which such details pertain or
- Date of filing of the relevant annual return

**Example:** An entity has discovered an error in GSTR 1 of November 2022, in this case it can be rectified till 30<sup>th</sup> November 2023 but if annual return has been filed on 10<sup>th</sup> August 2023, error can not be rectified after 10<sup>th</sup> August 2023.

#### **Question 4: Explain classification of Goods/Services under GST.**

**Answer:** The exercise of placing the various goods/services under the various groups or sub- groups is known as 'Classification' of a product/services and such classification is given in GST Tariff and it is called Harmonised system of Nomenclature. All the goods are divided into **98 categories** which are called chapters. Each product given in the GST Tariff has a specific **8 digit code** number **first 2 digit refer to Chapter next 2 heading next 2 sub-heading and last 2 are specific for the product** e.g. Code No. for Tobacco is 2401 20 50 and for mobile phone is 8517 12 10 and for Chocolate is 1806 90 10 (**Nomenclature means** a system of naming things)

All services are covered in chapter 99 and each service has a code of 6 digit which is called services accounting code.

HSN or HS (Harmonized Commodity Description and Coding System) is a standardized system of nomenclature of different goods developed by World Customs Organization, which is accepted globally. HSN uses 6-digits uniform codes to classify different goods. India uses eight-digits codes for more specific and precise classification.

#### **Position from 01.04.2021**

As per notification no. 12/2017, w.e.f 01.04.2021, if annual turnover in preceding year is upto 5 crore, the supplier shall be required to mention four digits of HSN in case of B2B supply but it will be optional for B2C supply. If turnover is more than 5 crores, supplier shall be required to mention six digit of HSN.

**Example:** The turnovers of Yellow Lemon Pvt. Ltd., Red Pepper Pvt. Ltd. And Blue Berry Pvt. Ltd. in the previous financial year are ₹ 1.5 crore, ₹ 4.8 crore and ₹ 6 crore respectively. While Yellow Lemon Pvt. Ltd. And Red Pepper Pvt. Ltd. will be required to upload 4 digits of HSN code of the goods sold to registered persons, uploading of 4 digits HSN code will be optional for the two companies when the goods are sold to unregistered persons. Blue Berry Pvt. Ltd. will have to upload 6 digits of HSN code of goods sold by it. This will be the position from 01.04.2021.

#### **Question 5: Explain Furnishing of returns u/s Section 39 / Rule 61 GSTR 3B**

**Answer:**

1. Every registered person, shall submit a return in GSTR 3B every month or part thereof upto 20<sup>th</sup> of subsequent month
2. If turnover is not exceeding 5 crore, return can be filed on quarterly basis and such return should be submitted upto 22<sup>nd</sup> of subsequent month or 24<sup>th</sup> of subsequent month depending upon the place where he is registered (NN 84/2020 CT 10/11/2020)

(Registered persons whose principal place of business is in the States of Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, the Union



territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands or Lakshadweep shall submit return upto **22<sup>nd</sup> of the month** succeeding the quarter.)

(Registered persons whose principal place of business is in the States of Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha, the Union territories of Jammu and Kashmir, Ladakh, Chandigarh or Delhi shall submit return upto **24<sup>th</sup> of the month** succeeding the quarter.)

3. Every registered person who is required to furnish a return shall furnish a return for every tax period whether or not any supplies have been made during such tax period.
4. If any registered person after furnishing a return in GSTR 3B 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 such form and manner as may be prescribed, subject to payment of interest under this Act:
5. No such rectification of any omission or incorrect particulars shall be allowed **after 30<sup>th</sup> November of the subsequent financial year**, or the actual date of furnishing of relevant annual return, whichever is earlier.
6. A registered person shall not be allowed to furnish GSTR-3B if he has not furnish GSTR-3B or GSTR-1 for the earlier tax period.

#### **Question 6: Explain QRMP Scheme.**

**Answer:**

#### **QRMP Scheme**

If any registered person has turnover upto 5 crores, he shall have the option to file GSTR – 3B on quarterly basis but tax has to be paid every month in the manner given below:

#### **1. Fixed Sum Method**

- (i) thirty five per cent. of the tax liability paid by debiting the electronic cash ledger in the return for the preceding quarter where the return is furnished quarterly; or
- (ii) the tax liability paid by debiting the electronic cash ledger in the return for the last month of the immediately preceding quarter where the return is furnished monthly:

Provided that no such amount may be required to be deposited-

- (a) for the first month of the quarter, where the balance in the electronic cash ledger or electronic credit ledger is adequate for the tax liability for the said month or where there is nil tax liability ;
- (b) for the second month of the quarter, where the balance in the electronic cash ledger or electronic credit ledger is adequate for the cumulative tax liability for the first and the second month of the quarter or where there is nil tax liability:

Provided further that registered person shall not be eligible for the fixed sum method unless he has furnished the return for a complete tax period preceding such month.

“A complete tax period” means a tax period in which the person is registered from the first day of the tax period till the last day of the tax period.

#### **2. Self Assessment Method**

Such registered person has the option to pay tax on estimated basis as per his own assessment but in that case interest shall be charged on any short fall.

**Example 1:** A registered person, who has opted for QRMP Scheme, has paid a total amount of ₹100/- in cash as tax liability in the previous quarter of October to December. He opts to pay tax under fixed sum method. He therefore pays ₹35/- each on 25<sup>th</sup> February and 25<sup>th</sup> March for discharging tax liability for the first 2 months of quarter viz. January and February.

In his return for the quarter, it is found that liability based on the outward and inward supplies, for January was ₹40/- and for February it was ₹42/-. However, no interest would be payable for the lesser amount of tax i.e. ₹5 and ₹7 respectively. But if he has paid tax on estimated basis, in that case interest shall be charged on ₹ 5 and ₹7.

#### **Question 7: Explain Manner of opting for furnishing quarterly return.**

**Answer: Rule 61A**

(1) Every registered person intending to furnish return (GSTR 3B) on a quarterly basis shall indicate his preference for furnishing of return on a quarterly basis, electronically, on the common portal, from the 1st day of the second month of the preceding quarter till the last day of the first month of the quarter for which the option is being exercised: e.g. Mr. X is filing return on monthly basis in April 2022 but now he decides to file return on quarterly basis, in this case he can exercise the option from 1<sup>st</sup> May 2022 upto 31<sup>st</sup> July 2022 for filing return on quarterly basis for the quarter starting from July to Aug 2022.

**Provided** that where such option has been exercised once, the said registered person shall continue to furnish the return on a quarterly basis for future tax periods, unless the said registered person,-

- (a) becomes ineligible for furnishing the return on a quarterly basis as per the conditions and restrictions notified in this regard; or
- (b) opts for furnishing of return on a monthly basis, electronically, on the common portal:

**Provided further** that a registered person shall not be eligible to opt for furnishing quarterly return in case the last return due on the date of exercising such option has not been furnished.

(2) A registered person, whose aggregate turnover exceeds 5 crore rupees during the current financial year, shall opt for furnishing of return on a monthly basis, electronically, on the common portal, from the first month of the quarter, succeeding the quarter during which his aggregate turnover exceeds 5 crore rupees.

**Question 8: Discuss the provisions of Section 39(9) of the CGST Act, 2017, relating to rectification of errors/ omissions in GST returns already filed and also state its exceptions. State the time limit for making such rectification.**

**Answer: As per Section 39(9)** Subject to the provisions of sections 37 and 38, if any registered person after furnishing a return GSTR 3B 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 such form and manner as may be prescribed, subject to payment of interest under this Act (earlier in GSTR 3, there were tables for rectification of the error in the earlier return just like GSTR 1 but now there is no such table in GSTR 3B hence rules will be framed for rectification of error)

Rectification of any omission or incorrect particulars shall be allowed upto 30<sup>th</sup> day of November following the end of the financial year, or the actual date of furnishing of relevant annual return, whichever is earlier.

**Question 9: Explain Statement and return by composition dealer.**

**Answer: Section 39/Rule 62**

Every registered person paying tax under section 10 shall-

- (i) furnish a statement, every quarter or, as the case may be, part thereof, containing the details of payment of self-assessed tax in **FORM GST CMP-08**, till the 18<sup>th</sup> day of the month succeeding such quarter; and
- (ii) furnish a return for every financial year or, as the case may be, part thereof in **FORM GSTR-4**, till the 30<sup>th</sup> day of April following the end of such financial year, electronically through the common portal.

Every such registered person shall discharge his liability towards tax or interest by debiting the electronic cash ledger.

A registered person opting to withdraw from the composition scheme at his own motion or where option is withdrawn at the instance of the proper officer shall, where required, furnish a statement in **FORM GST CMP-08** for the period for which he has paid tax under the composition scheme till the 18<sup>th</sup> day of the month succeeding the quarter in which the date of withdrawal falls and furnish a return in **FORM GSTR-4** for the said period till the 30<sup>th</sup> day of April following the end of the financial year during which such withdrawal falls.

**Particulars of GSTR-4 (Annually) shall be as given below:**

Table No. 1. GSTIN

Table No. 2. Legal name / Trade name.

Table No. 3. Aggregate Turnover during the preceding financial year.

Table No. 4. Inward supplies including supplies on which tax is to be paid reverse charge.

Table No. 5. Tax on outward supplies made.

Table No. 6. Consolidated statement of advances paid/advance adjustment on account of receipt of supply.

Table No. 7. TDS Credit received (Not covered in syllabus)

Table No. 8. Tax Payable and paid

Table No. 9. Interest, Late fee payable and paid

Table No. 10. Refund claimed from electronic cash ledger

Table No. 11. Debit entries in cash ledger for tax/interest payment.

**Question 10: Explain Form and manner of ascertaining details of inward supplies.**

**Answer: As per Section 38/ Rule 60.**

**Communication of details of inward supplies and input tax credit Section 38**

1. An auto generated statement in GSTR-2B shall be available on the GST portal every month and the recipient shall be allowed to take ITC on the basis of such statement. It may be available a day after the due date of furnishing of GSTR-1 or furnishing of invoice using IFF, whichever is later i.e. 11<sup>th</sup> or 13<sup>th</sup>, whichever is later i.e. 13<sup>th</sup> of subsequent month or quarter. It will contain details of inward suppliers received during the preceding month and also supplies of earlier month if the same has not been reported in the relevant month.
2. It will also contain details of the input tax for which ITC can not be availed.

**Question 11: Explain GSTR-2A.**

**Answer:**

**Form and manner of ascertaining details of inward supplies Rule 60**

The details of outward supplies furnished by the supplier in FORM GSTR-1 or using the IFF shall be made available electronically to the concerned registered persons (recipients) in FORM GSTR-2A on real time basis to check whether details of input supply has been furnished / uploaded by supplier.

**Question 12: Explain Filing of First Return.**

**Answer: Filing of First Return Section 40**

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.

When a person becomes liable to registration after his turnover crossing the threshold limit, he may apply for registration within 30 days of so becoming liable. Thus, there might be a time lag between a person becoming liable to registration and grant of registration certificate.

During the intervening period, such person might have made the outward supplies, i.e. after becoming liable to registration but before grant of the certificate of registration. Now, in order to enable such registered person to declare the taxable supplies made by him for the period between the date on which he became liable to registration till the date on which registration has been granted so that ITC can be availed by the recipient on such supplies. Firstly, the registered person may issue Revised Tax Invoices against the invoices already issued during said period within 1 month from the date of issuance of certificate of registration.

The registered person shall declare his outward supplies made during said period in the first return furnished by him after grant of registration.

**Question 13: Explain filing of Annual return**

**Answer: Filing of Annual return. Section 44/Rule 80**

Every registered person shall furnish an annual return for every financial year electronically in form no. GSTR-9 upto 31<sup>st</sup> December of the subsequent year, e.g. for financial year 22-23, Return to be submitted upto 31<sup>st</sup> December 2023.

**Particulars of GSTR-9 shall be as given below:**

Table No. 1. GSTIN

Table No. 2. Name of Taxable Person

Table No. 3. Date of Statutory Audit.

Table No. 4. Auditors

Table No. 5. Details of Expenditure.

Table No. 6. Details of Income.

Table No. 7. Return reconciliation Statement.

Table No. 8. Other Amounts.

Table No. 9. Profit as per the Profit and Loss Statement

**Persons required to file Annual Return**

Sl. No	Persons	Form
01.	Every Registered Person	GSTR-9
02.	Every electronic commerce operator required to collect tax at source under section 52	GSTR-9B
03.	(i) NRTP (ii) Persons providing OIDAR services (iii) Input Service Distributor, (iv) A person paying tax under section 51, (v) A casual taxable person,	Exempt from filing Annual Return

Every person whose turnover has exceeded ₹5 crore shall be required to submit GSTR-9C which will be a self-certified reconciliation statement, reconciling the value of supplies declared in the return furnished for the financial year, with the audited annual financial statement.

**Question 14: Explain filing of Final Return****Answer: Filing of Final return Section 45 / Rule 81.**

Every registered person whose registration has been cancelled shall furnish a final return in form no. GSTR-10 within three months of the date of cancellation or date of order of cancellation, whichever is later, eg. if cancellation order has been issued on 20<sup>th</sup> October 2022 but registration has been cancelled w.e.f.1<sup>st</sup> October 2022, 3 months shall be determined from 20<sup>th</sup> October 2022.

**Particulars of GSTR-10 shall be as given below:**

1. GSTIN
2. Legal Name
3. Business Name
4. Address
5. Application Reference Number (ARN) of surrender application.
6. Effective Date of Surrender/Cancellation.
7. Whether cancellation order has been passed.
8. If yes , Unique ID of cancellation order.
9. Date of Cancellation order
10. Particulars of closing Stock held on date of surrender / cancellation.
11. Amount of Tax Payable on closing stock.

**Question 15: Explain Notice to Return defaulters****Answer: Notice to Return Defaulters Section 46 / Rule 68**

Where a registered person fails to furnish a return under section 39 or section 44 or section 45, a notice shall be issued requiring him to furnish such return within fifteen days in GSTR-3A.

**Question 16: Explain Penalty for late filing of Return.****Answer: Levy of late fee Section 47**

If any person has not filed any return, notice shall be given u/s 46/ Rule 68 in form no. GSTR-3A.

**Penalty for delay in filing GSTR-1 shall be as given below (Notification No.20/2021 dated: 01-06-2021):**

- (i) If output supply is nil, penalty shall be ₹10 per day but maximum ₹250.
- (ii) In other cases, penalty shall be charged @ ₹25 per day for every day but maximum ₹1,000 provided aggregate turnover in the preceding financial year is upto ₹1.5 crores. If turnover is more than 1.5 crores but upto 5 crores, maximum penalty shall be ₹2,500. In all other cases maximum penalty shall be ₹5,000.

**Penalty for delay in filing GSTR-3B shall be as given below (Notification No.19/2021 dated: 01-06-2021):**

- (i) If tax payable in GSTR-3B is nil, penalty shall be ₹10 per day but maximum ₹250.
- (ii) In other cases, penalty shall be charged @ ₹25 per day for every day but maximum ₹1,000 provided aggregate turnover in the preceding financial year is upto ₹1.5 crores. If turnover is more than 1.5 crores but upto 5 crores, maximum penalty shall be ₹2,500. In all other cases maximum penalty shall be ₹5,000.

**Penalty for delay in filing GSTR-4 shall be as given below (Notification No.21/2021 dated: 01-06-2021):**

- (i) If tax payable in GSTR-4 is nil, penalty shall be ₹10 per day but maximum ₹250
- (ii) In all other cases, penalty shall be ₹25 per day but maximum ₹1,000

The above Late Fee is under CGST Act, and an equal amount shall be payable under SGST/UTGST Act i.e. in fact the late fee shall be double of the amount as mentioned above.

**Penalty for delay in filing Annual Return Section 44**

Any registered person who fails to furnish the annual return u/s 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 of his turnover.

**Example 1:**

- (i) Delay is 20 days and turnover is ₹ 60,00,000, penalty shall be ₹ 2,000 or ₹ 15,000 i.e. ₹ 2,000
- (ii) Delay is 20 days and turnover is ₹ 10,00,000, penalty shall be ₹ 2,000 or ₹ 2,500 i.e. ₹ 2,000
- (iii) Delay is 40 days and turnover is ₹ 10,00,000, penalty shall be ₹ 4,000 or ₹ 2,500 i.e. ₹ 2,500
- (iv) Delay is 100 days and turnover is ₹ 50,00,000, penalty shall be ₹ 10,000 or ₹ 12,500 i.e. ₹ 10,000

Further equal amount shall be payable under SGST/UTGST Act.

**Penalty for delay in filing Final Return Section 45**

Every registered person who is required to furnish a return and whose registration has been surrendered or cancelled is required to file a final return.

The final return has to be filed within 3 months of the:

- (i) date of cancellation
- or
- (ii) date of order of cancellation whichever is later.

Quantum of late fee for not filing the final return is as follows:

- (i) ₹ 100 for every day during which such failure continues
- or
- (ii) ₹ 5,000

whichever is lower.

An equal amount of late fee is payable under the respective SGST/UTGST Act as well.

**Question 17: Explain Purpose of Filing of Returns**

**Answer:** In any tax law, “filing of returns” constitutes the most important compliance procedure which enables the Government/ tax administrator to estimate the tax collection for a particular period and determine the correctness of the tax compliance of the taxpayers.

**The returns serve the following purposes:**

- a) Mode for transfer of information to tax administration;
- b) Compliance verification program of tax administration;
- c) Finalization of the tax liabilities of the taxpayer within stipulated period of limitation;
- d) Providing necessary inputs for taking policy decision;
- e) Management of audit and anti-evasion programs of tax administration

The taxpayer is generally required to furnish the return in a specific statutory format. These formats are, therefore, designed to take care of all the provisions of the law that have a bearing on computation of tax liability of a taxpayer.

**Question 18: Explain filing of return by the non resident taxable person**

**Answer:** Every non resident taxable person shall be required to file monthly return in GSTR 5 within **13 days** after expiry of relevant month. But it should be filed within 7 days after the last day of period of registration specified u/s 27. (NRTP is not required to file GSTR 1 or GSTR 3B or Annual return)  
Section 39(5)/Rule 63

## **PAYMENT OF GST**

### **Question 1: Explain rules for utilization of Input Tax Credit Section 49(5).**

#### **Answer:**

#### **Utilisation of Input Tax Credit Section 49(5)**

ITC shall be adjusted against output tax in the manner given below:

- (i) First of all ITC of IGST shall be adjusted against output IGST and after that against output CGST or output SGST/UTGST as per the option of the assessee.
- (ii) After ITC of IGST is exhausted, only after that ITC of CGST or SGST/ UTGST shall be used.
- (iii) Adjust ITC of CGST against output CGST and surplus if any against output IGST ( it can never be adjusted against output SGST)
- (iv) Adjust ITC of SGST against output SGST and surplus if any against output IGST ( it can never be adjusted against output CGST)
- (v) If there is output IGST and also ITC of CGST and SGST/UTGST, ITC of CGST shall be used first and only after that ITC of SGST/UTGST shall be used.

### **Question 2: Explain the order of adjustment of tax dues and other dues Section 49(8).**

#### **Answer:**

As per section 49(8), every taxable person shall discharge his tax and other dues in the following order-

- (a) self-assessed tax, and other dues related to returns of previous tax periods;
  - (b) self-assessed tax, and other dues related to the return of the current tax period;
  - (c) any other amount payable under this Act or the rules made thereunder including the demand determined under section 73 or section 74;
- (i) "tax dues" means the tax payable and does not include interest, fee and penalty; and
  - (ii) "other dues" means interest, penalty, fee or any other amount payable.

### **Question 3: Explain transfer of tax or other dues from one account to the other Section 49(10).**

#### **Answer:**

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,-

- (a) integrated tax, central tax, State tax, Union territory tax or cess; or
- (b) integrated tax or central tax of a deemed distinct person under section 25(4) / 25(5).

**Provided** that no such transfer under clause (b) shall be allowed if the said registered person has any unpaid liability in his electronic liability register.

In order to transfer the amount, the registered person shall be required to fill Form GST PMT-09.

### **Question 4: Explain Payment of Interest on delayed payment of tax**

#### **Answer: Interest on delayed payment of tax Section 50/ Rule 88B**

(1) Every person who is liable to pay tax but fails to pay the tax within the period prescribed, shall for the period for which the tax remains unpaid, pay, on his own, interest at rate of 18%.

**Provided** that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, shall be levied on that portion of the tax that is paid by debiting the electronic cash ledger.

(2) The interest shall be calculated, from the day succeeding the day on which such tax was due to be paid.

(3) Where the input tax credit has been wrongly availed and utilised, the registered person shall pay interest on such input tax credit wrongly availed and utilised, at 18% pa (as per notification no. Central Tax 13/2017 dated 28.06.2017)

The interest shall be calculated on the amount of input tax credit wrongly availed and utilised, for the period starting from the date of utilisation of such wrongly availed input tax credit till the date of reversal of such credit or payment of tax in respect of such amount.

(i) input tax credit wrongly availed shall be construed to have been utilised, when the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed, and the extent of such utilisation of input tax credit shall be the amount by which the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed.

- (ii) the date of utilisation of such input tax credit shall be taken to be, —
- (a) the date, on which the return is due to be furnished under section 39 or the actual date of filing of the said return, whichever is earlier.
  - (b) the date of debit in the electronic credit ledger when the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed, in all other cases.

**Question 5: Explain Electronic Liability Register**

**Answer: Electronic Liability Register Rule 85.**

For every registered person electronic liability register shall be maintained on the common portal and liability to pay GST shall be debited to this ledger on the basis of GSTR-1 filed by him. Such liability can be paid either through electronic credit ledger or through electronic cash ledger.

The amount payable on reverse charge basis, or the amount payable under section 10, any amount payable towards interest, penalty, fee or any other amount under the Act shall be paid by debiting the electronic cash ledger.

**Example:** ABC limited has balance of ₹ 10,00,000 in credit ledger and company has to pay interest/penalty ₹50,000, in this case it cannot be adjusted from credit ledger rather it has to be paid in cash.

**Example:** ABC Limited has taken services from XYZ limited ₹ 10,00,000 + GST ₹ 1,00,000 but tax is payable under reverse charge and ABC limited has balance in credit ledger ₹10,00,000 in this case, ABC limited has to pay ₹1,00,000 in cash (and it cannot be adjusted from balance in credit ledger because it is input tax) and ABC limited shall be allowed ITC of ₹1,00,000 and balance in credit ledger shall be ₹11,00,000. ITC can be adjusted in payment of Output tax not Input Tax.

**Question 6: Explain Electronic credit ledger.**

**Answer: Electronic Credit Ledger Rule 86.**

Electronic credit ledger shall be maintained for every registered person on the common portal. Input tax credit available to him on the basis of GSTR-2B shall be credited to this ledger. The registered person can utilised such credit as per provisions of section 49(5) but it can not be used for payment of other dues or for payment of any tax under reverse charge. The balance available in this ledger can be carried forward for unlimited period but its refund is not allowed except in two cases:

- (i) Zero rated supply
- (ii) Inverted Rate structure i.e. Tax on inputs is higher than the tax on outputs

**Question 7: Who can impose restrictions on utilization of input tax credit (ITC) available in the electronic credit ledger and under what circumstances, can restrictions be imposed under the CGST Rules 2017?**

**Answer: Conditions of use of amount available in electronic credit ledger Rule 86A**

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 can impose restrictions on utilization of ITC in the following cases—

- (i) The person availing ITC do not possess tax invoice / debit note or other similar document.
- (ii) The person availing ITC has availed ITC without receipt of goods or services.
- (iii) The supplier has not paid tax to the Govt.
- (iv) Tax invoice has been issued by a person who is non-existent or is not conducting business from the registered place to business.
- (v) The registered person who has availed ITC is non-existent or is not conducting business from the registered place.

The Commissioner or the Officer authorized by him may withdraw the orders passed by him in case he finds it to be bonafide.

If no decision is taken within 1 year, the restriction shall cease to have effect.

**Question 8: Restrictions on use of amount available in electronic credit ledger.**

**Answer: Rule 86B** A registered supplier can use maximum upto 99% of ITC towards output tax but this condition is applicable only for those suppliers whose monthly taxable turnover (other than exempt supply and zero-rated supply) is exceeding ₹50 lakh.

**The rule shall not be applicable in the following cases:**

- (i) Where the said person/proprietor/karta/managing director, partners, whole-time directors etc., have paid more than ₹ 1 lakh as income tax in each of the last 2 financial years.
- (ii) If such person has received a refund of more than ₹ 1 lakh in the preceding FY on account of unutilised ITC in case of
  - (i) zero rated supplies made without payment of tax or
  - (ii) inverted duty structure.
- (iii) Where the registered person has discharged his liability towards output tax through the electronic cash ledger for an amount which is in excess of 1% of the total output tax liability, applied cumulatively, upto the said month in the current FY.
- (iv) Where the registered person is Government Department, Public Sector Undertaking, Local authority or Statutory body. Said restriction may be removed by Commissioner/ authorised officer after required verifications and safeguards.

**Question 9: Explain Electronic cash ledger.**

**Answer: Electronic Cash Ledger Rule 87.**

- (1) The electronic cash ledger shall be maintained in FORM GST PMT-05.
- (2) Any person, 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. The challan in FORM GST PMT-06 generated at the common portal shall be valid for a period of fifteen days:
- (3) The deposit shall be made through any of the following modes, namely:—
  - (i) Internet Banking through authorised banks;
    - (ia) Unified Payment Interface (UPI) from any bank
    - (ib) Immediate Payment Services (IMPS) from any bank
  - (ii) Credit card or Debit card through the authorised bank;
  - (iii) National Electronic Fund Transfer or Real Time Gross Settlement from any bank; or
  - (iv) Over the Counter payment through authorised banks for deposits up to ten thousand rupees per challan per tax period, by cash, cheque or demand draft:

**The term relevant for the challan**

(a) **CPIN Stands for Common Portal Identification Number** It is created for every Challan successfully generated by the taxpayer. It is a 14-digit unique number to identify the challan. CPIN remains valid for a period of 15 days.

(b) **CIN or Challan Identification Number** is generated by the banks, once payment in lieu of a generated Challan is successful. It is a 17-digit number that is 14-digit CPIN 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.

On receipt of the Challan Identification Number 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 to this effect.

Where the bank account of the person concerned, or the person making the deposit on his behalf, is debited but no Challan Identification Number 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.

***Provided that where the bank fails to communicate details of Challan Identification Number to the Common Portal, the Electronic Cash Ledger may be updated on the basis of e-Scroll of the Reserve Bank of India in cases where the details of the said e-Scroll are in conformity with the details in challan generated in FORM GST PMT-06 on the Common Portal.***

(c) **Bank Reference Number** is the transaction number given by the bank for a payment against a Challan

(d) **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 transaction.



The E-FPB will have to open accounts under each major head for all governments. Any amount received by such E-FPB towards GST will be credited to the appropriate account held by such E-FPB.

**Discrepancy in Liability/credit/cash ledger**

The registered person should report any discrepancy through the common portal in GST PMT-04.

**Question 10: Are principles of unjust enrichment applicable for payment made under GST?**

**Answer:** Yes, as per Section 49 of the CGST Act, 2017 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. In fact a supplier shall charge GST from the recipient and if GST charged is in excess, its incidence is on the recipient hence refund shall be granted to the recipient because otherwise it will be unjust enrichment.

## **COMPOSITION SCHEME**

**Question: Explain in brief composition scheme.**

**Answer:** GST requires too much accounting and complicated procedure for availing ITC and making payment of output tax which may be very difficult for the small tax payers hence composition scheme has been devised which is a simplified scheme and is an optional scheme and particulars are given under **section 10/Rule 3 to 7**. There will be two types of composition schemes and are as given below:

### **Composition scheme where mainly supply is of goods Section 10(1) and 10(2)**

**As per Section 10**, A registered dealer whose aggregate turnover in the preceding year is upto ₹150,00,000 may opt for composition scheme and in that case he will not be allowed to charge any output tax and also no ITC is allowed rather he himself has to pay tax.

The limit of ₹ 150,00,000 shall be taken as ₹ 75,00,000 in case of following states

1. Manipur
2. Mizoram
3. Nagaland
4. Tripura
5. Arunachal Pradesh
6. Meghalaya
7. Sikkim
8. Uttarakhand

The rate shall be as given **under Rule 7** and is as given below:

(i) **0.5% CGST + 0.5% SGST** of Turnover (Taxable + Exempt) in the State/Turnover in the Union Territory in case of manufacturer.

(ii) but in case of other suppliers, **0.5% CGST + 0.5% SGST** but it will be computed on **taxable supplies** (Goods and services) instead of total supplies. (now other supplier have been exempted to pay tax on exempt supplies)

(iii) If person is engaged in restaurant services rates shall be **2.5% CGST & 2.5% SGST** of Turnover in the State/Turnover in the Union Territory.

However person opting under composition scheme may supply services other than restaurant services of value not exceeding 10% of turnover in the state or union territory in the preceding financial year or ₹5,00,000 whichever is higher. In other words services upto a value of ₹ 5 lakh can be supplied in any case.

If any such person has provided **exempt services** of charging of interest on loan or advance, it will not be included in the turnover computed above.

**Example 1:** Mr. X has turnover of selling goods ₹100 lakhs and turnover of restaurant services ₹11 lakh and interest charged on loan given ₹6 lakhs. He has provided computer typing and courier services of 5 lakhs, in this case his tax liability shall be as given below eligibility can be computed in the manner given below:

GST payable by him shall be

100 lakhs x 0.5% CGST + 0.5% SGST	1,00,000
11 lakhs x 2.5% CGST + 2.5% SGST	55,000
5 lakhs x 0.5% CGST + 0.5% SGST	5,000

Turnover excluding exempt services of charging interest on loan or advance ₹116 lakhs

In the subsequent year Mr. X is allowed to supply services of the value of ₹ 11.6 lakh i.e. 10% of 116 lakh or ₹ 5 lakh, whichever is higher

**Example 2:** Mr. X has turnover of selling goods ₹45 lakhs and turnover of restaurant services ₹4 lakh and exempt services of giving loan or advance ₹6 lakhs, in this case he can provide services other than restaurant services in the subsequent year

Total Turnover	₹49 lakhs
10% of ₹49 lakhs = ₹4.90 lakh or 5 lakh, higher is	₹5 lakhs

**Composition scheme where mainly supply is of services Section 10 (2A)**

A registered person, not eligible to opt to pay tax under section 10 (1) & 10(2), whose aggregate turnover in the preceding financial year did not exceed fifty lakh rupees, may opt to pay, tax calculated **at 6% (i.e. 3%+3%) of the taxable turnover in State or turnover in Union territory.**

**Common Conditions**

1. He is not making any **inter-state supply**.
  2. He is not engaged in making supply through **electronic commerce operator** who is required to collect tax at source under section 52. (Not covered in syllabus)
  3. He is not engaged in making any supply which are not leviable to tax under this Act i.e. non taxable supply.
  4. He is not a manufacturer of such goods which are notified for this purpose i.e. Ice cream and other edible ice, fly ash bricks, fly ash aggregates, fly ash blocks, bricks of fossil meals or similar siliceous earths, building bricks, earthen or roofing tiles or pan masala, aerated water, Tobacco and manufactured tobacco substitutes (Notification No.14/2019 (CT)).
  5. Where more than one registered person are having same permanent account, in that case all such registered person have to opt /reject composition scheme i.e. individual choice is not available, eg. ABC limited has three branches in three different states, all the three branches should be either under composition scheme or in the normal scheme i.e. same scheme will be applicable for all registration with same PAN.
  6. The person covered in composition scheme shall get shifted to the normal scheme if the limit of **₹1,50,00,000/₹ 75,00,000/₹ 50,00,000 exceeds at any time in a financial year and he will give an intimation in CMP-04 within 7 days of exceeding the limit.**
  7. A person applying for registration may give option for composition scheme in **part B of REG-01.**
  8. Option to pay tax under section 10 shall be effective from the beginning of the next financial year but such person shall also furnish statement in **ITC-03 for reversal of tax credit within a period of 60 days** from the date of commencement of composition scheme.
- In case of new registration it will be applicable from the effective date of registration.
9. Such person should be neither casual taxable person nor non - resident taxable person.
  10. Such supplier shall mention the words “**composition taxable person not eligible to collect tax on supplies**” at the top of the bill of supply. (not allowed to issue tax invoice) and also mention “**composition taxable person**” on every notice or signboard displayed at the prominent place at his principal place of business and at every additional place or places of business.
  11. Any person who is in the composition scheme may opt out of the scheme at any time and shall file an application in **CMP-04** and he will get shifted to normal scheme with immediate effect. He shall be required to submit ITC-01 for availing ITC **within 30 days** from the date of withdrawal. Such withdrawal shall be applicable to all the places in all the states/UTs.
  12. **As per rule 62**, such person has to file quarterly statement in **CMP-08** instead of monthly return and also taxes is to be paid on **quarterly** basis within 18 days from the end of the quarter. Further composition dealer shall file an **annual return** upto 30th April following the end of the financial year in form **GSTR-4**.
  13. such person can purchase either from same state or from some other state or from some other country but cannot sell to other state or to other country.
  14. such person has to pay tax **out of his own** even with regard to supplies which are exempt from GST but in case of traders tax shall be payable only with regard to taxable supplies.
  15. If person opting for composition scheme is taking supply of goods or services where reverse charge is applicable, in that case, composition dealer has to pay tax under reverse charge.

16. For the purposes of computing **aggregate turnover** of a person for determining his eligibility to pay tax under this section, the expression "aggregate turnover" shall include the value of supplies made by such person from the 1st day of April of a financial year upto the date when he becomes liable for registration under this Act, but shall not include the value of 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.

**Example:** Mr. X started trading in goods w.e.f. 01/04/2022 in Delhi and turnover of ₹ 40 lakh was achieved upto 30/06/2022. Turnover from 01/07/2022 to 31/01/2023 was ₹ 110 lakh. He earned interest on the loan given by him ₹ 5 lakh from 01/09/2022 to 31/12/2022, in this case he has to shift to normal scheme w.e.f. 01/02/2023 and turnover shall be 40 lakh + 110 lakh i.e. 150 lakh but it will not include interest of ₹ 5 lakh. His turnover in the state shall be considered to be 110 lakh for the purpose of charging tax under composition scheme.

17. For the purposes of determining the tax payable by a person under this section, the expression **"turnover in State or turnover in Union territory"** shall not include the value of following supplies, namely:—

- (i) supplies from the first day of April of a financial year upto the date when such person becomes liable for registration under this Act; and
- (ii) 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.

**Example:** Mr. X started trading in goods w.e.f. 01/04/2022 in Delhi and turnover of ₹ 30 lakh was achieved upto 30/06/2022 and he earned interest of ₹ 10 lakh upto 30/06/2022. Turnover from 01/07/2022 to 31/01/2023 was ₹ 110 lakh. His turnover from 01/02/2023 to 15/02/2023 was ₹ 10 lakh. In this case registration is required on 30/06/2022 because interest will also be considered for the purpose of limit of registration but he will be shifted to normal scheme after 15/02/2023 because interest shall not be taken into consideration for the purpose of aggregate turnover for composition scheme. His turnover in the state shall be considered to be 120 lakh for the purpose of charging tax under composition scheme.

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

**As per section 2(47) "exempt supply"** means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under section 11, or under section 6 of the Integrated Goods and Services Tax Act, and includes non-taxable supply.

**As per section 2(78) "non-taxable supply"** means a supply of goods or services or both which is not leviable to tax under this Act or under the Integrated Goods and Services Tax Act.

**As per section 2(108) "taxable supply"** means a supply of goods or services or both which is leviable to tax under this Act;

**As per 2 (112) "turnover in State" or "turnover in Union territory"** means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis) and exempt supplies made within a State or Union territory by a taxable person, exports of goods or services or both and inter-State supplies of goods or services or both made from the State or Union territory by the said taxable person but excludes central tax, State tax, Union territory tax, integrated tax and cess.

## **REGISTRATION**

**Question 1: write a note on Registration on the basis of Threshold exemption.**

**Answer: As per section 22**, every supplier of goods or services or services plus goods shall be liable to be registered in the State / Union Territory, if his aggregate turnover in a financial year exceeds the threshold limit which is given below:

**Limit for person supplying within the State/UT.**

SL.No	Name of State/UT	Limit for person supplying only services or services plus goods	Limit for person supplying only goods
01	Manipur	10,00,000	10,00,000
02	Mizoram	10,00,000	10,00,000
03	Nagaland	10,00,000	10,00,000
04	Tripura	10,00,000	10,00,000
05	Arunachal Pradesh	20,00,000	20,00,000
06	Meghalaya	20,00,000	20,00,000
07	Puducherry	20,00,000	20,00,000
08	Sikkim	20,00,000	20,00,000
09	Telangana	20,00,000	20,00,000
10	Uttarakhand	20,00,000	20,00,000
11	Other remaining States / UT	20,00,000	40,00,000

SL. No	Name of State/UT	Limit for person supplying Specified goods i.e. Ice cream and other edible ice, fly ash bricks, fly ash aggregates, fly ash blocks, bricks of fossil meals or similar siliceous earths, building bricks, earthen or roofing tiles or pan masala, Tobacco and manufactured tobacco substitutes (Notification No. 10/2019 (CT))
01	Manipur	10,00,000
02	Mizoram	10,00,000
03	Nagaland	10,00,000
04	Tripura	10,00,000
05	Other remaining States / UT	20,00,000

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

If any person is giving loan or deposit and is earning interest i.e. he is rendering service of lending money, for the purpose of registration, it will be considered to be supply of goods and not supply of services and limit for turnover shall be determined accordingly.

**As per section 2(47) "exempt supply"** means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under section 11, or under section 6 of the Integrated Goods and Services Tax Act, and includes non-taxable supply;

**As per section 2(78) "non-taxable supply"** means a supply of goods or services or both which is not leviable to tax under this Act or under the Integrated Goods and Services Tax Act;

**Example:** Mr. X is supplying goods in Delhi has turnover of ₹32,00,000 and also he has earned interest of ₹2,00,000 on the loan or deposit given by him, in this case it will be considered that he is dealing only in goods and threshold exemption limit of ₹40,00,000 shall be applicable and turnover in this case shall be ₹34,00,000 i.e. ₹2,00,000 shall be added to the turnover. If Turnover of goods is ₹39,00,000 and interest is ₹2,00,000, turnover is ₹41,00,000 and registration is required.

**Question 2: Explain Persons not liable for registration.****Answer: Persons not liable for registration. Section 23**

(1) The following persons shall not be liable to registration, namely:—

- (a) 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 or under the Integrated Goods and Services Tax Act;
- (b) an agriculturist, to the extent of supply of produce out of cultivation of land.

**As per section 2 (7), "agriculturist"** means an individual or a Hindu Undivided Family who undertakes cultivation of land—

- (a) by own labour, or
- (b) by the labour of family, or
- (c) by servants on wages payable in cash or kind or by hired labour under personal supervision or the personal supervision of any member of the family;

(2) The Government may, on the recommendations of the Council, by notification, specify the category of persons who may be exempted from obtaining registration under this Act.

As per notification number CT-5/2017 dated 19.06.2017, Government has exempted the persons from registration who are only engaged in making supplies of taxable goods or services or both, total tax on which is liable to be paid on reverse charge basis by the recipient of such goods or services under section 9(3). E.g. reverse charge is applicable on the services provided by an advocate hence even if turnover has exceeded the threshold exemption limit, no registration is required.

**Question 3: Explain Registration required irrespective of Turnover.**

**Answer: As per section 24,** The following persons must take registration irrespective of their turnover.

- (i) Persons making any inter-State taxable supply of goods (In case of Inter - State supply of services normal limit of ₹10,00,000/₹20,00,000 shall be applicable.) In case of Inter State supply of goods, registration is required irrespective of turnover but in case of Inter State supply of handicrafts goods, limit of ₹10,00,000/₹20,00,000/₹40,00,000 shall be applicable. **Handicraft goods:** means the goods made by the craftsmen predominantly by hand even though some machinery may also be used in the process.
- (ii) Casual taxable persons making taxable supply. E.g. Mr. X is a dealer in the state of U.P. and his turnover is ₹ 18,00,000 and he will be selling goods in a trade fair in Delhi, in this case registration is required in the state of Delhi as casual taxable person. If he is selling handicraft goods, registration shall be required only if aggregate turnover of ₹ 40,00,000 has crossed.
- (iii) Non-resident taxable persons making taxable supply.
- (iv) Persons who are required to pay tax under reverse charge.
- (v) Persons who are required to pay tax under section 9 (5), e.g. UBER, OLA CABS etc.
- (vi) Every electronic commerce operator, e.g. Amazon, Flipkart etc.
- (vii) Persons supplying goods through electronic commerce operator shall also be required to take registration but in case of handicrafts goods normal limit shall be applicable.

Further in case of services normal limit of ₹10,00,000/₹20,00,000 shall be applicable.

Also limit of ₹10,00,000/₹20,00,000 shall be applicable in case of person supplying services through ECO covered u/s 9(5).

**Question 4: Explain procedure for registration.****Answer: Procedure for Registration Section 25**

(1) Every person who is liable to be registered shall apply for registration in every such State or Union territory from where he is making supply, within thirty days from the date on which he becomes liable to registration.

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

(2) A person shall be granted a single registration in a State or Union territory, however a person having multiple places of business in a State or Union territory shall have the option to take a separate registration for each such place of business.

(3) A person is allowed to take voluntary registration at any time.

(4)/(5) A person who has obtained more than one registration, shall, in respect of each such registration, be treated as distinct persons for the purposes of this Act.

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

(6A) Every registered person shall undergo authentication of Aadhaar number otherwise his certificate shall be deemed to be invalid.

(6B) Every **individual** shall, in order to be eligible for grant of registration, undergo authentication of Aadhaar number.

(6C) **Every person, other than an individual**, shall undergo authentication 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 specify:

Where person or class of persons covered under section 25(6A) or 25(6B) or 25(6C) have not been assigned the Aadhaar Number, they shall be offered alternate and viable means of identification in such manner as the Government may specify.

(6D) The provisions of sub-section (6A) or sub-section (6B) or sub-section (6C) shall not apply to.

- ✓ A person who is not a citizen of India
- ✓ Department or establishment of State Government or Central Government
- ✓ Local authority
- ✓ Statutory body
- ✓ Public Sector Undertaking
- ✓ A person applying for Unique Identity Number

**[Notification No.03/2021 CT dated 23.02.2021]**

**Procedure for Registration Rule 8/Rule 9**

Every person applying for registration shall submit information in part A of REG-01 on the common portal and it will contain details like legal name, Permanent Account Number and the state / union territory. The Permanent Account Number shall be validated online by the common portal from the database maintained by the Central Board of Direct Taxes and shall also be verified through separate one-time passwords sent to the mobile number and e-mail address linked to the Permanent Account Number.

After verification of the PAN and email id and phone number, a temporary reference number (TRN) shall be generated and sent on email / mobile no. of the applicant.

Using TRN, the applicant shall submit part B of REG-01. There will be two categories of registration.

**Category -1: Applicant opting for Aadhaar authentication**

Where an applicant, opts for authentication of Aadhaar number, he shall, undergo authentication of Aadhaar number and the date of submission of the application in such cases shall be the date of authentication of the Aadhaar number, or fifteen days from the submission of the application in Part B of FORM GST REG-01 whichever is earlier:

If such applicant is identified on the common portal on the basis of data analysis and risk parameters, such person shall be required to under go biometric-based aadhaar authentication and photograph of the applicant or other specified person and also original copy of the documents shall be verified at the specified Facilitation Centre (at present setup only in Gujrat) and the date of application shall be the date of completion of such process.

In this case registration shall be granted in Form No. REG-06 within 7 days or if there is any discrepancy, it will be reported to the applicant within 7 days and applicant shall be required to rectify within 7 days otherwise application shall be rejected. If he has rectified the discrepancy, certificate shall be given within 7

days. If the department has not issued certificate in 7 days, the registration shall be deemed to have been approved.

### **Category-2: Others**

It will be applicable in the following cases:

- (i) A person who has failed to undergo authentication of Aadhaar number or has not opted for authentication of Aadhaar number; or
- (ii) a person, who has undergone authentication of Aadhaar number is identified on the common portal, based on data analysis and risk parameters, for carrying out physical verification of places of business; or
- (iii) the proper officer, with the approval of an officer authorised by the Commissioner not below the rank of Assistant Commissioner, deems it fit to carry out physical verification of places of business,

In the above cases registration shall be granted within 30 days of submission of application or if there is any discrepancy, it will be reported within 30 days and the applicant shall be required to rectify within 7 days otherwise application shall be rejected. If he has rectified the discrepancy, certificate shall be given within 7 days. If the department has not issued certificate in 7 days, the registration shall be deemed to have been approved.

### **Issue of Registration certificate**

Certificate of registration shall be granted in **form no. REG-06** and if supplier has more than one branch in a State or Union Territory, he will get one registration certificate and all the places of the supplier shall be mentioned in the certificate. The supplier shall be allotted goods and service tax identification number and it will consist of

- (a) two characters for the State code.
- (b) ten characters for the Permanent Account Number or the Tax Deduction and Collection Account Number.
- (c) two characters for the entity code and
- (d) one checksum character.

### **Effective Date of Registration**

If applicant has submitted application within a period of 30 days, he will be considered to be registered from the date on which he becomes liable to registration and if application is given after 30 days, effective date of registration shall be the date of granting registration.

Example:

1. In case of Mr. X supplying goods limit of ₹ 40,00,000 exceeded on 10<sup>th</sup> August 2022 and he applied for registration on 20<sup>th</sup> August 2022 and registration was granted on 30<sup>th</sup> August 2022, In this case effective date shall be 10<sup>th</sup> August 2022 but if he has applied on 15<sup>th</sup> September 2022 and registration was granted on 25<sup>th</sup> September 2022, Registration shall be effective from 25<sup>th</sup> September 2022.
2. Turnover of Mr. X supplying goods on 10<sup>th</sup> August 2022 is ₹ 35,00,000 and he applied for voluntary registration and registration was granted on 25<sup>th</sup> August 2022, In this case registration is effective from 25<sup>th</sup> August 2022 but if his Turnover has exceeded ₹40,00,000 on 20<sup>th</sup> August 2022, In this case applicant should inform the department for change of category (REG-04) and registration granted shall be applicable from 20<sup>th</sup> August 2022.

### **Question 5: Explain Issue of Revised Invoice at the time of registration**

#### **Answer: Issue of Revised Invoice at the time of registration Section 31(3)(a)**

A registered person is allowed to issue revised invoice for the invoice already issued from the effective date of registration till the date of issuance of registration certificate. Further revised invoice should be issued within one month from the date of issuing of registration certificate.

The registered person may issue a consolidated revised tax invoice in respect of all taxable supplies made to a recipient who is not registered.

Example: Mr. A, a registered supplier has made supplies to unregistered recipient as given below: supply 1 ₹60,000, supply 2 ₹40,000, supply 3 ₹70,000, supply 4 ₹1,00,000, in this case consolidated revised tax invoice can be issued for all the supplies.



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.

Example: Mr. A, a registered supplier has made supplies to unregistered recipient as given below: supply 1 ₹60,000, supply 2 ₹40,000, supply 3 ₹70,000, supply 4 ₹1,00,000, in this case consolidated revised tax invoice can be issued for all the supplies.

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.

**Question 6: Write a note on separate registration for multiple places of business within a state or union territory.**

**Answer: Separate registration for multiple places of business within a State or a Union territory Section 25(2)**

A registered person having two or more places of business in a State or a Union territory shall have the option to take one registration or separate registration for each branch. If separate registration is taken they will be called deemed distinct persons and in case of supply to each other they will issue invoice and charge GST and also ITC shall be allowed. All the branches should be either in the normal scheme or in the composition scheme.

If earlier there was one registration but now separate registration has been taken, in such cases input tax credit can be transferred to the branch but in the ratio of value of asset held by them at the time of registration.

**Question 7: Explain Suo motu registration.**

**Answer:**

**Suo motu registration Section 25(8)**

If GST officer is find that a person is liable to registration but he has not taken registration, in that case GST officer can register him suo motu and such person shall stand register from the date of order issued by the GST Officer and such person shall be liable to file application for registration within 90 days from the date of granting suo motu registration.

Such person can file an appeal with the Appellate Authority and if Appellate Authority has also confirmed such Suo motu registration, in that case he should apply for registration within 30 days of passing the order by the Appellate Authority and registration shall be effective from the date of granting suo motu registration.

**Question 8: write a note on amendment in Registration Certificate.**

**Answer:**

**Amendment of registration Section 28**

A registered person may apply for amendment of registration in REG-14 within 15 days of occurring of such change and GST Officer shall grant amendment within 15 days of receiving the intimation or the GST Officer shall raise objection within 7 days of the intimation. The applicant should remove objection within 7 days of receiving the intimation and GST Officer shall grant amendment within 7 days of receiving the intimation.

**Amendment is allowed with regard to the following:**

- (i) legal name of business;
- (ii) address of the principal place of business or any additional place(s) of business; or
- (iii) addition, deletion or retirement of partners or directors, Karta, Managing Committee, Board of Trustees, Chief Executive Officer or equivalent, responsible for the day to day affairs of the business,-

If the proper officer fails to take any action,—

- (a) within a period of fifteen working days from the date of submission of the application, or
- (b) within a period of seven working days from the date of the receipt of the reply to the notice to show cause,

the certificate of registration shall stand amended to the extent applied for and the amended certificate shall be made available to the registered person on the common portal.

If amendment is for change in mobile no. or email address and such amendment shall be applicable upon submission of application in REG-14 but there will be online verification through OTP.

**Question 9: Explain cancellation of registration Section 29.**

**Answer:**

Cancellation shall be of two types:

1. **At the request of the applicant**
2. **Suo motto**

1. **At the request of the applicant:** Registration can be cancelled at the request of the applicant and for this purpose application should be given in Form REG-16 within 30 days of the occurrence of the event leading to cancellation and GST Officer shall pass orders within 30 days from the date of application.
2. **Suo motto:** Department can issue a notice in REG-17 for cancellation of registration certificate and a period of 7 days shall be allowed to the applicant to reply such notice. If the GST Officer is not satisfied, certificate shall be cancelled.

**Certificate can be cancelled in the following cases:**

1. Business/Profession has been closed
2. The registered person has expired
3. The person is not required to be registered under section 22 or section 24
4. He has not filed return under section 39(1) for a period exceeding 6 months if return was to be filed on monthly basis and for period exceeding 2 quarters if return was to be filed on quarterly basis
5. In case of a composition dealer, if he has not filed annual return in GSTR-4 for a period exceeding 3 months.
6. If he has taken voluntary registration but he has not commenced business within 6 months from the date of registration
7. He issued invoice without supply of goods or services
8. He has violated the provisions of section 171
9. He avails ITC in violation of section 16
10. If the amounts reported in GSTR-1 and GSTR-2B are different from the amounts reported in GSTR-3B
11. Violates the provision of rule 86B.
12. Violates the provision of rule 10A. As per rule 10A, 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, 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. Eg. if registration is granted on 01-05-2022, bank details should be given upto 14<sup>th</sup> June 2022 or 20<sup>th</sup> June 2022 whichever is earlier i.e. 14<sup>th</sup> June 2022

**Suspension of registration**

Before cancellation, certificate of registration shall be suspended during the proceedings of cancellation. In case of cancellation at the request of the applicant, **certificate shall be suspended from the date of submission of application or from the date from which cancellation is requested whichever is later.** E.g. Mr. X has applied for cancellation on 15.10.2022 that his registration should be cancelled from 01.11.2022, in this case certificate shall be suspended from 01.11.2022.

If the department decides to cancel the certificate, **they will suspend the registration from a particular date to be decided by them** and for this purpose notice shall be given in REG-17 and a time period of 7 days shall be allowed to submit reply.

A registered person, whose registration has been suspended **shall not make any taxable supply during the period of suspension and shall not be required to furnish any return under section 39** i.e. the registered person shall not issue a tax invoice and, accordingly, not charge tax on supplies made by him during the period of suspension. Further such person shall not be granted any refund during the period of suspension.

The proper officer shall have the powers to revoke the suspension and in that case **suspension shall be revoked from the date from which it has come into operation** and the person shall be required to issue revised invoice for such period and also provision of section 40 shall be applicable. (First return Section 40, 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.)

If registration was suspended for not filing the return, suspension shall be deemed to be revoked on submission of all the pending returns along with payment of tax, interest or late fee etc.

**Question 10: write a note on revocation of cancellation of Registration Section 30.**

**Answer:**

Any registered person, whose registration is cancelled may apply for revocation of cancellation **within 30 days** from the date of service of the cancellation order:

However such period may, on sufficient cause being shown be extended,—

(a) by the Additional Commissioner or the Joint Commissioner, as the case may be, for a period not exceeding **30 days**;

(b) by the Commissioner, for a further period not exceeding **30 days**, beyond the period specified in clause (a).

The proper officer may, either revoke cancellation of the registration or reject the application:

**Provided** that no application for revocation shall be filed, if the registration has been cancelled for the failure of the registered person to furnish returns, unless such returns are furnished and any amount due as tax, in terms of such returns, has been paid along with any amount payable towards interest, penalty and late fee in respect of the said returns.

If the proper officer is satisfied, he shall revoke the cancellation of registration within a period of **30 days** from the date of the receipt of the application.

The proper officer may reject the application but before rejecting, a notice shall be given and a reply shall be given within 7 days and final decision shall be taken within 30 days.

As per Rule 10B, the registered person while applying for revocation of cancellation shall be required to under go Aadhaar Authentication.

**Provided** that if Aadhaar number has not been assigned to the person required to undergo authentication of the Aadhaar number, such person shall furnish the following identification documents, namely: -

(a) her/his Aadhaar Enrolment ID slip; and

(b) (i) Bank passbook with photograph; or

(ii) Voter identity card issued by the Election Commission of India; or

(iii) Passport; or

(iv) Driving license issued by the Licensing Authority under the Motor Vehicles Act, 1988 (59 of 1988):

**Question 11: Explain tax liability with regard to the goods lying in stock at the time of cancellation of registration certificate.**

**Answer:**

**As per Schedule II**, if any person ceases to be a taxable person, any goods forming part of the assets of any business carried on by him shall be deemed to be supplied by him.

**As per section 29(5)**, every registered person whose registration is cancelled shall pay an amount, 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 on the day immediately preceding the date of such cancellation or the output tax payable on such goods, whichever is higher.

However, in case of capital goods, the amount payable shall be computed for the remaining life of the capital goods (Rule 44) or the tax on the transaction value of such capital goods, whichever is higher.

**Question 12: Explain GST provisions in case of casual taxable person.**

**Answer: Casual Taxable person**

**As per section 2 (20)**, "**casual taxable person**" means a person who occasionally undertakes transactions involving supply of goods or services or both in the course or furtherance of business, whether as principal, agent or in any other capacity, in a State or a Union territory where he has no fixed place of business.

Every casual taxable person shall also be required to take registration irrespective of the turnover and procedure shall be same. For this purpose he will apply in **REG-01**.

He should apply for registration **atleast 5 days** prior to commencement of business. Registration shall be granted only after the applicant has paid estimated amount of GST in advance.

**As per section 27**, Certificate shall be valid for the specified period but **maximum 90 days** however proper officer may extend it further but for **maximum 90 days** i.e. total period can be **maximum 180 days**. Such person shall make advance deposit of GST as estimated by him.

Every casual taxable person shall be required to submit monthly return similarly as required to be filed by normal registered person. (GSTR-1) however such person is allowed to file GSTR-1 before the end of the current tax period in case of closure of their business.

The amount of advance tax deposited by casual taxable person shall not be refunded unless he furnished GSTR 3B.

**Question 13: Explain GST provisions in case of Non-Resident taxable person.**

**Answer: Non – Resident Taxable Person**

**As per section 2 (77)**, "**non-resident taxable person**" means any person who occasionally undertakes transactions involving supply of goods or services or both, whether as principal or agent or in any other capacity, but who has no fixed place of business or residence in India.

NRTP shall also be required to take registration irrespective of the turnover and he has to apply in **REG-09**.

He should apply for registration **atleast 5 days** prior to commencement of business. Registration shall be granted only after the applicant has paid estimated amount of GST in advance.

A non-resident taxable person shall electronically submit an application, along with a self-attested copy of his valid passport. In the case of a business entity incorporated or established outside India, the application for 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 Permanent Account Number, if available.

**As per section 27**, Certificate shall be valid for the specified period but **maximum 90 days** however proper officer may extend it further but for **maximum 90 days** i.e. total period can be **maximum 180 days**.

**Extension in period of operation by non-resident taxable person Rule 15**

**As per Rule 63**, Return shall be furnished in form **GSTR-5** within 13 days after the end of the month or within 7 days after the last day of validity of registration. Whichever is earlier. (NRTP is not required to file GSTR-1 or GSTR-3B or annual return)

**Question 14: Explain the manner in which GST is payable by an electronic commerce operator covered u/s 9(5).**

**Answer:** As per section 9(5), The Government may, on the recommendations of the Council, by notification, specify categories of services the tax on supplies of which shall be paid by the electronic commerce operator if such services are supplied through it, and all the provisions of this Act shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services.

Further if an electronic commerce operator does not have a physical presence in the taxable territory, such electronic commerce operator shall appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.

#### **NOTIFICATION NO. 17/2017-CENTRAL TAX (RATE)**

In case of the following categories of services, the tax on intra-State supplies shall be paid by the electronic commerce operator—

(i) services by way of transportation of passengers by a radio-taxi, motorcab, maxicab, motor cycle, omnibus or any other motor vehicle;

(ii) services by way of providing accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes, except where the person supplying such service through electronic commerce operator is liable for registration under section 22 of the said Central Goods and Services Tax Act;

(iii) services by way of house-keeping, such as plumbing, carpentering etc., except where the person supplying such service through electronic commerce operator is liable for registration under section 22 of the said Central Goods and Services Tax Act.

(iv) supply of restaurant service other than the services supplied by restaurant, eating joints etc. located at specified premises. Specified premises means premises providing hotel accommodation service having declared tariff of any unit of accommodation above seven thousand five hundred rupees per unit per day or equivalent.

**Question 15: Explain Registration in case of Special Economic Zone.**

**Answer: Registration in case of Special Economic Zone**

**Special Economic Zone**

The term SEZ is defined in SEZ Act, 2005, Section 2(z), SEZ Means a specific area with well - defined physical boundaries and which has been declared to be SEZ and a Development commissioner is appointed by the Government.

**A person having a unit(s) in a Special Economic Zone or being a Special Economic Zone developer** shall make a separate application for registration as a distinct from his other units located outside the Special Economic Zone.

**Example:** ABC limited has 2 Units in UP. One in SEZ and one Outside SEZ, In this case Company should take 2 Registration. If Company has 2 units in SEZ and one outside SEZ, Still 2 registration are required i.e. one for all Units of SEZ and One for Unit Outside SEZ.

**Question 16: Explain special provisions with regard to Notified International Agencies.**

**Answer:**

**As per section 25 (9),** Certain agencies shall be required to obtain Unique Identity Number and are as given below:

1. Any agency of the United Nations Organisation.
2. Consulate or Embassy of foreign countries.
3. Any other person or class of persons, as may be notified by the Commissioner.

Such agencies should apply in **REG-13** for obtaining an UIN.

Persons supplying goods/services to such agencies shall collect GST and the number so given shall be mentioned in the Invoice but such agencies can claim refund subsequently. As per notification no. 16/2017 CT (R) 28-06-2017, such agencies are allowed to claim refund of the taxes paid by them.

They will be required to claim refund before expiry of 2 years from the last day of the quarter in which supply was received.

Such agencies shall be required to furnish details in **GSTR-11 on quarterly** basis to claim refund but maximum within time allowed under section 54 i.e. within 2 years.

**Question 17: Explain Provisions for Tax Collection at source under GST by ECO.**

**Answer: Collection of tax at source Section 52.**

**As per section 24,** the person collecting Tax has to take compulsory registration irrespective of the turnover. He should apply for registration in **REG-07**.

1. Every electronic commerce operator shall collect an amount calculated at such rate not exceeding **Two per cent** (1% CGST + 1% SGST), as may be notified by the Government, 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.
2. The amount collected shall be paid to the Government by the operator **within ten days** after the end of the month in which such collection is made and Return shall be furnished in form **GSTR-8** within 10 days after the end of the month.
3. Every operator who collects the amount shall furnish an annual statement upto **31st December** following the end of such financial year. (GSTR 9B)
4. 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.

**Example:**

ABC limited has sold goods worth ₹20,00,000 plus GST ₹4,00,000 through Amazon and Amazon is entitled for a commission of 15%, in this case, Amazon shall collect ₹24,00,000 from the buyer and shall deduct ₹3,00,000 + GST ₹ 60,000. Amazon shall pay balance amount to ABC limited i.e. ₹ 24,00,000-3,60,000 =20,40,000.

ABC limited has to pay GST of ₹ 4,00,000 but ITC of ₹ 60,000 shall be deducted and balance amount shall be ₹ 3,40,000.

## **MEANING OF SUPPLY**

**Question 1: Explain Supply under GST.**

**Answer: Scope of supply Section 7.**

**"Supply"** includes all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business.

**Example :**

(i) ABC limited has sold certain goods for a consideration of ₹ 10,00,000, in this case it will be considered to be supply and company shall charge GST from the buyer and pay it to the Government.

(ii) A Chartered Accountant has supplied services to a client for a consideration of ₹ 10,00,000, in this case it will be considered to be supply and CA will charge GST from the client and pay it to the Government.

(iii) A dealer of laptop has taken one LCD from a dealer of LCD as a barter, in this case GST shall be payable on the transaction value as per section 15 i.e. value applicable in general and if such value is ₹ 50,000, each of the dealer shall pay GST.

(iv) If a dealer of Maruti car has given one motor for ₹ 8,00,000 and has also taken used motor car of the customer, in this GST is payable on the transaction value and if such value is ₹ 10,00,000, GST is payable on ₹ 10,00,000 but no GST by the customer because it is not in the course of business.

**Question 2: Explain Deemed supply under schedule I**

**Answer: Schedule I: Deemed supply i.e. supply without consideration**

In order to constitute supply there must be consideration but infact even the supply without consideration is taxable but only in situation given in schedule I and is as given below:

### **1. Permanent Transfer or disposal of assets of business where input tax credit has been availed**

If any person has taken ITC with regard to assets of business and subsequently such assets have been disposed off by him without consideration, it will be considered to be supply and GST shall be payable but if services have been supplied without consideration, it will not be considered to be supply. Further if goods or services have been supplied to the Relative / Related person or to the deemed distinct person, it will be considered to be supply even if no ITC has been taken.

**Example**

(i) A dealer of air-conditioners purchased AC and has taken ITC but after that permanently transfers an air conditioner from his stock in trade, for personal use at his residence. The transaction will constitute a supply as it is a permanent transfer/ disposal of business assets. The only condition is that input tax credit should have been availed on such assets.

(ii) A Chartered Accountant has purchased one laptop for use in his office for ₹ 50,000 and paid Input tax ₹10,000 and tax credit of ₹10,000 was taken but after 3 years it was given by him to one of his friend without consideration, in this case it will be considered to be supply and output GST shall be payable on the transaction value. If transaction value is ₹20,000 and rate of GST is 15%, output GST shall be ₹3,000 (also provisions of section 18(6) shall be applicable: in this case remaining life is 24 month and tax credit to be reversed shall be  $10,000 / 60 \times 24 = 4,000$ . Hence GST Payable shall be ₹ 4,000).

(iii) Mr. X purchased one motor car for the purpose of his business on which no ITC was allowed u/s 17(5) and subsequently it was gifted by him to one of his friends, in this case it will not be considered to be supply because no ITC was taken on it but if it is sold for a consideration, it will be considered to be a supply and GST shall be payable.(as per section 7)

(iv) A Chartered Accountant has rendered services to one of its client without consideration, in this case it is not a supply.

(v) ABC limited purchased 10 laptops and has taken ITC but after 2 years it was given free of cost to some students, it will be considered to be supply (also provisions of section 18(6) shall be applicable).

(vi) Mr. X has rendered free services to one of the related persons, in this case it will be considered to be supply but if free services were given to a person who is neither a related a person nor a Distinct person, in that case it will not be considered to be supply.

(vii) Mr. Y has sold certain goods on which no ITC has been taken, to one of the related persons, in this case it will be considered to be supply but if goods were given to a person who is neither a related a person nor a Distinct person, in that case it will not be considered to be supply.

(vii) ABC limited has transferred certain goods on which no ITC was taken, to its own branch in some other State without consideration, it will be considered to be supply.

(ix) Raghbir Fabrics transfers 1000 shirts from his factory (whether ITC taken or not) located in Lucknow to his retail showroom in Delhi so that the same can be sold from there. The factory and retail showroom of Raghbir Fabrics are registered in the States where they are located. Although no consideration is charged, supply of goods from factory to retail showroom constitutes supply.

**If goods or services have been given by employer to the employee**, they will be considered to be related person and GST shall be payable even if there is no consideration but if value of such goods or services is upto ₹50,000 during a particular financial year, it will not be considered to be supply, however as per section 17(5), any ITC taken with regard to such goods has to be reversed.

**Example**

(i) ABC limited has gifted certain items valued ₹ 45,000 to its employee Mr. X, it will not be considered to be supply.

(ii) ABC limited has gifted certain items valued ₹ 2,00,000 to its employee Mr. X, it will be considered to be supply. (whether ₹1,50,000 or ₹2,00,000 is not clear.) but if it is because of contractual agreement, it will not be considered to be supply. E.g. ABC Ltd. has employed Mr. X and as per agreement salary of ₹1,00,000 p.m. shall be given to Mr. X. Also goods of value of ₹ 2,00,000 shall be given free of cost on Diwali in this case no GST is payable on supply of goods valued ₹ 2,00,000.

**2. Supply of goods by principal to agent**

Any supply of goods **by a principal to his agent** where the agent undertakes to supply such goods on behalf of the principal shall be considered to be supply. Similarly any supply of goods by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal shall be considered to be supply. E.g. If Mr. X has authorized Mr. Y to sell certain goods and Mr. Y has sold the goods to Mr. Z in his own name, in this case Mr. Y is agent of Mr. X and if goods were supplied by Mr. X to Mr. Y free of cost, it will be considered to be supply but if Mr. Y has sold the goods in name of Mr. X, he will not be considered to be agent.

**Question 3: Explain taxability if GST in case of Import of Services**

**Answer: As per section 7**, Import of services for a consideration for business purpose or for personal purpose shall be considered to be supply, however as per notification no. 9/2017 IT(R), Services imported by an individual for personal purpose shall be exempt from GST but no such exemption shall be allowed in case of OIDAR services i.e. online information and data base access and retrieval services. If individual is not registered, GST shall be collected by OIDAR and tax shall be paid by OIDAR and if individual is registered, GST shall be paid by individual under reverse charge.

**As per schedule I**, Import of services without consideration by a person from a related person or from any of his establishment outside India in the course or furtherance of business shall be taxable i.e. no GST in any other case without consideration.

**Example**

(i) Mr. X imported services from outside India for a consideration for business purpose, it is taxable and Mr. X will pay tax under reverse charge.

(ii) Mr. X imported services from outside India for a consideration for personal purpose, it is supply as per section 7(1)(b) but it is exempt as per notification no. 9/2017.

(iii) Mr. X imported services from outside India without consideration for business purpose, it is exempt as per schedule I.

(iv) Mr. X imported services from outside India without consideration and it is OIDAR service, it is exempt in the hands of Mr. X and also in the hands of supplier as per schedule I.

(v) Mr. X imported services from outside India for a consideration and it is OIDAR service, it is exempt in the hands of Mr. X if he is unregistered and tax shall be paid by provider of OIDAR service but if Mr. X is registered, he will be required to pay tax under reverse charge.

(vi) ABC limited has taken services from outside India for business without consideration, it is exempt but if services are taken from a related person or from its establishment outside India, it will be taxable and GST is to be paid by ABC limited under reverse charge.



(vii) Sumedha, a proprietor registered in Delhi, has sought architect services from his brother without consideration, located in US, with respect to his newly constructed house in Delhi. In this case it will not be considered to be supply as per schedule I but if there is a consideration it will be supply as per section 7(1)(b) however it will be exempt as per notification no. 9/2017.

(viii) ABC Associates received legal consultancy services from its head office located in Malaysia. The head office has rendered such services free of cost to its branch office. Since ABC Associates and the branch office are related persons, services received by ABC Associates will qualify as supply even though the head office has not charged anything from it.

**Conclusion:**

1. Import of services without consideration is always exempt except when imported by a person from a related person in the course of business.

2. Import of service for consideration is always taxable except when taken by Individual for personal purpose other than OIDAR services.

**Question 4: Write a note on Composite and Mixed supplies.**

**Answer: Tax liability on composite and mixed supplies. Section 8.**

The tax liability on a composite or a mixed supply shall be determined in the following manner, namely:—

- (a) a composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply; and
- (b) a mixed supply comprising two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax.

**As per section 2(30), "composite supply"** means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply.

**As per section 2(74), "mixed supply"** means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply:

**Example**

1. Charger supplied alongwith mobile phone is a composite supply.
2. A gift pack comprising of chocolates and sweets is a mixed supply.
3. Suvarna Manufacturers entered into a contract with XYZ Ltd. for supply of readymade shirts packed in designer boxes at XYZ Ltd.'s outlet. Further, Suvarna Manufacturers would also get them insured during transit. In this case, supply of goods, packing materials, transport & insurance is a composite supply wherein supply of goods is principal supply.
4. When a consumer buys a television set and he also gets warranty and a maintenance contract with the TV, this supply is a composite supply. In this example, supply of TV is the principal supply, warranty and maintenance services are ancillary.
5. A travel ticket from Mumbai to Delhi may include service of food being served on board, free insurance, and the use of airport lounge. In this case, the transport of passenger, constitutes the pre-dominant element of the composite supply, and is treated as the principal supply and all other supplies are ancillary.
6. A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drink and fruit juices when supplied for a single price is a mixed supply. Each of these items can be supplied separately and is not dependent on any other. It shall not be a mixed supply if these items are supplied separately.
7. A shopkeeper selling storage water bottles along with refrigerator. Bottles and the refrigerator can easily be priced and sold independently and are not naturally bundled. So, such supplies are mixed supplies.

**Question 5: Determine whether the following supplies amount to composite supplies.**

- (a) A hotel provides 4 days-3 nights package wherein the facility of breakfast and dinner is provided alongwith the room accommodation.
- (b) A toothpaste company has offered the scheme of free toothbrush alongwith the toothpaste.

**Answer:** Under composite supply, two or more taxable supplies of goods or services or both, or any combination thereof, are naturally bundled and supplied in conjunction with each other, in the ordinary course of business, one of which is a principal supply.

In view of the same,

(a) since, supply of breakfast and dinner with the accommodation in the hotel are naturally bundled, said supplies qualify as 'composite supply'.

(b) since supply of toothbrush alongwith the toothpaste are not naturally bundled, said supplies do not qualify as 'composite supply'.

**Meaning of Business 2(17)**

**"business" includes—**

- (a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;
- (b) any activity or transaction in connection with or incidental or ancillary to sub-clause (a);
- (c) any activity or transaction in the nature of sub-clause (a), whether or not there is volume, frequency, continuity or regularity of such transaction;
- (d) supply or acquisition of goods including capital goods and services in connection with commencement or closure of business;
- (e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members;

**Example :** A Resident Welfare Association provides the service of depositing the electricity bills of the residents in lieu of some nominal charges. Provision of service by a club or association or society to its members is treated as business as this is included in the definition of 'business'.

- (f) admission, for a consideration, of persons to any premises;

**Example :** Services by way of admission to circus, cinema halls, amusement parks including theme parks, water parks, etc. are considered as business as these are services by way of admission of persons to any premises for a consideration.

- (g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;
- (h) activities of a race club including by way of totalisator or a license to book maker or activities of a licensed book maker in such club; and

**Example :** Royal Turf Race Club is engaged in facilitating the wagering (betting) transactions on horses placed through totalisator. For providing the service of facilitating wagering transactions, Royal Turf Race Club gets commission which is deducted and retained by the club from the total bet value. Said services amount to supply as the activities of a race club are included in business.

- (i) any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities;

Government may act in two different capacities

1. Sovereign authority: Activities like dispensing justice, maintaining armed forces, conducting audit by CAG, Elections to Parliament etc. shall be considered to be activities as Sovereign Authority and it is not covered in business and no GST is payable.
2. Public authority: All other activities except above are activities as public authority and is business and is subject to GST.( some of these activities have been specifically exempted.

**Totalisator** is a computerised device that pools the wagers/bets (after deduction of charges and statutory taxes) of various persons placing the bet and also divides the total wager amount to be distributed to the winning persons.

**Meaning of Consideration 2(31)**

**"consideration"** in relation to the supply of goods / services includes—

- (a) any payment made whether in money or otherwise in respect of the supply of goods / services, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government.

**Example**

(i) Mr. X purchased goods from Mr. Y and payment was made to Mr. Y by Mr. Z on behalf of Mr. X, it will be considered to be consideration.

(ii) ABC limited is selling a product for ₹1,000 but Govt. has given subsidy of ₹200, In this case consideration shall be ₹800 and GST shall be payable on ₹800 but if subsidy is given by any other person instead of Govt., consideration shall be ₹1,000.

(b) the monetary value of any act or forbearance in respect of the supply of goods / services whether by the recipient or by any other person.

**Provided** that a deposit given in respect of the supply of goods / services shall not be considered as payment made for such supply unless the supplier applies such deposit as consideration for the said supply.

**Example:**

Mr. X has taken a property on rent ₹ 20,000 p.m. and has given security deposit of ₹ 60,000, In this case GST shall be payable on ₹ 20,000. Mr. X has not paid rent for 2 months and the owner has adjusted ₹ 40,000 out of security towards rent, In this case GST shall be payable on ₹ 40,000.

**Meaning of Goods Section 2(52)**

**"Goods"** means every kind of movable property other than **money and securities** but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply. (As per schedule 3 actionable claim shall not be considered to be supply except lottery, betting and gambling.)

**Meaning of Services Section 2(102)**

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

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

**Meaning of Money 2(75)**

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

**Question 6: Explain activities to be considered as supply of goods or services under schedule II.****Answer: Activities or transactions to be treated as supply of goods or supply of services: Schedule II**

- (i) any transfer of title in goods under an agreement which stipulates that property in goods shall pass at a future date upon payment of full consideration as agreed, is a supply of goods.
- (ii) Any treatment or process which is applied to another person's goods is a supply of services.
- (iii) where any person ceases to be a taxable person, any goods forming part of the assets of any business carried on by him shall be deemed to be supplied by him in the course or furtherance of his business immediately before he ceases to be a taxable person.
- (iv) agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act;

**The following composite supplies shall be treated as a supply of services, namely:—**

- (a) works contract as defined in clause (119) of section 2; and
- (b) supply, by way of being food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption).

**CLARIFICATION****1. Free samples and gifts:**

It is a common practice among certain sections of trade and industry, such as, pharmaceutical companies which often provide drug samples to their stockists, dealers, medical practitioners, etc. without charging any consideration. In such cases, the supplier should not take ITC as per section 17(5) and also it will not be considered to be supply as per schedule-I or the supplier should take ITC and it will be considered to be supply as per schedule-I.

(Circular no. 92/2019)

## **2. Art works sent by artists to galleries for exhibition is not a supply**

Artists give their work of art to galleries where it is exhibited for supply. However, no consideration flows from the gallery to the artist when the art works are sent to the gallery for exhibition and therefore, the same is not a supply. It is only when a buyer selects a particular art work displayed at the gallery, that the actual supply takes place and applicable GST would be payable at the time of such supply.

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

## **3. CBIC has clarified Taxability of ‘tenancy rights’/pagadi under GST as under:**

Pagadi system, i.e. transfer of tenancy rights against tenancy premium, is prevalent in some States. The activity of transfer of tenancy right against consideration [i.e. tenancy premium] is covered under supply of service liable to GST. It is a form of lease or renting of property.

Although stamp duty and registration charges have been levied on such transfer of tenancy rights, it shall be still subject to GST since merely because a transaction/supply involves execution of documents which may require registration and payment of registration fee and stamp duty, would not preclude them from the ‘scope of supply’ and from payment of GST.

The transfer of tenancy rights cannot be treated as sale of land/ building. Consequently, a consideration for the said activity shall attract levy of GST.

To sum up, transfer of tenancy rights to a new tenant against consideration in the form of tenancy premium is taxable. Further, services provided by outgoing tenant by way of surrendering the tenancy rights against consideration in the form of tenancy premium is liable to GST [Circular No.44/18/2018 CGST dated 02.05.2018].

## **4. Inter-State movement of various modes of conveyance**

Inter-State movement of various modes of conveyance, between distinct persons as specified in section 25(4) of the CGST Act, including-

- Trains,
- Buses,
- Trucks,
- Tankers,
- Trailers,
- Vessels,
- Containers,
- Aircrafts,

(a) carrying goods or passengers or both; or

(b) for repairs and maintenance,

[except in cases where such movement is for further supply of the same conveyance] was discussed in GST Council’s meeting held on 11th June, 2017 and the Council recommended that such inter-State movement shall be treated ‘neither as a supply of goods or supply of service’ and therefore not be leviable to IGST.

Thus, above activity may not be treated as supply and consequently IGST will not be payable on such supply. However, applicable CGST/SGST/IGST, as the case may be, shall be leviable on repairs and maintenance done for such conveyance [Circular No. 1/1/2017 IGST dated 07.07.2017].

## **5. Donation**

Individual donors provide financial help or any other support in the form of donation or gift to institutions such as religious institutions, charitable organisations, schools, hospitals, orphanages, old age homes etc. The recipient institutions place a name plate or similar such acknowledgement in their premises to express the gratitude. When the name of the donor is displayed in recipient institution premises, in such a manner, which can be said to be an expression of gratitude and public recognition of donor’s act of philanthropy and is not publicity of the business or the profession of the donor, in that case there is no supply and GST not payable. There is no obligation (quid pro quo) on part of recipient of the donation or gift to do anything (supply a service). E.g. (i) “Good wishes from Mr. Rajesh” printed underneath a digital blackboard donated by Mr. Rajesh to a charitable Yoga institution, in this case there is no supply. (ii) “Donated by Smt. Malati

Devi in the memory of her father” written on the door or floor of a room or any part of a temple complex which was constructed from such donation, there is no supply.

In each of these examples, it may be noticed that there is no reference or mention of any business activity of the donor which otherwise would have got advertised. **[Circular No. 116/35/2019 GST dated 11.10.2019]**

#### **6. Services of Del Crede Agent (DCA)**

If a DCA has issued invoice in his name, he will be considered to be agent as per schedule I but if he has issued invoice in the name of Principal (Consignor), he will not be considered to be agent. If DCA has given a loan to the recipient, interest shall be added to the value of supply only when the invoice was issued in the name of DCA. It will not be added to the value of supply if invoice was issued in the name of Principal. **(Circular No. 73/47/2018 GST dated 05.11.2018)**

### **SCHEDULE I**

[See section 7]

#### **ACTIVITIES TO BE TREATED AS SUPPLY EVEN IF MADE WITHOUT CONSIDERATION**

1. Permanent transfer or disposal of business assets where input tax credit has been availed on such assets.
2. Supply of goods or services or both between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business:

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

3. Supply of goods—

- (a) by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal; or
- (b) by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal.

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

### **SCHEDULE III**

[See section 7]

#### **ACTIVITIES OR TRANSACTIONS WHICH SHALL BE TREATED NEITHER AS A SUPPLY OF GOODS NOR A SUPPLY OF SERVICES**

1. Services by an employee to the employer in the course of or in relation to his employment.
2. Services by any court or Tribunal established under any law for the time being in force.
3. (a) The functions performed by the Members of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities;
- (b) The duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity; or
- (c) The duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central Government or a State Government or local authority and who is not deemed as an employee.
4. Services of funeral, burial, crematorium or mortuary including transportation of the deceased.
5. Sale of land and sale of building.
6. Actionable claims, other than lottery, betting and gambling.

<p><b>Some of the examples of actionable claims are:</b> Right to recover insurance money, claim for arrears of rent, unsecured loans, unsecured debentures, bills of exchange, promissory notes, bank guarantee, Fixed Deposit Receipt, right to the benefit of a contract, etc.</p>
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## **INPUT TAX CREDIT**

**Question 1: Explain conditions for taking Tax Credit under GST.**

**Answer: Condition for taking input tax credit. Section 16(1)/(2)/ Rule 36 & 37**

Input tax credit shall be allowed if any person has complied with all the conditions given under Section 16(1) and 16(2) and tax credit so allowed shall be credited to his electronic credit ledger maintained by the GST common portal (under control of GST network). Tax credit so allowed is informed to the concerned person by sending him a statement in form No. GSTR-2B.

**Input tax credit** shall be allowed if

1. The supplier and recipient should be **registered person** and the supply of goods/services is for business/profession
2. **Registered person** has **received** the goods / services or such goods or services have been received by his agent or any other person specified by him. If the goods against an invoice are received in lots or instalments, the registered person shall be entitled to take credit upon receipt of the **last lot or instalment**:
3. **Registered person** has received a **tax invoice/debit note/a bill of entry/ other such documents** and it should contain at least the GSTIN of the supplier and recipient, details of goods or services, total value of supply of goods or services, GST.
4. The details of the invoice or debit note has been **furnished by the supplier in GSTR-1** and the details of input tax credit has been informed to recipient in GSTR-2B and also it is not restricted in GSTR 2B. further the recipient has furnished GSTR-3B
5. If the recipient has not made the payment, still ITC shall be allowed but payment has to be made **within 180 days** from the date of issue of invoice otherwise amount of ITC has to be paid along with interest @ 18% p.a. computed in the manner given under section 50. If payment is made subsequently he can again take tax credit. Further restriction of time limit of section 16(4), shall not be applicable. (However this procedure is not applicable in case of reverse charge because the recipient himself has to pay GST to the Government)

**As per section 16(3)**, If the person purchasing capital goods has taken ITC, depreciation shall not be allowed on such amount. e.g. ABC limited purchased one plant for ₹ 30,00,000 and paid GST of ₹ 6,00,000 and has taken ITC, in this case depreciation shall be allowed on ₹ 30,00,000.

**Time limit for availing ITC**

**As per section 16(4)**, A registered person shall not be entitled to take input tax credit

- after the 30<sup>th</sup> day of November following the end of financial year to which such invoice or such debit note pertains or
- furnishing of the relevant annual return (as per section 44/Rule 80, every person has to file annual return in form no. GSTR-9 upto 31<sup>st</sup> December of the subsequent year) whichever is earlier.

**Question 2: Availment of Tax credit in case of new registration.**

**Answer: Tax credit in case of new registration**

**Compulsory Registration**

**As per section 18(1)(a)/Rule 40**, A person who has applied for registration under this Act **within 30 days** from the date on which he becomes liable to registration and has been granted such registration shall be entitled to take credit of input tax in respect of inputs / semi-finished / finished goods on the day immediately preceding the date from which he becomes liable to pay tax under the provisions of this Act.

**No tax credit shall be allowed for capital goods.**

If any person has applied for registration after expiry of 30 days, **tax credit shall not be allowed.**

**Example:** Mr. X becomes liable to pay tax on 01/08/2022 and has applied for registration on 16/08/2022 obtained registration on 16/09/2022. Mr. X is eligible for ITC on inputs held in stock/ semi-finished / finished goods as on 31st July. Mr. X cannot take ITC on capital goods.

**Voluntary Registration**

**As per section 18(1)(b)/Rule 40**, A person who takes **voluntary registration** shall be entitled to take credit of input tax in respect of inputs held in stock and inputs/ semi-finished / finished goods on the day immediately preceding the date of grant of registration. No tax credit shall be allowed for capital goods.

**Example:** Mr. A applies for voluntary registration on 5th June and obtains registration on 22<sup>nd</sup> June. Mr. A is eligible for ITC on inputs held in stock/ semi-finished goods / finished goods as on 21st June. Mr. A cannot take ITC on capital goods.

For this purpose the applicant has to submit form no. ITC-01 within 30 days from the date on which he becomes eligible to avail ITC. Further ITC-01 should be verified by Chartered Accountant/ Cost Accountant if the total amount of ITC is exceeding ₹ 2,00,000.

**As per section 18 (2)**, Tax credit shall be allowed maximum **within one year from the date of invoice**.

**Question 3: Explain Availment of tax credit in case of shifting from composition scheme to normal scheme.**

**Answer: Tax credit in case of shifting from composition scheme to normal scheme. Section 18 (1) (c) / Rule 40.**

If any registered person has shifted from composition scheme to normal scheme, such person shall be entitled to take credit of input tax in respect of inputs held in stock/ semi-finished / finished goods and on capital goods on the day immediately preceding the date from which he becomes liable to pay tax.

The credit on capital goods shall be reduced by **5% per quarter of a year or part thereof** from the date of invoice.

For this purpose the applicant has to submit form no. ITC-01 within 30 days from the date on which he becomes eligible to avail ITC. Further ITC-01 should be verified by Chartered Accountant/ Cost Accountant if the total amount of ITC is exceeding ₹ 2,00,000.

**As per section 18(2)**, Tax credit shall be allowed maximum within one year from the date of invoice.

**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;

**Example 1:** Mr. A, a registered taxable person, was paying tax at composition scheme upto 30th June. However, w.e.f. 1st July, Mr. A becomes liable to pay tax under regular scheme. Mr. A 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 June. ITC on capital goods will be reduced by 5% per quarter from the date of the invoice.

**Example 2.**

Mr. X has opted for composition scheme at the time of registration and purchased a plant and machinery ₹ 30,00,000 and paid input tax at a rate of 18% and tax credit was not allowed but after a period of 9 month and 10 days the dealer has opted for payment u/s 9 i.e. normal scheme. Compute amount of tax credit allowed to Mr. X.

(b) Presume time period is 11 month and 20 days

**Solution:**

(a) Total Input Tax (30,00,000 x 18%)	₹ 5,40,000
Asset already used for 9 months and 10 days = 4 Quarters	
Less: Tax credit not allowed (5,40,000 x (4 x 5%))	(1,08,000)
Amount of Tax credit allowed	4,32,000
(b) Total Input Tax (30,00,000 x 18%)	5,40,000
Asset already used for 11 months and 20 days = 4 Quarters	
Less: Tax credit not allowed (5,40,000 x (4 x 5%))	(1,08,000)
Amount of Tax credit allowed	4,32,000

**Question 4: Explain Availment of tax credit in case of exempt supply becomes taxable supply.**

**Answer: Tax credit in case of exempt supply becomes taxable supply. Section 18 (1) (d) / Rule 40.**

If any exempt supply becomes taxable supply, in that case, registered person shall be entitled to take credit of input tax in respect of inputs held in stock/ semi-finished / finished goods and on capital goods on the day immediately preceding the date from which it becomes taxable.

The credit on capital goods shall be reduced by **5% per quarter of a year or part thereof** from the date of invoice.

For this purpose the applicant has to submit form no. ITC-01 within 30 days from the date on which he becomes eligible to avail ITC. Further ITC-01 should be verified by Chartered Accountant/ Cost Accountant if the total amount of ITC is exceeding ₹ 2,00,000.

**As per section 18(2)**, Tax credit shall be allowed maximum within one year from the date of invoice.

**Example 1:**

ABC Limited purchased one plant and machinery ₹20,00,000 and paid input tax ₹3,00,000 and it is being used for exempted goods but after 7 months and 10 days , it is used for taxable goods. In this case, its tax credit allowed shall be

Total input tax	₹ 3,00,000
Less: 5% per quarter or part thereof i.e. 3,00,000 x (5% x 3)	(₹ 45,000)
Amount of tax credit allowed	2,55,000

**Example 2:**

Mamta Sales trades in exempt goods and provides taxable services. It is registered under GST. On 1st October, the exemption available on its goods gets withdrawn. Analyze the scenario and determine the eligibility of Mamta Sales for availing ITC, if any, on inputs and/or capital goods used in the supply of exempt goods.

**Answer:** If the exempt supply made by a registered person becomes a taxable supply, provisions of section 18(1)(d) of the CGST Act, 2017 become applicable. In the given case, since Mamta Sales is a registered person, section 18(1)(d) will be applicable. As per section 18(1)(d), Mamta Sales will be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock relatable to such exempt supply and on capital goods exclusively used for such exempt supply on the day immediately preceding the date from which such supply becomes taxable, i.e. 30th September. Input tax credit on capital goods will be reduced by 5% per quarter or part thereof from the date of invoice.

**Question 5: Explain Reversal of tax credit in case of shifting from normal scheme to composition scheme or where taxable supply becomes exempt supply.**

**Answer: Tax credit in case of shifting from normal scheme to composition scheme or where taxable supply becomes exempt supply section 18 (4)/ Rule 44**

Where any registered person who has availed of input tax credit **opts to pay tax under composition scheme** or, where **taxable supply becomes exempt supply**, he shall pay an amount, equivalent to the credit of input tax in respect of stock.

In case of capital goods, remaining tax credit has to be reversed taking the life to be 60 month and part of the month shall be ignored

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

For this purpose the applicant has to submit form no. ITC-03

**Example 1:**

ABC Limited purchased one plant and machinery ₹20,00,000 and paid input tax ₹3,00,000 and it is being used for taxable goods but after one year and 2 months and 10 days , it is used for exempted goods. In this tax credit to be reversed shall be

Remaining life 60 month – 14 month 10 days = 45 months 20 days

Ignore 20 days i.e. 45 months

$3,00,000 / 60 \times 45 = ₹2,25,000$

**Example 2:**

Mr. X has opted for payment under section 9 and he purchased a plant and machinery ₹ 60,00,000 and paid input tax at a rate of 20% but he has shifted to composition scheme after 38 month and 10 days. Compute amount of tax credit to be reversed by Mr. X.

(b) Presume time period is 11 month and 20 days



(c) Presume time period is 55 month and 21 days.

**Solution:**

	<b>₹</b>
(a) Total Input Tax (60,00,000 x 20%)	12,00,000
Remaining life of the asset = (60 month – 38 month and 10 days) = 21 month and 20 days i.e. 21 month (part shall be ignored)	
Amount of credit to be reversed = $12,00,000/60 \times 21 =$	4,20,000
(b) Total Input Tax (60,00,000 x 20%)	12,00,000
Remaining life of the asset = (60 month – 11 month and 20 days) = 48 month and 10 days i.e. 48 month (part shall be ignored)	
Amount of credit to be reversed = $12,00,000/60 \times 48 =$	9,60,000
(c) Total Input Tax (60,00,000 x 20%)	12,00,000
Remaining life of the asset = (60 month – 55 month and 21 days) = 4 month and 9 days i.e. 4 month (part shall be ignored)	
Amount of credit to be reversed = $12,00,000/60 \times 4 =$	80,000

**Question 6: Explain Reversal of tax credit in case of supply of capital goods on which tax credit has been taken.**

**Answer: Payment of tax in case of supply of capital goods on which tax credit has been taken Section 18 (6)/ Rule 44**

In case of **supply of capital goods**, on which input tax credit has been taken, the registered person shall pay an amount on the basis of remaining life considering total life to be 60 months however part of the month shall be ignored as per rule 44 or the tax on the transaction value of such capital goods, whichever is higher.

**Example**

If a plant and machinery was purchased for ₹ 20,00,000 and input tax credit was ₹ 2,00,000 and supplier has sold it after using for one year and 2 months and 15 days, amount to be reversed shall be –

Remaining life shall be = 45 months 15 days i.e. 45 months

Amount to be reversed  $2,00,000/60 \times 45 = 1,50,000$

If the plant is sold for ₹ 15,00,000 and rate of GST is 12%, Amount to be reversed shall be ₹1,80,000

If the plant is sold for ₹ 12,00,000 and rate of GST is 12%, Amount to be reversed shall be ₹1,50,000 and not ₹ 1,44,000.

In case of supply of goods, registered person shall report it in GSTR-1.

**Question 7: Explain tax credits in case of Inputs/Capital Goods are used for taxable as well as exempted supply.**

**Answer:** The fundamental principle of credit scheme under value added tax is that tax paid on inputs, input services and capital goods can be availed as credit only when the output is taxable. Thus, when tax is not payable on output, credit cannot be availed. Accordingly, ITC under GST can be availed and utilised for payment of tax on output supply. Consequently, ITC cannot be availed when tax is not payable on output supply, i.e. on exempt supply. The only exception to the above principle is ‘zero rated supply, where ITC is available even if no tax is payable on output supply.

If a taxable person is making both taxable and exempt supply, he is entitled to full credit of ITC in respect of inputs, input services and capital goods exclusively used for taxable supply and no credit at all for inputs, input services and capital goods exclusively used for exempt supply. If common inputs, input services and capital goods are used for taxable as well as exempt supply, only proportionate ITC attributable to the taxable supply is available. The common ITC is apportioned in the ratio of value of taxable supply and exempt supply. Elaborate provisions have been made in sub-sections (1) and (2) of section 17 and rules 42 and 43 for calculation of such proportionate ITC.

**Apportionment of credit Section 17 (1)/17 (2)/ 17 (3) / Rule 42/43.**

**As per section 17(1)/ 17(2)/ 17(3)**, if any person is supplying goods or services which are taxable as well as exempt, in such cases tax credit shall be allowed only for taxable supply and zero rated supply (i.e. supply for export or supply to SEZ units or SEZ developer).

No tax credit shall be allowed for exempt supply or non-taxable supply (supply on which GST can not be levied e.g. alcoholic liquor and petroleum product) or supply for non-business purpose or supply for personal purpose.

Exempt supply shall include (i) supplies on which recipient is liable to pay tax on reverse charge eg. If goods transport agency has transported goods for a company and reverse charge is applicable, it will be considered to be exempt supply for goods transport agency. (ii) transaction in sale purchase of shares and securities (because securities transaction is paid), (iii) sale of land or building (because stamp duty is paid)

### **Example 1**

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 (petroleum is out of GST gamut till the time the GST Council takes a decision in this regard). ITC on 5 containers used for non-taxable goods cannot be availed.

### **Example 2**

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.

### **Apportionment of ITC of Inputs Section 17(1)/ 17(2)/ 17(3) / Rule 42**

**As per Rule 42**, In case of Inputs or Input services, tax credit shall be allowed but subsequently proportionate amount relating to exempt supplies shall be reversed on the basis of turnover, eg. ABC limited is manufacturing two type of shoes one low cost exempt and other high cost taxable and company purchased leather and other material to be used in both type of shoes and paid ₹ 5,00,000 plus CGST @ 10% plus SGST @ 10% and company has taken ITC, In this case, if total turnover during the month is ₹12,00,000 out of which exempt is ₹4,00,000 and taxable is ₹ 8,00,000, in this case tax credit to be reversed shall be

CGST =  $50,000 / 12,00,000 \times 4,00,000 = ₹16,666.67$  rounded off u/s 170 ₹16,667

SGST =  $50,000 / 12,00,000 \times 4,00,000 = ₹16,666.67$  rounded off u/s 170 ₹16,667

**Illustration:** A garment factory receives a Government order for making uniforms for a commando unit. This supply is exempt from tax under a special notification. The fabric is separately procured for the supply, but thread and lining material for the collars are the ones which are used for other taxable products of the factory.

The turnover of the other products of the factory and exempted uniforms in July is ₹4 crore and ₹1 crore respectively, the ITC on thread and lining material procured in July is ₹5000 and ₹15000 respectively.

Calculate the eligible ITC on thread and lining material.

**Answer:** Thread 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 terms of rule 42 of the CGST Rules, 2017.

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

Common credit = ₹15,000 + ₹5,000 = ₹20,000

Exempt turnover = ₹1 crore

Total turnover = ₹5 crore [₹1 crore + ₹4 crore]

Credit attributable to exempt supplies =  $20,000 / 5 \text{ crores} \times 1 \text{ crore} = ₹4,000$ .

Ineligible credit of ₹4,000 will be added to the output tax liability for the month of July.

### **Apportionment of ITC of Capital Goods Section 17(1) & (2) Rule 43**

**As per Rule 43**, In case of capital goods also tax credit shall be availed in the beginning but proportionate amount of ITC shall be reversed every month on the basis of turnover along with interest @ 18% per annum. Life of every capital goods shall be taken to be 60 month.

### **Example 1**

ABC Limited purchased one plant and machinery ₹20,00,000 on 01.04.2022 and paid input tax ₹3,00,000 and tax credit has been taken and it is being used for taxable as well as exempt goods. In this case, if turnover for April 22, of taxable goods is ₹6,00,000 and turnover of exempt goods is ₹2,00,000,

In this case tax credit of 3,00,000 shall be taken on 20<sup>th</sup> May 2022 and tax credit for April 22 shall be reversed on 20<sup>th</sup> May 2022 and shall be computed in the manner given below:

$$3,00,000/60 \times 2,00,000/8,00,000 = ₹1,250$$

No interest is payable because tax credit is taken on 20<sup>th</sup> May 22 and is also reversed on 20<sup>th</sup> May 22

Turnover for the month of May 2022 taxable ₹7,00,000 , exempt ₹3,00,000, in this case tax credit shall be reversed on 20<sup>th</sup> June 2022 and interest shall be paid for one month:

$$3,00,000/60 \times 3,00,000 /10,00,000 = 1,500$$

Interest payable = 1500 x 18% x 1/12 = 22.5 (rounded off 23)

Turnover for the month of June 2022 taxable 8,00,000 , exempt 2,00,000, in this case tax credit shall be reversed on 20<sup>th</sup> July 22

and interest shall be paid for two month:

$$3,00,000/60 \times 2,00,000 /10,00,000 = 1,000$$

Interest payable = 1000 x 18% x 2/12 = 30

If capital goods were used for manufacturing exempt goods but subsequently it is being used for manufacturing of exempt goods and taxable goods, in that case full tax credit shall be allowed but proportionate amount of input tax for the exempt period shall be added to the output tax liability for that month. It will be 5% per quarter or part thereof.

### **Example 2**

ABC Limited purchased one plant and machinery on 01.04.2022 for ₹20,00,000 and paid input tax ₹3,00,000 and it is being used for exempted goods but after 12 months, it is used for exempted as well as taxable goods. In this case treatment of ITC shall be as given below,

Full tax credit of 3,00,000 shall be allowed for the month of April 2023 but proportionate ITC for 12 months shall be added to the output tax liability for April 2023:  $3,00,000 \times 5\% \times 4 = 60,000$

If after availing ITC turnover for April 2023 is: taxable ₹4,00,000 and exempt ₹2,00,000, Credit amount to be reversed every month shall be

$$3,00,000 /60 \times 2,00,000/6,00,000 = ₹1,666.67$$

Also interest shall be payable in the subsequent month (not for the first month)

### **Example 3**

ABC limited purchased one plant and machinery on 01.04.2022 for ₹30,00,000 + GST @ 12% and started manufacturing taxable goods and taken ITC of ₹3,60,000 on 20.05.2022.

Company started manufacturing taxable as well as exempt goods w.e.f. 01.10.2022 and taxable turnover for the month of October was ₹20,00,000 and exempt turnover was ₹5,00,000. In this case ITC to be reversed on 20.11.2022 shall be

$$3,60,000/60 \times 5,00,000 /25,00,000 = 1,200$$

Interest payable = 1200 x 18% x 6/12 = 108

If taxable turnover for the month of November was ₹22,00,000 and exempt turnover was ₹3,00,000. In this case ITC to be reversed on 20.12.2022 shall be

$$3,60,000/60 \times 3,00,000 /25,00,000 = 720$$

Interest payable = 720 x 18% x 7/12 = 75.6 or 76

**Question 8: Explain the goods for which tax credit is not allowed i.e. blocked credit.**

### **Answer: Blocked Credit section 17(5)**

No tax credit shall be allowed in the following cases:

**1. Tax credit is not allowed in case of motor vehicle for transportation of persons provided approved seating capacity is not more than 13 persons (including the driver) i.e. if seating capacity is more than 13 persons, in that case tax credit shall be allowed.**

Tax credit shall be allowed where such motor vehicle is for further supply of such motor vehicles (i.e. for sale purchase of such vehicle) or for transportation of passengers or for imparting training on driving such motor vehicles.

Tax credit shall also be allowed if any vehicle is given on rent or lease or for hiring for the purpose specified above.

Since two wheeler is covered in motor vehicle for transportation of persons, tax credit shall not be allowed.

If motor vehicle is for transportation of goods, tax credit shall be allowed. Similarly in case of motor vehicle for other purpose, tax credit shall be allowed e.g. JCB machine, Road Roller, Concrete Mixer Vehicle, Tractor etc.

**2.** No tax credit shall be allowed in case of **vessels and aircraft**, however tax credit shall be allowed in case of vessels and aircraft in the following cases

- (i) further supply of such vessels or aircraft
- (ii) transportation of passengers
- (iii) imparting training on navigating such vessels
- (iv) imparting training on flying such aircraft
- (v) for transportation of goods

Tax credit is also allowed in case of renting or hiring or leasing of such aircraft or vessels for the purpose specified above.

In other words, tax credit shall not be allowed when such aircraft etc. are used for personal purpose or business purpose other than mentioned above

**Example 1 :** ABC limited purchased one passenger vehicle (with seating capacity not more than 13 people) for transportation of the employees, tax credit is not allowed.

**Example 2 :** ABC limited purchased one two wheeler for use of the employees, tax credit is not allowed.

**Example 3 :** ABC limited purchased one truck for transportation of inputs/ final product, tax credit is allowed.

**Example 4 :** Mr. X purchased one motor car (with seating capacity more than 13 people) for going to his factory, tax credit allowed.

**Example 5 :** ABC limited purchased one truck and it was given on rent , tax credit is allowed.

**Example 6:** ABC limited purchased one bus for transportation of passenger, tax credit is allowed.

**Example 7 :** ABC limited a tent house purchased one truck for transportation of goods relating to service of tent house, tax credit is allowed.

**Example 8 :** ABC limited purchased one motor car for training of driving skills, tax credit is allowed.

**Example 9:** A car dealer is allowed ITC on cars purchased for resale.

**Example 10:** A cab service is allowed ITC on cars purchased for use as cabs.

**Example 11:** A driving school is allowed ITC on cars purchased for imparting training on driving.

**Example 12:** ITC on cars (with seating capacity upto 13 persons) purchased by a manufacturing company for official use of its employees is blocked.

**Example 13:** ITC on cars purchased by a car dealer for sale to customers is allowed.

**Example 14:** ITC on cars purchased by a company engaged in renting out cars for transportation of passengers, is allowed.

**Example 15:** ITC on cars purchased by a car driving school is allowed.

**Example 16:** ITC on buses (seating capacity for 24 persons) purchased by a company for transportation of its employees from their residence to office and back, is allowed.

**Example 17:** ITC on trucks purchased by a company for transportation of its finished goods is allowed.

**Example 18:** ITC on cars (seating capacity more than 13 persons) purchased by a manufacturing company for official use of its employees is allowed.

**Example 19:** ITC on aircraft purchased by a manufacturing company for official use of its CEO is blocked.

**Example 20:** ITC on aircraft purchased by an Aviation School providing training on non-flying aircrafts, is allowed.

**Example 21:** ITC on aircraft purchased by a manufacturing company for official use of its CEO is blocked.

**Question.** A taxable person is in the business of information technology. He buys a motor vehicle for use of his Executive Directors. Can he avail the ITC in respect of GST paid on purchase of such motor vehicle?

**Answer:** No. As per section 17 (5), ITC on motor vehicles can be availed only if the taxable person is in the business of transport of passengers or is providing the services of imparting training on driving/flying/navigating motor vehicles or is in the business of supply of motor vehicles.

**Question.** A flying school imports an aircraft for use in its training activity, and takes ITC of the IGST paid on the import. The departmental audit raises an objection that ITC is not allowed on aircraft. Offer your comments.

**Answer:** Under section 17 (5) of the CGST Act, ITC is allowed on aircraft if they are used to make the taxable supply of imparting training on flying an aircraft. Therefore, the credit is correctly taken.

**3.** Input tax credit for services taken in connection with **general insurance, servicing, repair and maintenance** shall be allowed if it is in connection with the motor cars or vessels or aircrafts for which tax credit is allowed. Tax credit shall also be allowed to the insurance companies doing insurance of vehicle or aircrafts etc.

**Example 1:** ITC on general insurance taken on a car used by employees of a manufacturing company for official purposes, is blocked.

**Example 2:** ITC on maintenance & repair services availed by a company for a truck used for transporting its finished goods, is allowed.

**Example 3:** ITC on general insurance services taken on cars manufactured by a car manufacturing company is allowed.

**Example 4:** ITC on general insurance taken on a car used by employees of a manufacturing company for official purposes, is blocked.

**Example 5:** ITC on maintenance & repair services availed by a company for a truck used for transporting its finished goods, is allowed.

**Example 6:** ITC on general insurance services taken on cars manufactured by a car manufacturing company is allowed.

**4.** No tax credit shall be allowed if input tax has been paid in connection with the goods or services as mentioned below

(i) food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, life insurance and health insurance.

(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:

However tax credit shall be allowed to the employer where it is obligatory for the employer to provide above facilities.

However tax credit shall be allowed to the person engaged in business of supplying such goods or services.

**Example 1:** ABC limited is engaged in providing outdoor catering services and the company has purchased inputs and input services for the purpose of providing output services, in this case tax credit is allowed.

**Example 2:** Mr. X is engaged in the business of beauty treatment, he will be allowed tax credit for the inputs goods / services.

**Example 3:** Mr. C caterer for a wedding gets the sweet dish course supplied by a specialist in desserts. He is allowed ITC of the tax paid by him to the specialist.

**Example 4:** A manufacturing company purchases food items for being served to its customers, free of cost. ITC on such goods is blocked.

**Example 5:** AB & Co., a caterer of Amritsar, has been awarded a contract for catering in a marriage to be held at Ludhiana. The firm has given the contract for supply of snacks, to be served in the marriage, to CD & Sons, a local caterer of Ludhiana. ITC on such outdoor catering services availed by AB & Co., is allowed.

**Example 6:** ITC on outdoor catering services availed by a garment exporter for a marketing event organised for its prospective customers, is blocked.

**Example 7:** Outdoor catering service is availed by a company to run a free 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.

**Example 8:** The Managing Director of a company has taken membership of a club, the fees for which is paid by the company. ITC on such service is blocked.

**Example 9:** A company avails services of a travel agency for organizing a free vacation for its top performing employees. ITC on such services is blocked.

5. Input tax credit for **works contract services** (construction services) when supplied for construction of an immovable property (other than plant and machinery) shall not be allowed however tax credit shall be allowed to the person who is engaged in providing construction services i.e. a builder etc. If any person has given contract to any person for construction or he himself is doing construction, tax credit shall not be allowed for inputs or input services or capital goods. ABC Ltd. has constructed one factory building for its use, no tax credit shall be allowed even if it is for the purpose of business. For this purpose "**construction**" includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalisation, to the said immovable property

Input tax credit in connection with plant and machinery shall be allowed e.g. ITC in connection with lift or escalator etc. shall be allowed. For this purpose "**plant and machinery**" means apparatus, equipment, and machinery fixed to earth by foundation or structural support that are used for making outward supply of goods or services or both and includes such foundation and structural supports but excludes—

(i) land, building or any other civil structures;

(ii) telecommunication towers; and

(iii) pipelines laid outside the factory premises.

**Section 2(119) "Works Contract"** means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract.

**Example 1:** ABC limited has given a contract to XYZ limited for construction of an office building. ABC limited cannot take input tax credit of the GST charged by XYZ limited for work contract services.

**Example 2:** ABC limited has given a contract to XYZ limited for construction of an office building and XYZ limited sub- contracted some portion to G limited. The work contract services provided by G limited to XYZ limited is an input service for further supply of work contract by XYZ limited to ABC limited and XYZ limited is entitled for input tax credit of the tax paid on the services provided by G limited.

**Example 3:** Mr. A is a builder and he is building a house for himself. He is not entitled to input tax credit on any goods or services which are purchased or acquired for construction of the house.

**Example 4:** Z limited is a developer of commercial and residential units. It builds a corporate office for itself. Z limited cannot take credit of input supplies which are used for construction of that office, even if the office will be used for business purpose.

**Example 5:** ABC company buys material and hires a contractor to construct an office building to house the plant supervisory staff. The input tax paid on such goods and services is not allowed as credit.

**Example 6:** ITC on works contracts services availed by a software company for construction of its office, is blocked.

**Example 7:** CD & Co., a works contractor of Noida, has been awarded a contract for construction of a commercial complex in Lucknow. The firm avails services of EF & Co., a local works contractor of Lucknow, for the construction of complex. ITC on such works contract services availed by CD & Co., is allowed.

**Example 8:** ITC on works contract services availed by an automobile company for construction of a foundation on which a machinery (to be used in the production process) is to be mounted permanently, is allowed.

**Example 9:** ITC on works contract services availed by a manufacturing company for construction of pipelines to be laid outside its factory, is blocked.

**Example 10:** A consulting firm has availed services of a works contractor for repair of its office building. The company has booked such expenditure in its profit and loss account. ITC on such services is allowed.

**Example 11:** A telecommunication company has availed services of a works contractor for repair of its office building. The company has capitalized such expenditure. ITC on such services is blocked.

**Example 12:** A company buys cement, tiles etc. and avails the services of an architect for construction of its office building. ITC on such goods and services is blocked.

**Example 13:** MN & Constructions procures cement, paint, iron rods and services of architects and interior designers for construction of a commercial complex for one of its clients. ITC on such goods and services is allowed to MN & Co.

**Example 14:** A company buys cement, tiles etc. and avails the services of an architect for renovation of its office building. The company has booked such expenditure in its profit and loss account. ITC on such goods and services is allowed.

**Example 15:** ITC on works contracts services availed by a software company for construction of its office, is blocked.

**Example 16:** CD & Co., a works contractor of Noida, has been awarded a contract for construction of a commercial complex in Lucknow. The firm avails services of EF & Co., a local works contractor of Lucknow, for the construction of complex. ITC on such works contract services availed by CD & Co., is allowed.

**Example 17:** ITC on works contract services availed by a manufacturing company for construction of pipelines to be laid outside its factory, is blocked.

**Example 18:** A consulting firm has availed services of a works contractor for repair of its office building. The company has booked such expenditure in its profit and loss account. ITC on such services is allowed.

**Example 19:** A telecommunication company has availed services of a works contractor for repair of its office building. The company has capitalized such expenditure. ITC on such services is blocked.

**6. Composition scheme:** Goods or services or both on which tax has been paid under section 10

A supplier registered under composition scheme cannot collect tax from its customers. Thus, such supplier issues bill of supply and not a tax invoice. A composition supplier pays a lumpsum tax at a specified rate on its quarterly turnover. Tax paid on goods and/or services under composition scheme is not available as ITC. Since a composition supplier cannot collect any tax on its supplies, from the recipient of its supplies, it is obvious that no ITC can be availed in respect of such supplies by the recipients. Nevertheless, section 17(5) specifically blocks the ITC on inward supplies received by a taxable person from a composition supplier.

7. goods or services or both received by a **non-resident taxable person** except on goods imported by him; Essentially, a non resident taxable person has no fixed place of business in India but he sporadically supplies goods or services in India. Tax paid on goods and/or services received by such non-resident taxable person, is not available as ITC. However, tax paid by him on **imported goods** is allowed as ITC.

8. goods or services or both used for **personal consumption**

**Example:** Mr. X owns a grocery store. He procures rice, wheat and biscuits for being sold in its store. Out of the inventory so purchased, he gives 10 kgs each of rice and wheat to his wife for household use. Being used for personal consumption, ITC on 10 kg of rice and 10 kg of wheat is blocked.

9. **goods lost, stolen, destroyed, written off or disposed off by way of gift or free samples**

ITC in respect of goods that are disposed off by way of gift or free samples is not available. Also, ITC is blocked on lost goods, stolen goods, destroyed goods and goods that are written off. This is because principally, ITC is available only for payment of tax on output supply. If no tax is payable on output supply, ITC on inputs/input services/capital goods relating to such output supply is not eligible. Hence, ITC on gifts and free samples is blocked as no tax is payable on its outward supply. In case of lost/destroyed/stolen written off goods also, ITC is not available as these goods cannot be said to have been used for making a taxable supply.

10. any tax paid in accordance with the provisions of **sections 74, 129 and 130**.

**Question 9: Explain Availment of tax credit in case of zero rated supplies.**

**Answer:**

**As per section 16 of the IGST Act,** Supply for exports or supply to a unit in SEZ or supply to a developer of SEZ shall be considered to be zero rated supply and in such cases it is exempt from output tax but still tax credit shall be allowed. Further as per section 54, refund is allowed for unutilized tax credit in case of supply of zero rated goods.

## **TAX INVOICE, CREDIT AND DEBIT NOTES**

**Question 1: Explain provisions regarding issue of tax invoice in case of supply of goods.**

**Answer: Tax invoice. Section 31(1)**

(1) A registered person supplying taxable goods shall, before or at the time of,—

- (a) removal of goods for supply to the recipient, where the supply involves movement of goods; or
- (b) delivery of goods or making available thereof to the recipient, in any other case,

issue a tax invoice.

### **Example**

If goods are delivered on 10<sup>th</sup> July 2022, invoice should be issued maximum upto 10<sup>th</sup> July 2022. If the goods are to be delivered at some other place and goods were removed from place of business on 10<sup>th</sup> August 2022 and delivered at destination on 28<sup>th</sup> August 2022, invoice should be issued maximum upto 10<sup>th</sup> August 2022.

**Question 2: Explain Time Limit for issuing tax invoice in case of supply of services.**

**Answer: Time limit for issuing tax invoice Section 31(2)/Rule 47**

The invoice in the case of the taxable supply of services, shall be issued within a period of **30 days** from the date of the supply of service:

In case of an **insurer** or a **banking company** or a **financial institution**, invoice shall be issued shall be **45 days** from the date of the supply of service:

**Further an insurer or a banking company or a financial institution, or a telecom operator**, making taxable supplies of services between distinct persons, may issue the invoice before the expiry of the quarter during which the supply was made.

**Question 3: Write a note on issue of tax invoice under section 31/ Rule 46/Rule 48.**

**Answer:**

**Tax invoice shall contain the following particulars**

- (i) Name, Address and Goods and Services Tax Identification Number of the Supplier and Recipient
- (ii) Serial number and date of issue of invoice
- (iii) Description of goods or services, Quantity, Value, Discount, Rate of GST and Amount of GST and HSN Code
- (iv) Place of supply along with the name of the State, in the case of a supply in the course of inter-State trade or commerce;
- (v) Whether the tax is payable on reverse charge basis; and
- (vi) name and address of the recipient and the address of delivery, along with the name of the State and its code, if such recipient is un-registered and where the value of the taxable supply is fifty thousand rupees or more;
- (vii) Signature or digital signature of the supplier or his authorised representative:

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.

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.

Restriction with regard to number of copies shall not be applicable in case of e-invoicing.

**Question 4: Explain provisions regarding issue of tax invoice in case of continuous supply of goods.**

**Answer: Invoice in case of Continuous Supply of Goods**

**As per section 31 (4)**, in case of continuous supply of goods, where successive statements of accounts or successive payments 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.



**As per section 2(32), "continuous supply of goods"** means a supply of goods which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract and for which the supplier invoices the recipient on a regular or periodic basis and includes supply of such goods as the Government may specify.

**Invoice in case of Continuous supply of Services**

**As per section 31 (5)**, in case of continuous supply of services,—

- (i) where the due date of payment is ascertainable from the contract, the invoice shall be issued on or before the due date of payment.
- (ii) 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.
- (iii) where the due date of payment is not ascertainable from the contract, the invoice shall be issued before or at the time when the supplier of service receives the payment.

**As per 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.

**As per section 2(33), "continuous supply of services"** means a supply of services which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, for a period exceeding three months with periodic payment obligations and includes supply of such services as the Government may notify.

**Example:** ABC Cinemas entered into an annual maintenance contract with XYZ Services Ltd. for one year [April-March] for the Air conditioners fitted in their theaters. As per the contract, payment for said services had to be made on 7th April. However, ABC cinemas made the payment on 15th April. Since services provided by XYZ Services Ltd. to ABC Cinemas is a continuous supply of services and due date of payment is ascertainable from the contract, XYZ Services Ltd. had to issue a tax invoice on or before such due date, viz. 7th April.

**Example:** ABC Caretakers, a registered person, provides the services of repair and maintenance of electrical appliances. On April 1, it has entered into an annual maintenance contract with Mr. X for its Air Conditioner and Washing Machine. As per the terms of contract, maintenance services will be provided on the first day of each quarter of the relevant financial year and payment for the same will also be due on the date on which service is rendered. During the year, it provided the services on April 1, July 1, October 1, and January 1 in accordance with the terms of contract. When should ABC Caretakers issue the invoice for the services rendered?

**Answer:** Continuous supply of service means supply of any service which is provided, or agreed to be provided continuously or on recurrent basis, under a contract, for a period exceeding 3 months with the periodic payment obligations. Therefore, the given situation is a case of continuous supply of service as repair and maintenance services have been provided by ABC Caretakers on a quarterly basis, under a contract, for a period of one year with the obligation for quarterly payment. In terms of section 31, in case of continuous supply of service, where due date of payment is ascertainable from the contract (as in the given case), invoice shall be issued on or before the due date of payment. Therefore, in the given case, ABC Caretakers should issue quarterly invoices on or before April 1, July 1, October 1, and January 1.

**Question 5: Explain provisions regarding issue of invoice in case of goods sent on approval basis.**

**Answer: Goods sent on approval for Sale or Return**

**As per section 31 (7)**, where 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.

**Question 6: Explain Credit Note.**

**Answer: Credit Note/Debit Note Section 34**

**Credit Note**

(1) 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 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 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 **30<sup>th</sup> day of November** 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:

**Example:** ABC Ltd. issued an invoice on 10.01.2023 ₹ 10,00,000 + GST 2,00,000 and paid GST to the government on 20.02.2023. The recipient informed the goods supplied were of ₹ 8,00,000 and GST should be 1,60,000, in this case ABC Ltd. will issue a credit note for ₹ 2,00,000 + GST 40,000. ABC Ltd. shall be allowed to reduce its tax liability in the subsequent month by ₹ 40,000 and the recipient shall increase tax liability by ₹ 40,000 because he might have taken ITC of ₹ 2,00,000. If this error is detected on 01.12.2023, no adjustment allowed after 30.11.2023.

### **Debit Note**

(3) 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 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.

**Example:** ABC Ltd. issued an invoice on 10.01.2023 ₹ 10,00,000 + GST 2,00,000 and paid GST to the government on 20.02.2023. The recipient informed the goods supplied were of ₹ 12,00,000 and GST should be 2,40,000, in this ABC Ltd. shall issue a debit note for ₹ 2,00,000 + GST 40,000 and shall pay GST of ₹40,000 to Government in the next month and recipient shall take tax credit of ₹ 40,000 in the subsequent month.

### **Question 7: Explain provisions of issue of invoice where amount is less than ₹200**

#### **Answer : Issue of Tax Invoice where amount is less than ₹200 Section 31(3)(b) / Rule 46**

A registered person may not issue a tax invoice subject to the following conditions, namely,—

- (a) the recipient is not a registered person; and
- (b) 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.

**Example:** ABC limited has supplied goods worth ₹150 to an unregistered dealer/ consumer, in this case there is no requirement to issue invoice but if it is demanded by the recipient, invoice is to be issued.

But it will not be applicable in case of a supplier engaged in making supply of services by way of admission to exhibition of cinematograph films in multiplex screens.

#### **Issue of Bill of Supply where amount is less than ₹200 Section 31(3)(c) / Rule 49**

Similar provision shall be applicable in case of bill of supply, eg. A composition dealer has sold goods of ₹ 150 to a consumer, he is exempt from issuing bill of supply but at the end of the day, a consolidated bill of supply has to be issued. (purpose is to make accounting of total sales for the purpose of paying composition tax.)

### **Question 8: Explain Invoice-cum-bill of supply.**

#### **Answer: Invoice-cum-bill of supply Rule 46A**

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.

**Question 9: Write a note on bill of supply under Rule 49.****Answer: Bill of supply under Rule 49**

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 particulars given below:

- (a) Name, address and Goods and Services Tax Identification Number of the supplier and recipient
- (b) Serial No. and date of issue
- (c) Description of goods, quantity and value of supply also discount allowed.
- (d) Harmonised System of Nomenclature Code for goods or services;
- (e) Signature or digital signature of the supplier or his authorised representative:

**Question 10: Write a note on Receipt Voucher under Rule 50.****Answer: Receipt voucher Section 31(3)(d) Rule 50.**

A registered person shall, on receipt of advance payment with respect to any supply of goods / services, issue a receipt voucher or any other document.

A receipt voucher shall contain the following particulars, namely,—

- (a) Name, address and Goods and Services Tax Identification Number of the supplier and recipient
- (b) Serial No. and date of issue
- (c) Description of goods, quantity and advance taken, rate and amount of GST
- (d) Harmonised System of Nomenclature Code for goods or services;
- (e) Signature of the supplier or his authorised representative:

**Question 11: Write a note on Refund Voucher under Rule 51.****Answer: Refund voucher Section 31(3)(e) Rule 51**

Where, on receipt of advance payment with respect to any supply of goods / services the registered person issues a receipt voucher, but subsequently no supply is made and no tax invoice is issued the said registered person shall be allowed to refund the amount and shall take refund voucher from such person. The supplier shall not be allowed to decrease his tax liability rather he has to claim refund by filing RFD 01.

A refund voucher shall contain the following particulars, namely:—

- (a) name, address and Goods and Services Tax Identification Number of the supplier and recipient;
- (b) Serial number and date of issue
- (c) number and date of receipt voucher issued earlier
- (d) description of goods or services in
- (e) amount of refund, rate of tax / amount of tax.
- (f) whether the tax is payable on reverse charge basis; and
- (g) signature of the supplier or his authorised representative.

**Question 12: Explain Transportation of Goods without issue of invoice i.e. by issuing Delivery challan.****Answer: In the following cases goods can be removed without issue of invoice but a delivery challan should be issued**

- (i) supply of liquid gas where the quantity at the time of removal from the place of business of the supplier is not known,
- (ii) transportation of goods for job work,
- (iii) transportation of goods for reasons other than by way of supply,(Stock Transfer or goods sent on approval etc.)or
- (iv) such other supplies as may be notified by the Board (Goods sent on sale of return basis)

**Contents of delivery challan**

- (i) Name, address and Goods and Services Tax Identification Number of the consigner and consignee
- (ii) Serial number and date
- (iii) Quantity (provisional, where the exact quantity being supplied is not known), taxable value, tax rate and amount of tax
- (iv) Harmonised System of Nomenclature code and description of goods;
- (v) place of supply, in case of inter-State movement;

(vi) signature.

**The delivery challan shall be prepared in triplicate:**

- (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 CONSIGNER.

Where goods are being transported on a delivery challan, e-way bill has to be prepared.

**Question 13: Explain transportation of goods in a semi knocked down or completely knocked down condition or in batches or lots.**

**Answer:**

- (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.

**Question 14: Explain provisions for maintaining Accounts and other records under GST.**

**Answer: Accounts and other records . Section 35**

Every registered person shall keep and maintain, at his principal place of business, as mentioned in the certificate of registration, a true and correct account of—

- (a) production or manufacture of goods;
- (b) inward and 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 particulars as may be prescribed

Audit shall be required if turnover has exceeded ₹5 crores.

**Period of retention of accounts . Section 36.**

Every registered person required to keep and maintain books of account or other records in accordance with the provisions of section 35 shall retain them until the expiry of seventy two months from the due date of furnishing of annual return for the year pertaining to such accounts and records.

**Question 15: Explain Tax Invoice in special cases.**

**Answer: Tax Invoice in special cases Rule 54.**

- (1) Where the supplier of taxable service is an insurer or a banking company or a financial institution, the said supplier may issue a consolidated tax invoice or any other document 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.
- (2) Where the supplier of taxable service is a goods transport agency the said supplier shall issue a tax invoice or any other document in lieu thereof, by whatever name called, containing the gross weight of the consignment, name of the consigner 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, Goods and Services Tax Identification Number of the person liable for paying tax whether as consigner, consignee or goods transport agency.
- (3) Where the supplier of taxable service is supplying passenger transportation service, a tax invoice shall include ticket in any form, whether or not serially numbered, and whether or not containing the address of the recipient of service.
- (4) A registered person supplying services by way of admission to exhibition of cinematograph films in multiplex screens shall be 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.

**Provided** that the supplier of such service in a screen other than multiplex screens may, at his option, follow the above procedure.

**Question 16: Explain E invoicing**

**Answer:**

All registered persons having turnover more the 10 crores in any financial year from 2017-18 onwards (**Notification no 17/2022-CT dated 01-08-2022**) shall make invoice in form GST INV-01 called 'e-invoice schema' and it will be uploaded on invoice registration portal (www.einvoice1.gst.gov.in to www.einvoice10.gst.gov.in) but it will be applicable only in case of B2B supply i.e. it is not applicable in case of B2C invoices. Similar procedure shall be applicable in case of credit note and debit note. The invoice uploaded shall be return after obtaining an invoice reference number and a QR Code and also the invoice shall be digitally signed. It will also be applicable in case of supply for export or supply to SEZ unit.

The advantages to E invoicing are that the particulars shall be filed in GSTR-1 or E-way bill or GSTR-2B etc. automatically. It will also reduce transcription errors.

**Exemption from e-invoicing (Notification no. 13/2020 dated: 21.03.2020)**

The entities mentioned below shall be exempt from issue of e-invoicing.

- Special Economic Zone units
- Insurer or banking company or financial institution including NBFC
- GTA supplying services in relation to transportation of goods
- Supplier of passenger transportation service
- Person supplying services by way of admission to exhibition of cinematograph films in multiplex screens
- Government department and a local authority

Thus, above mentioned entities are not required to issue e-invoices even if their turnover exceeds ₹ **10 crore** in the preceding financial year from 2017-18 onwards. However in such cases a declaration has to be given as mention below:

'I/We hereby declare that though our aggregate turnover in any preceding financial year from 2017-18 onwards is more than the aggregate turnover notified under sub-rule (4) of rule 48, we are not required to prepare an invoice in terms of the provisions of the said sub-rule'.

Only SEZ units and not SEZ developers are exempt from issuing e-invoices. Thus, SEZ developers whose turnover exceeds ₹ **10 crores** in any preceding financial year from 2017-18 onwards are mandatorily required to issue e-invoices.

**How e-invoice data is consumed by GST System for generation of e-way bill or populating relevant parts GST Returns?**

Invoice Registration Portal sends the e-invoice data along with Invoice Reference Number to the GST System as well as to E-Way Bill System. The GST system will auto-populate them into GSTR-1 of the supplier and GSTR-2B of respective receivers. With source marked as 'e-invoice', IRN and its date will also be shown in GSTR-1 and GSTR-2B.

**Invoice Registration Portal (IRP)**

IRP is the website for uploading/reporting of invoices by the notified persons. Following IRPs have been notified for the purpose of preparation of the e-invoice:

- www.einvoice1.gst.gov.in
- www.einvoice2.gst.gov.in
- www.einvoice3.gst.gov.in
- www.einvoice4.gst.gov.in
- www.einvoice5.gst.gov.in
- www.einvoice6.gst.gov.in
- www.einvoice7.gst.gov.in
- www.einvoice8.gst.gov.in
- www.einvoice9.gst.gov.in
- www.einvoice10.gst.gov.in

**GST invoice will be valid only with a valid IRN.** IRN is different from invoice number. Invoice no. (e.g. ABC/1/2019-20) is assigned by supplier and is internal to business. IRN, on other hand, is a unique reference number (hash) generated and returned by IRP, on successful registration of e-invoice, for instance, 35054cc24d97033afc24f49ec4444dbab81f542c555f9d30359dc75794e06bbe

**Question 17: Explain Dynamic QR code.**

**Answer:**

**Dynamic QR code**

All B2C invoices issued by a registered person whose aggregate turnover in any preceding financial year from 2017-18 onwards exceeds ₹ 500 crores are proposed to have a QR code from December 1, 2020.

Sixth proviso to rule 46 has empowered the Government to specify that the tax invoice shall have Quick Response (QR) code. Resultantly, it has been notified that invoice issued by a registered person (except specified class of persons), whose aggregate turnover in a financial year exceeds ₹ 500 crores, in respect of B2C supplies (supply of goods or services or both to an unregistered person) shall have Dynamic QR code.

A Dynamic Quick Response (QR) code made available to buyer by such registered person through digital display (with payment cross reference) shall be deemed to be having QR code. The purpose of this provision is to enable and encourage digital payments where buyer can scan the dynamic QR code and make payment from mobile wallet directly. Today, many shops have static QR code at the payment counter which is scanned by the buyer, but the buyer has to enter the amount to be paid to the shop in the mobile payment App. The dynamic QR code, on the other hand, will have the payment details and thus 'scan and pay' in one go is possible. This has no relevance or applicability to the e-invoicing in respect to B2B supplies by notified class of taxpayers. Dynamic QR Code will be generated by the seller himself either on the Point of Sale (PoS) machine or the invoice issued.

### **CLARIFICATIONS**

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 alongwith 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]

## **E-WAY BILL**

### **Inspection of goods in movement. Section 68/Rule 138**

E-way bill shall be prepared by the supplier before movement of goods and it will be prepared on the site e-waybillst.gov.in by filling in Form No. EWB-01. Part A shall be filled in by the supplier and Part B by the transporter. If supplier is unregistered but recipient is registered, e-way bill shall be prepared by the recipient. When Part A is filled, the portal shall generate a unique number which will be assign to the transporter and the transporter shall fill in Part B and after that e-way bill is generated and also the portal will generate the e-way bill number. In case there is movement of goods but there is no supply e.g. stock transfer or the goods sent on approval basis etc., even in such cases e-way bill also be generated.

E-way bill shall be generated only if consignment value is exceeding ₹50,000 but in case of movement of goods to job worker and also in case of movement of handicraft goods, e-way bill has to be generated irrespective of the value. Part A has to be filled in by the person who is causing movement of goods but such person can authorise the transporter or the courier or the electronic commerce operator to fill in Part A. Consignment value means the value determined as per section 15 but it will not include value of exempted goods but it will include the amount of GST e.g. if value is ₹48,000 and GST is ₹4,800, in this case e-way bill has to be generated.

If the supplier has his own vehicle, Part A and Part B shall be filled in by the supplier.

In general movement of goods without generating e-way bill is not allowed but movement is allowed by filling in Part A if 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.

In case of change of vehicle, number of new vehicle has to be updated on the common portal but movement is allowed without updation of the new vehicle 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.

### **Transportation of goods by railways/ air/ vessel**

Where the goods are transported by railways or by air or vessel, the e-way bill shall be generated by the registered person, being the supplier or the recipient, who shall, either before or after the commencement of movement, furnish, on the common portal, the information in Part B of FORM GST EWB-01.

### **Change of conveyance**

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:

### **Change of transporter**

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.

**Example:** A consignor is required to move goods from City X to City Z. He appoints Transporter A for movement of his goods. Transporter A moves the goods from City X to City Y. For completing the movement of goods i.e., from City Y to City Z, Transporter A now hands over the goods to Transporter B. Thereafter, the goods are moved to the destination i.e. from City Y to City Z by Transporter B. In such a scenario, only one e-way bill would be required. Part A can be filled by the consignor and then the e-way bill will be assigned by the consignor to Transporter A. Transporter A will fill the vehicle details, etc. in Part B and will move the goods from City X to City Y. On reaching City Y, Transporter A will assign the said e-way bill to the Transporter B. Thereafter, Transporter B will be able to update the details of Part B.

Transporter B will fill the details of his vehicle and move the goods from City Y to City Z [Press Release No. 144/2018 dated 31.03.2018]

### **Consolidated e-way bill**

After e-way bill has been generated 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 may be generated by him.

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:

### **Information for GSTR 1**

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.

### **Cancellation of e-way bill**

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:

### **Validity of e-way bill**

An e-way bill or a consolidated e-way bill shall be valid for the period as mentioned below from the relevant date.

Sl. No.	Distance	Validity period
1.	Upto 200 km.	One day
2.	For every 200 km. or part thereof thereafter	One additional day
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 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.

The expression "Over Dimensional Cargo" shall mean a cargo carried as a single indivisible unit and which exceeds the dimensional limits.

**Example:** A consignor hands over his goods for transportation on Friday to transporter. However, the assigned transporter starts the movement of goods on Monday. The validity period of e-way bill starts only after the details in Part B are updated by the transporter for the first time. In the given situation, Consignor can fill the details in Part A on Friday and handover his goods to the transporter. When the transporter is ready to move the goods, he can fill Part B i.e. the assigned transporter can fill the details in Part B on Monday and the validity period of the e-way bill will start from Monday [Press Release No. 144/2018 dated 31.03.2018].

### **Extension of Time Limit for e-way bill**



Where, under circumstances of an exceptional nature, 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, but the validity of the e-way bill may be extended within **eight hours from the time of its expiry**.

#### **Intimation of e-way bill**

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

- (a) supplier, where the information in Part A of FORM GST EWB-01 has been furnished by the recipient or the transporter; or
- (b) recipient, 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. Where the person to whom the information 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.

#### **Circumstances when e-way not required 138(14)**

Notwithstanding anything contained in this rule, no e-way bill is required to be generated—

- (i) Transportation of LPG / Kerosene / Postal baggage / Jewellery / Diamonds / Currency
- (ii) where the goods are being transported by a non-motorised conveyance;
- (iii) where the goods are being transported from the customs port, airport, air cargo complex and land customs station to an inland container depot or a container freight station for clearance by Customs;
- (iv) Goods exempted from GST
- (v) where the goods being transported are alcoholic liquor for human consumption / petroleum products
- (vi) where the supply of goods being transported is treated as no supply under Schedule III of the Act ;
- (vii) where the goods being transported are transit cargo from or to Nepal or Bhutan;
- (viii) any movement of goods caused by defence formation under Ministry of defence
- (ix) where the consignor of goods is the Central Government, Government of any State or a local authority for transport of goods by rail;
- (x) where empty cargo containers are being transported;
- (xi) where the goods are being transported upto a distance of twenty kilometers from the place of the business of the consignor to a weighbridge for weighment or from the weighbridge back to the place of the business of the said consignor subject to the condition that the movement of goods is accompanied by a delivery challan issued in accordance with rule 55; and

#### **Documents and devices to be carried by a person-in-charge of a conveyance. Rule 138A.**

(1) The person in charge of a conveyance shall carry—

- (a) the invoice or bill of supply or delivery challan, as the case may be; and
- (b) a copy of the 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:

In case of **imported goods**, the person in charge of a conveyance shall also carry a copy of the **bill of entry**.

(2) If a registered person is covered under e invoicing and has obtained invoice reference number with QR code from invoice registration portal, in that case he may produce the same for verification instead of carrying a physical copy of invoice.

(3) Where the registered person has obtained invoice reference number with QR code, the information in Part A of FORM GST EWB-01 shall be auto-populated by the common portal.

(4) The Commissioner may, by notification, require a class of transporters to obtain a unique Radio Frequency Identification Device and get the said device embedded on to the conveyance and map the e-way bill to the Radio Frequency Identification Device prior to the movement of goods.

**Verification of documents and conveyances. Rule 138B.**

- (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.
- (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.

**Inspection and verification of goods. Rule 138C.**

- (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 twenty four hours of inspection and the final report in Part B of FORM GST EWB-03 shall be recorded within three days of such inspection:**

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 Union Territory or in any other State or Union Territory, no further physical verification of the said conveyance shall be carried out again in the State or Union Territory, **unless a specific information relating to evasion of tax is made available subsequently.**

**Facility for uploading information regarding detention of vehicle. Rule 138D.**

**Where a vehicle has been intercepted and detained for a period exceeding thirty minutes, the transporter may upload the said information in FORM GST EWB-04 on the common portal.**

**Restriction on furnishing of information in PART A of FORM GST EWB-01. Rule 138E.**

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 any outward movement of goods of a registered person, who,—*

- (a) being a person paying tax under section 10, 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 tax periods:
- (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.
- (d) being a person, whose registration has been suspended under rule 21A:

**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.

**Provided further** that no order rejecting the request of such person to furnish the information in PART A of FORM GST EWB-01, shall be passed without affording the said person a reasonable opportunity of being heard:

**Example:**

1. ABC Ltd., Delhi dispatched goods of value ₹ 48,000 + GST 12%, in this case e-way bill is required because consignment value for the purpose of e-way bill shall include GST also but if value of taxable goods is ₹ 30,000 and value of exempt goods is ₹ 18,000. GST on taxable goods is 12% in this case e-way bill is not required because consignment value for the purpose of e-way bill do not include exempt goods.

2. ABC Ltd., Delhi has transferred stock to its own branch in Delhi. Consignment value is ₹ 2,00,000 and no GST payable even if goods are taxable because the company has only one registration, in this case away bill is required because if there is movement of goods away bill is required even if it is not a supply.
3. Part A of EWB 01 is filled in by the person causing the movement of goods and such person may be consigner or consignee depending upon the situation as who is causing the movement. If such consigner or consignee has their own transport, in that case part B of EWB 01 shall also be filled in by such consigner or consignee.
4. If the consigner or consignee has directed the transporter, Part A can be filled by such transporter. Similarly part A can be filled in by the ECO or Courier Agency

**E-way Bill in case of 'Bill To Ship To' Model**

In a "Bill To Ship To" model of supply, there are three persons involved in a transaction, namely:

- 'A' is the person who has ordered 'B' to send goods directly to 'C'.
- 'B' is the person who is sending goods directly to 'C' on behalf of 'A'.
- 'C' is the recipient of goods.

In this complete scenario. two supplies are involved and accordingly two tax invoices are required to be issued:

**Invoice -1:** which would be issued by 'B' to 'A'.

**Invoice -2:** which would be issued by 'A' to 'C'.

It is clarified that as per the CGST Rules, either A or B can generate the e-Way Bill but it may be noted that only one e-Way Bill is required to be generated [Press Release dated 23.04.2018]

## **Reverse Charge**

### **Section 9(3) of CGST Act /Notification No. 13/2017 CTR dated 28.06.2017**

### **Section 5(3) of IGST Act /Notification No.10/2017 ITR dated 28.06.2017**

#### **Reverse Charge Mechanism**

Generally, the supplier of goods or services is liable to pay GST. However, under the reverse charge mechanism, the liability to pay GST is cast on the recipient of the goods or services.

#### **1. Goods Transport Agency**

In case of good transport agency, they have the option to pay tax under reverse charge or under forward charge and for this purpose they have to give declaration. If they have opted for forward charge, reverse charge shall not applicable for them. Declaration shall be given in the manner given below:

I/we have taken registration under GST and have exercised the option to pay tax on services of GTA in relation to transport of goods supplied by us during the Financial Year \_\_\_\_\_ under forward charge.

**Reverse charge shall be applicable only if GTA** has given services to any of the following persons. Further under reverse charge tax shall be paid by the recipient of GTA service and Recipient of GTA service is the person who pays/is liable to pay freight for transportation of goods by road in goods carriage, located in the taxable territory.

- (a) any factory registered under the Factories Act, 1948; or
- (b) any society registered under the Societies Registration Act, 1860 or under any other law
- (c) any co-operative society established under any law; or
- (d) any person registered under GST or;
- (e) any body corporate established, under any law; or
- (f) any partnership firm whether registered or not under any law including association of persons; or
- (g) any casual taxable person which is registered under GST.

If services has been provided to **unregistered individual or unregistered HUF or unregistered casual taxable person**, in that case reverse charge is not applicable (further it is exempt from GST).

Reverse charge mechanism (RCM) shall not apply to services provided by a GTA, by way of transport of goods in a goods carriage by road to-

- (a) a Department/ establishment of the Central Government/ State Government/ Union territory; or
- (b) local authority; or
- (c) Governmental agencies,

which has taken registration under the CGST Act only for the purpose of deducting tax under section 51 and not for making a taxable supply of goods or services (because it exempt from GST).

#### **Example**

(i) ABC Ltd., consignor is in Delhi and consignee XYZ Ltd. is in UP and GTA, Z Ltd. is in Delhi and freight is to be paid by ABC Ltd., in this case reverse charge is applicable and GST shall be paid by ABC Ltd. and if freight is to be paid by XYZ Ltd., reverse charge shall be applicable and XYZ Ltd. has to pay GST under reverse charge.

If the person making payment of freight is individual or HUF who is unregistered, it will be exempt from GST.

(ii) ABC Ltd., consignor is in Delhi and consignee Mr. X is in U.P. who is unregistered and GTA, Z Ltd. is in Delhi and freight is to be paid by Mr. X, in this case it will be exempt from GST.

#### **2. Legal Services:**

Reverse charge shall be applicable in case of legal services provided by an individual advocate including a senior advocate or firm of advocates and services should given to Any business entity registered under GST.

**3. Services supplied by an Arbitral Tribunal**

Reverse charge shall be applicable if arbitral tribunal has given services to any business entity registered under GST.

**4. Sponsorship Services**

Reverse charge shall be applicable in case of sponsorship services provided such services are given to any body corporate or partnership firm.

**Example**

(i) Sponsorer is in Delhi and organizer of programme is also in Delhi and it is company or partnership firm, Reverse charge is applicable and GST shall be paid by the sponsorer.

(ii) If programme has been sponsored by an individual/HUF, the organizer shall collect GST from individual/HUF and shall pay it to the Government.

**5. Services By Government or Local Authority**

Reverse charge shall be applicable in case of services supplied by the Central Government, State Government, Union territory or local authority to a business entity but reverse charge is not applicable in the following cases:

(1) services by the Department of Posts.

(2) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;

(3) transport of goods or passengers.

(4) renting of immovable property given to unregistered person (i.e. reverse charge shall be applicable only if the service has been given to a registered person)

**Example:** Mr. X has sent one speed post through post office and has paid ₹ 30 + GST, in this case reverse charge is not applicable whether Mr. X is registered or unregistered.

**Example:** Mr. X purchased one railway ticket 1<sup>st</sup> class ₹ 1,000 + GST, in this case reverse charge is not applicable whether Mr. X is registered or unregistered.

**Example:** Mr. X has taken one building on rent from MCD ₹ 10,000 p.m. + GST, in this case reverse charge not applicable if he is unregistered but reverse charge applicable if he is registered.

**6. Reverse charge shall be applicable in case of service by way of renting of residential dwelling to a registered person.**

**7. Reverse charge shall be applicable in case of Long term lease of land (30 years or more) by any person against consideration in form of upfront amount (called as premium, salami, cost, price, development charges or by any other name) and/or periodic rent for construction of a project by a promoter**

**8. Reverse charge shall be applicable in case of services supplied by a Director of a company/body corporate to the said company/body corporate.**

If the director is an employee, in that case it will be covered in Schedule III and it will not be considered to be supply.

**9. Reverse charge shall be applicable in case of Services supplied by an insurance agent to any person carrying on insurance business.**

**10. Reverse charge shall be applicable in case of services provided by a recovery agent to a banking company/financial institution or a non-banking financial company.**

**11. Services by Music Composer, Photographer, Artist, Author etc.** Reverse charge shall be applicable in case of Supply of services by a music composer, photographer, artist, author or the like by way of transfer or permitting the use or enjoyment of a copyright relating to original dramatic, musical or artistic works to a music company, producer, publisher or the like.

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

(i) he has taken registration under the CGST Act and filed a declaration, in the prescribed form, that he exercises the option to pay CGST on the said service under forward charge in accordance with section 9(1) of the CGST Act and to comply with all the provisions as they apply to a person liable for paying the tax in relation to the supply of any goods and/or services and that he shall not withdraw the said option

within a period of 1 year from the date of exercising such option and also he makes a declaration on the invoice issued by him in prescribed form to the publisher.

**12.** Reverse charge shall be applicable in case of supply of services by the members of Overseeing Committee to Reserve Bank of India (RBI).

**13.** Reverse charge shall be applicable in case of services supplied by individual Direct Selling Agents (DSAs) other than a body corporate, partnership or limited liability partnership (LLP) firm to bank or nonbanking financial company (NBFCs).

**14.** Reverse charge shall be applicable in case of services provided by business facilitator to a banking company.

**15.** Reverse charge shall be applicable in case of services provided by an agent of business correspondent to business correspondent.

**16. Services provided by way of Supply of Security Personnel**

Reverse charge shall be applicable in case of security services provided by any person other than a body corporate and further services are provided to a registered person.

However, nothing contained in this entry shall apply to:

(i)

(a) a Department or Establishment of the Central Government or State Government or Union territory; or

(b) local authority; or

(c) Governmental agencies;

which has taken registration under the CGST Act, 2017 only for the purpose of deducting tax under section 51 of the said Act and not for making a taxable supply of goods or services; or

(ii) a registered person paying tax under composition scheme.

**Example**

1. Mr. X is providing security services to ABC limited (registered under GST), in this case reverse charge is applicable.

2. Mr. X is providing security services to ABC limited (not registered under GST), in this case reverse charge is not applicable.

3. Services are given by ABC limited to Mr. X or services are given by ABC limited to XYZ limited, reverse charge is not applicable.

**17. Services provided by way of Renting of any Motor Vehicle**

Service by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient are taxable at the following two rates:

(i) @ 5% (2.5% CGST+2.5% SGST/UTGST or 5% IGST) provided supplier of services has taken only the limited ITC (of input services in the same line of business). In this case reverse charge shall be applicable.

(ii) @ 12% (6% CGST+6% SGST/UTGST or 12% IGST) where supplier of services opts to pay GST at said rate. In this case, there is no restriction on availing ITC on goods or services used in supplying renting of motor vehicles service by the supplier of service. In this case reverse charge not applicable

(iii) Renting of motor vehicle without fuel, in this case rate of GST shall be 18% and reverse charge is not applicable.

Reverse charge shall be applicable if such services are given by any person, other than a body corporate and services are given to a body corporate.

**Examples on RCM for renting of motor vehicle**

1. Mr. X a registered dealer is providing renting of motor vehicle services without cost of fuel, in this case reverse charge is not applicable and the supplier shall charge tax @ 18% (because RCM is not applicable in case of renting of motor vehicle without cost of fuel.)

2. Mr. X a registered dealer is providing renting of motor vehicle services with cost of fuel and GST is payable @12%, in this case reverse charge is not applicable because GST is being charged @ 12%.

3. Mr. X a registered dealer is providing renting of motor vehicle services with cost of fuel and GST is payable @ 5%, in this case reverse charge is applicable because GST is being charged @ 5%. However

supply should be given to a body corporate. If supply given to any other person reverse charge is not applicable.

4. ABC Ltd. a registered dealer is providing renting of motor vehicle services with cost of fuel and GST is payable @ 5%, in this case reverse charge is not applicable because services have been provided by a body corporate.

### **18. Services of lending of securities under Securities Lending Scheme**

If any person has provided services of lending of securities under Securities Lending Scheme, 1997 of Securities and Exchange Board of India, in that case reverse charge shall be applicable and GST shall be paid by the person who borrows the securities.

### **19. Services from Non-Taxable Territory to Taxable Territory**

Reverse charge shall be applicable in respect of any taxable services provided or agreed to be provided by any person who is located in a non-taxable territory and received by any person located in the taxable territory.

No such reverse charge shall be applicable in case of OIDAR services received by an unregistered person.

#### **Example**

(i) ABC limited has taken services of an architect of USA on payment basis for construction of one building, In this case GST is payable by ABC limited under reverse charge.

(ii) Mr. X has taken OIDAR services on payment basis, GST shall be payable by Mr. X if he is registered but if he is unregistered, Person providing OIDAR services shall collect GST from him and shall pay to the Government.

(iii) Mr. X has taken OIDAR services free of cost for personal or business purpose, in this case no GST is payable either by Mr. X or by the person providing OIDAR services.

#### **Notification No. 10/2017- Integrated Tax (Rate)**

20. Services supplied by a person located in non- taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India. In this case tax shall be paid by the Importer who is located in the taxable territory.

#### **Question 1: Explain TOS of services in case of reverse charge**

#### **Answer: TOS of services in case of reverse charge. Section 13(3)**

TOS shall be earliest of the following dates:

- (a) the date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier.
- (b) the date immediately following sixty days from the date of issue of invoice.

If it is not possible to determine the time of supply in the manner given above, the time of supply shall be the date of entry in the books of account of the recipient of supply.

#### **Question 2: Explain issue of Payment Voucher**

#### **Answer: Payment voucher section 31(3)(g) / Rule 52.**

A registered person who is liable to pay tax under reverse charge shall issue a payment voucher at the time of making payment to the supplier.

A payment voucher shall contain the following particulars, namely:—

- (a) name, address and Goods and Services Tax Identification Number of the supplier if registered;
- (b) a consecutive serial number not exceeding sixteen characters.
- (c) date of its issue;
- (d) name, address and Goods and Services Tax Identification Number of the recipient;
- (e) description of goods or services;
- (f) amount paid;
- (g) rate of tax / amount of tax.
- (h) place of supply along with the name of State and its code, in case of a supply in the course of inter-State trade or commerce; and

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

**Question 3: Explain TOS in case of Associated Enterprises.**

**Answer: Associated enterprise**

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

As per section 2(12), "**associated enterprises**" shall have the same meaning as assigned to it in section 92A of the Income-tax Act, 1961.

**Question 4: Explain TOS in case of Reverse charge of goods.**

**Answer: Receipt of goods that are taxable under reverse charge [Section 12(3)]**

The time of supply of goods on which GST is payable on reverse charge basis under section 9 of CGST Act is determined in terms of section 12(3), as follows:

The time of supply for such goods will be the earliest of the following dates:

- Date on which the goods are received, or
- Date on which payment is recorded in the books of account of the entity that receives the goods, or the date on which it is debited from the entity's bank account, whichever is earlier, or
- Date immediately following 30 days from the date of issue of invoice (or document by some other name in lieu of invoice) by the supplier.

If it is not possible to determine the time of supply by using these parameters, then the time of supply will be the date of entry of goods in the books of account of the recipient of supply.



## **Exemptions From GST**

**Section 11 CGST Act Notification No.12/2017 CTR dated 28.06.2017**

**Section 6 of IGST Act Notification No.9/2017 ITR dated 28.06.2017**

### **1. Health Care Services (E-74)**

Health care services are exempt from GST and health care services shall include diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India. **It will not include hair transplant or cosmetic or plastic surgery**, except when undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma.

Services provided by way of transportation of a patient in an ambulance shall also be exempt from GST.

Services by para-medics are also exempt from GST. **Paramedics** are trained health care professionals, for example, nursing staff, physiotherapists, technicians, lab assistants etc.

Only services in **recognized systems of medicines in India** are exempt.

Following systems of medicines are the recognized systems of medicines in India:-

Allopathy, Yoga, Naturopathy, Ayurveda, Homeopathy, Siddha, Unani, any other system of medicine that may be recognized by Central Government (e.g. Reiki is not recognised)

No exemption shall be allowed to the services provided by a clinical establishment by way of providing room [other than Intensive Care Unit (ICU)/Critical Care Unit (CCU)/Intensive Cardiac Care Unit (ICCU)/Neo natal Intensive Care Unit (NICU)] having room charges exceeding Rs. 5000 per day to a person receiving health care services.

Services by a veterinary clinic in relation to health care of animals or birds is also exempt from GST. **(E-46)**

Health care services provided by the clinical establishments will include food supplied to the patients; and such food may be prepared by the canteens run by the hospitals or may be outsourced by the hospitals from outdoor caterers. Other supplies of food by a hospital to patients (not admitted) or their attendants or visitors are taxable [Circular No. 32/06/2018 GST dated 12.02.2018]. Supply of services other than healthcare services such as renting of shops, auditoriums in the premises of the clinical establishment, display of advertisements etc. will be subject to GST.

### **2. Agriculture Related Services**

#### **Agricultural Activities**

#### **Services relating to cultivation of plants and or agricultural produce by way of (E-54)**

(a) agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing;

(b) supply of farm labour;

(c) processes carried out at an agricultural farm including tending, pruning, cutting, harvesting, drying, cleaning, trimming, sun drying, fumigating, curing, sorting, grading, cooling or bulk packaging and such like operations which do not alter the essential characteristics of agricultural produce but make it only marketable for the primary market, eg. Threshing in case of wheat crop.

(d) renting or leasing of agro machinery or vacant land with or without a structure incidental to its use;

(e) loading, unloading, packing, storage or warehousing of agricultural produce;

(f) agricultural extension services;

(g) services by any Agricultural Produce Marketing Committee or Board or services provided by a commission agent for sale or purchase of agricultural produce.

(h) Carrying out an intermediate production process as job work in relation to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce. **[E-55]**

**"Agricultural Produce Marketing Committee or Board"** means any committee or board constituted under a State law for the time being in force for the purpose of regulating the marketing of agricultural produce;

**Clarification****Processed Tea and coffee**

Tea used for making the beverage, such as black tea, green tea, white tea is a processed product made in tea factories after carrying out several processes, such as drying, rolling, shaping, refining, oxidation, packing etc. on green leaf and is the processed output of the same. Thus, green tea leaves and not tea is the “agricultural produce” eligible for exemption available for loading, unloading, packing, storage of agricultural produce. Same is the case with coffee obtained after processing of coffee beans.

**Jaggery**

Similarly, processing of sugarcane into jaggery changes its essential characteristics. Thus, jaggery is also not an agricultural produce.

**Pulses**

Pulses commonly known as dal are obtained after dehusking or splitting or both. The process of dehusking or splitting is usually not carried out by farmers or at farm level but by the pulse millers. Therefore pulses (dehusked or split) are also not agricultural produce. However, whole pulse grains such as whole gram, rajma etc. are covered in the definition of agricultural produce.

**Custom milling of paddy into rice**

Milling of paddy is not an intermediate production process in relation to cultivation of plants. It is a process carried out after the process of cultivation is over and paddy has been harvested. Further, processing of paddy into rice is not usually carried out by cultivators, but by rice millers. Milling of paddy into rice also changes its essential characteristics.

Therefore, milling of paddy into rice cannot be considered as an intermediate production process in relation to cultivation of plants for food, fibre or other similar products or agricultural produce.

In view of the above, it is clarified that milling of paddy into rice is not eligible for exemption. [Circular No. 19/19/2017 GST dated 20.11.2017]. However as a special case services by way of loading, unloading, packing, storage or warehousing of rice has been exempted. **[E-24]**

Services by way of storage or warehousing of cereals, pulses, fruits and vegetables. **(E-24B)**

**Services by way of pre-conditioning, pre-cooling, ripening, waxing, retail packing, labelling of fruits and vegetables which do not change or alter the essential characteristics of the said fruits or vegetables. (E-57)**

Services by way of warehousing of minor forest produce. **(E-24A)**

Services by way of artificial insemination of livestock (other than horses). **(E-55A)**

**3. Education Services****Educational Services (E-66)**

**(a) Services provided by an educational institution to its students, faculty and staff.**

**(b) Services provided to an educational institution relating to admission, or conduct of examination.**

**“Educational institution”** means an institution providing services by way of,—

- (i) pre-school education and education up to higher secondary school or equivalent;
- (ii) education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force;
- (iii) education as a part of an approved vocational education course

**Clarification**

Private ITIs qualify as an educational institution if the education provided by these ITIs is approved as vocational educational course. It implies that services provided by a private ITI only in respect of designated trades notified under Apprenticeship Act, 1961 are exempt from GST.

Services other than designated trades are liable to GST.

**(c) services to an educational institution,** by way of,—

- (i) transportation of students, faculty and staff;
- (ii) catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory;
- (iii) security or cleaning or house-keeping services performed in such educational institution;

*Educational Institution for the purpose of point (i),(ii),(iii) means an institution providing services by way of pre-school education and education up to higher secondary school or equivalent.*

**Example:** Service provided by a private transport operator to Scholar Boys Higher Secondary School in relation to transportation of students to and from the school, shall be exempt from GST.

(d) Services received by way of supply of online educational journals or periodicals to an educational institution other than an institution providing services by way of—

- (i) pre-school education and education up to higher secondary school or equivalent; or
- (ii) education as a part of an approved vocational education course;

**Example:** Delhi University has taken online services of educational journals and periodicals from one university in USA and paid US dollar 1,00,000, in this case it is exempt from GST but if such services have been taken by a Pre School, it will be taxable.

(e) Services by way of giving on hire motor vehicle for transport of students, faculty and staff, to a person providing services of transportation of students, faculty and staff to an educational institution providing services by way of pre-school education and education upto higher secondary school or equivalent. [E-22]

**Example:** ABC Ltd. a transporter has given one bus on rent to XYZ transporter who has further given it to a Pre School, in this case services from ABC to XYZ are exempt from GST also services by XYZ to pre school are exempt.

#### **Clarification**

##### **(i) College Hostel Mess services**

Educational institutions generally have mess facility for providing food to their students and staff. Such facility is (i) either run by the institution/ students themselves or (ii) is outsourced to a third person.

If the catering services is one of the services provided by an educational institution to its students, faculty and staff and the said educational institution is covered by the definition of 'educational institution' as given above, then the same is exempt.

If the catering services, i.e., supply of food or drink in a mess or canteen, is provided by anyone other than the educational institution, i.e. the institution outsources the activity to an outside contractor, then it is a supply of service to the concerned educational institution and attracts GST [Circular No. 28/02/2018 GST dated 08.01.2018].

Note: It may be noted that said services when provided to an educational institution providing pre-school education or education up to higher secondary school or equivalent are exempt from tax.

(ii) **The Central and State Educational Boards** shall be treated as 'Educational Institution' for the limited purpose of providing services by way of conduct of examination to the students.

##### **(iii) Fees charged from prospective employers**

Educational institutes such as IITs, IIMs charge a fee from prospective employers like corporate houses/MNCs, who come to the institutes for recruiting candidates through campus interviews in relation to campus recruitments. Such services shall also be liable to tax

##### **(iv) Maritime courses approved by DG Shipping**

Maritime Training Institutes and their training courses are approved by the Director General of Shipping which are duly recognised under the provisions of the Merchant Shipping Act, 1958 read with the Merchant Shipping (standards of training, certification and watch-keeping for Seafarers) Rules, 2014.

Therefore, Maritime Training Institutes are educational institutions and the courses conducted by them are exempt [Circular No. 117/36/2019 GST dated 11.10.2019].

(v) **Services provided by an educational institution by way of** conduct of entrance examination against consideration in the form of entrance fee is also exempt from GST.

#### **4. Services by way of training or coaching in – (E-80)**

(a) recreational activities relating to arts or culture, by an individual or

(b) sports by charitable entities registered under section 12AA or 12AB of the Income-tax Act.

Training or coaching relating to all forms of arts, culture is covered under this entry, namely, dance, music, painting, sculpture making, literary activities, theatre, etc. of any school, tradition or language.

#### **5. Legal Services (E-45)**

**Legal Services**

Services provided by-

**(a) a partnership firm of Advocates or an individual as an Advocate other than a Senior Advocate, by way of legal services to-**

- (i) an advocate or partnership firm of advocates providing legal services;
- (ii) any person other than a business entity; or
- (iii) a business entity with an aggregate turnover up to such amount in the preceding financial year as makes it eligible for exemption from registration;
- (iv) the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity

**Example:**

- (i) Mr. X an Advocate has given services to Mr. Y an advocate, In this case it is exempt from GST.
- (ii) Mr. X an Advocate has given services to Mr. Y a business entity with turnover upto prescribed limit in the preceding year, In this case it is exempt from GST.
- (iii) Mr. X an Advocate has given services to Mr. Y a business entity with turnover exceeding prescribed limit in the preceding year, In this case it is chargeable to GST.(Recipient shall pay tax under reverse charge)

**(b) a Senior Advocate by way of legal services to-**

- (i) any person other than a business entity; or
- (ii) a business entity with an aggregate turnover up to such amount in the preceding financial year as makes it eligible for exemption from registration.
- (iii) the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity

**Example:**

- (i) Mr. X an Senior Advocate has given services to Mr. Y an advocate, In this case it is exempt from GST provided turnover of Mr. Y is not exceeding prescribed limit in the preceding year otherwise it is taxable and Mr. Y will pay tax under Reverse Charge. (In this case no special exemption rather advocate receiving service shall also be treated like business entity)
- (ii) Mr. X an Senior Advocate has given services to Mr. Y a business entity with turnover upto prescribed limit in the preceding year, In this case it is exempt from GST.
- (iii) Mr. X an Senior Advocate has given services to Mr. Y a business entity with turnover exceeding prescribed limit in the preceding year, In this case it is chargeable to GST.(Recipient shall pay tax under reverse charge)

**(c) an Arbitral Tribunal to –**

- (i) any person other than a business entity; or
- (ii) a business entity with an aggregate turnover up to such amount in the preceding financial year as makes it eligible for exemption from registration;
- (iii) the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity.

"business entity" means any person carrying out business. The term business shall have the same meaning as given u/s 2(17) of CGST Act.

**Example of services by Arbitral Tribunal / Advocates**

Sl. No.	Service Provider	Service Receiver	Taxable/Exempt	Taxability
01.	Arbitral Tribunal	Mr. A	Exempt	
02.	Arbitral Tribunal	ABC Ltd. (Turnover ₹8 Lakh in the preceding year)	Exempt	
03.	Arbitral Tribunal	ABC Ltd. (Turnover ₹45 Lakh preceding year)	Taxable	Reverse Charge applicable and Service Recipient shall be

				liable to pay GST.
04.	Mr. A (An individual advocate)	Mr. B (an individual advocate)	Exempt	
05.	Mr. A (an individual advocate)	Mr. B	Exempt	
06.	Mr. A (An individual advocate)	ABC Ltd. (Turnover ₹7 Lakh in the preceding year)	Exempt	
07.	XYZ (Partnership firm of Advocates)	ABC Ltd. (Turnover ₹43 Lakh preceding year)	Taxable	Reverse Charge applicable and Service Recipient shall be liable to pay GST.

## **6. Services Provided by Government**

### **Services by the Government**

Services by the Central Government, State Government, Union territory or local authority shall be exempt from GST and such services may be:

Services by way of issuance of passport, visa, driving licence, birth certificate or death certificate, Services by way of registration required under any law, testing, calibration, safety check or certification relating to protection or safety of workers, consumers or public at large, including fire license, required under any law.

**(E-61/47)**

### **The following services of the Government shall be taxable. (E-6)**

(a) services by the Department of Posts, however, services by way of post card, inland letter, book post and ordinary post (envelopes weighing less than 10 grams) shall be exempt from GST. **(E-24C)**

(b) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport.

(c) transport of goods or passengers. or

(d) any service, other than services covered under entries (a) to (c) above, provided to business entities which are registered under GST e.g. renting of immovable property/advertisement by railways/security services/ Logistics Services etc. but if amount charged for such services is upto ₹5,000, it will be exempt, e.g. ABC limited is a business entity registered under GST and it has taken one of the specified services and paid ₹ 4,000, in this case, no GST is payable. **(E-9)**

Further if such services are given to business entities which is unregistered, it will be exempt from GST irrespective of the amount of services but exemption shall not be available for Renting of Immovable property, e.g. ABC limited is a business entity which is unregistered and it has taken one of the specified services and paid ₹ 40,000, in this case, no GST is payable. **(E-7)**

**Services provided by the Central Government**, State Government, Union territory or local authority to another Central Government, State Government, Union territory or local authority shall be exempt. **(E-8)**

**Services by an old age home run by** Central Government, State Government or an entity registered under section 12AA or 12AB of the Income-tax Act, 1961 to its residents (aged 60 years or more) against consideration upto ₹ 25,000 per month per member, provided that the consideration charged is inclusive of charges for boarding, lodging and maintenance. **(E-9D)**

**Services supplied by Central Government**, State Government, Union territory to their undertakings or Public Sector Undertakings(PSUs) by way of guaranteeing the loans taken by such undertakings or PSUs from the banking companies and financial institutions. **(E-34A)**

**Services provided by the Central Government**, State Government, Union territory or local authority by way of **assignment of right to use natural resources to an individual farmer for cultivation of plants and rearing of all life forms of animals**, except the rearing of horses, for food, fibre, fuel, raw material or other similar products. **(E-63)**

**Services provided by the Central Government**, State Government, Union territory by way of **deputing officers after office hours or on holidays for inspection or container stuffing** or such other duties in relation to import export cargo on payment of Merchant Overtime charges. **(E-65)**

**Services by Central Government, State Government** or local authority in relation to a function covered under article 243G/243W of the Constitution. Such functions are given in eleventh/twelfth schedule of Constitution, eg. Khadi, village and cottage industries, Drinking water, Roads, culverts, bridges, ferries, waterways and other means of communication, Libraries, Cultural activities, Markets and fairs.

**Service by way of grant of alcoholic liquor licence**, against consideration in the form of licence fee or application fee or by whatever name it is called.

**Services provided by Govt. by way of tolerating non-performance of a contract** by the supplier of service shall be exempt from GST. Thus, any consideration received by the Government from any person or supplier for non-performance of contract is exempted from tax. **(E-62)**

E.g. Public Works Department of Karnataka entered into an agreement with M/s. ABC, a construction company, for construction of its office complex for an agreed consideration. In the agreement dated 10th July, it was agreed by both the parties that M/s. ABC shall complete the construction work and handover the project on or before 31st December.

It was further agreed that any breach of the terms of contract by either party would give right to the other party to claim for damages or penalty. M/s. ABC did not complete the construction and did not handover the project by the specified date i.e., on or before 31st December. As per the contract, the Department asked for damages/penalty from M/s. ABC. Resultantly, M/s. ABC paid an amount of ₹ 10,00,000/- to the Department for non-performance of contract. Amount paid by M/s. ABC to Department is exempt from payment of tax.

### **Leasing Services**

Upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable in respect of service by way of granting of long term lease of 30 years, or more) of industrial plots or plots for development of infrastructure for financial business, provided by the State Government Industrial Development Corporations or Undertakings or by any other entity having **20%** or more ownership of Central Government, State Government, Union territory to the industrial units or the developers in any industrial or financial business area.

Explanation - For the purpose of this exemption, the Central Government, State Government or Union territory shall have **20%** or more ownership in the entity directly or through an entity which is wholly owned by the Central Government, State Government or Union territory.

***The leased plots shall be used for the purpose for which they are allotted, that is, for industrial or financial activity in an industrial or financial business area. (E-41)***

### **7. Service of transportation of passengers**, with or without accompanied belongings, by— **(E-15/17)**

- (a) stage carriage other than air- conditioned stage carriage but it is taxable if services have been provided by ECO u/s 9(5)
- (b) railways in a class other than—
  - (i) first class; or
  - (ii) an air-conditioned coach;
- (c) metro, monorail or tramway;
- (d) inland waterways;
- (e) non-air conditioned contract carriage other than radio taxi, for transportation of passengers, excluding tourism, conducted tour, charter or hire. It is always taxable if service have been provided by ECO u/s 9(5).
- (f) public transport, other than predominantly for tourism purpose, in a vessel between places located in India; and
- (g) metered cabs or auto rickshaws (including e-rickshaws) but if service is given by ECO covered under section 9(5), it will be taxable.

(h) air in *economy class*, embarking from or terminating in an airport located in the State of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, or Tripura or at Bagdogra located in West Bengal;

Normal public ships or other vessels that sail between places located in India would be covered in this entry even if some of the passengers on board are using the service for tourism because predominantly, such service is not for tourism purpose. However, services provided by leisure/charter vessels/a cruise ship, predominant purpose of which is tourism, would not be covered in here even if some of the passengers in such vessels are not tourists.

**Example:** Services by way of transportation of passengers [not predominantly for tourism purpose] on a vessel, from Kolkata to Port Blair (mainland to island) or Port Blair to Rose Island (inter island) is exempt.

**Question:** Mr. A boarded Rajdhani Express (fully AC train) from Kanpur on January 5, 2023 and disembarked at New Delhi. He hired a car from a local cab operator for the whole day on a lumpsum consideration and visited Delhi's historical monuments. In the night, he took the Metro to International Airport and boarded a flight to Mumbai. At Mumbai Airport, he used a radio taxi for going to his Hotel. Mr. A returned to Kanpur from a different train, Pushpak Express in sleeper class.

With reference to the provisions of GST, examine the leviability of GST on the various modes of travel undertaken by Mr. A.

**Solution:** In the given case, GST leviability on the various passenger transportation services used by Mr. A will be determined as under:

- (i) Rail travel in AC train – Not covered under exemption list and thus, liable to GST.
- (ii) Travel in a car rented for the whole day on a lumpsum consideration – Since travel by only metered cabs and auto rickshaw is covered in Exemption list, travel in a car rented for the whole day on a lumpsum consideration will be liable to GST.
- (iii) Metro travel – Covered in exemption and hence, not taxable.
- (iv) Air travel – Not covered under exemption and thus, liable to GST.
- (v) Radio taxi travel – Not covered in exemption and hence taxable.
- (vi) Rail travel in sleeper class - Covered in exemption and hence, not taxable.

### **8. Goods Transportation Services (E-18)**

Services by way of transportation of goods-

- (a) by road except the services of—
  - (i) a goods transportation agency;
  - (ii) a courier agency;
- (b) by inland waterways.

Goods transport agency means any agency which provides service **in relation to transport of goods by road** and issues **consignment note**. **Individual truck/tempo operators who do not issue any consignment note are not covered within the meaning of the term GTA**. As a result, the services provided by such individual transporters who do not issue a consignment note will be exempt from GST.

**Example:** Hari Prasad owns a truck and operates it himself. He carries the goods booked for his truck without issuance of consignment note. Services provided by Hari Prasad by way of transportation of goods by road are exempt.

### **9. Services provided by a goods transport agency, by way of transport in a goods carriage of – (E-21)**

- (i) agricultural produce;
- (ii) milk, salt and food grain including flour, pulses and rice;
- (iii) organic manure;
- (iv) newspaper or magazines registered with the Registrar of Newspapers;
- (v) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap; or
- (vi) defence or military equipments.

**10. Services by way of transportation by rail or a vessel** from one place in India to another of the following goods – (E-20)

- (i) agricultural produce;
- (ii) milk, salt and food grain including flour, pulses and rice;
- (iii) organic manure;
- (iv) newspaper or magazines registered with the Registrar of Newspapers;
- (v) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap; or
- (vi) defence or military equipments.

**11. Services provided by a GTA to an unregistered individual**, unregistered HUF or registered casual taxable person shall be exempt from GST. (E-21A)

**12. Banking and Financial Services (E-27)**

Services by way of—

(a) **extending deposits, loans or advances** in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services);

(b) *inter se* **sale or purchase of foreign currency** amongst banks or authorised dealers of foreign exchange or amongst banks and such dealers.

**Interest:** means interest payable in any manner in respect of any moneys borrowed or debt incurred (including a deposit, claim or other similar right or obligation) but does not include any service fee or other charge in respect of the moneys borrowed or debt incurred or in respect of any credit facility which has not been utilized.

**Service charges/ fees, documentation fees, broking charges, administrative charges, entry charges or such like fees or charges collected over and above interest** on loan, advance or a deposit are not exempt and thus, represent taxable consideration.

**13. Services provided by a banking company to Basic Saving Bank Deposit (BSBD) account holders** under Pradhan Mantri Jan Dhan Yojana (PMJDY). (E-27A)

**14. Services to an acquiring bank**, by any person in relation to settlement of an amount upto ₹ 2,000 in a single transaction transacted through credit card, debit card, charge card or other payment card service. “**Acquiring bank**” means any banking company, financial institution including non-banking financial company or any other person, who makes the payment to any person who accepts such card. (E- 35)

**15. Services related to Charitable and Religious Activities (E-1)**

Services provided by a Charitable Trust which is registered under section 12AA/12AB of the Income Tax Act shall be exempt from GST but only with regard to the following services:

1. Public Health by way of Care or counseling of terminally ill persons or persons with severe physical or mental disability or persons afflicted with HIV or AIDS or persons addicted to a dependence-forming substance such as narcotics drugs or alcohol. Public awareness of preventive health, family planning or prevention of HIV infection;
2. Advancement Of Religion, spirituality or yoga;
3. Advancement of educational programmes/skill development relating to (i) abandoned, orphaned or homeless children, (ii) physically or mentally abused and traumatized persons, (iii) Prisoners, (iv) persons over the age of 65 years residing in a rural area.
4. Preservation of environment including watershed, forests & wildlife.

If the Trust has provided any other service, it will be taxable e.g. grant of advertising rights to a person on the premises of the charitable/religious trust or on publications of the trust, or granting admission to events, functions, celebrations, shows against admission tickets or fee etc. would attract GST.

**Arranging yoga and meditation camp by charitable trusts**

Services provided by entity registered under section 12AA or 12AB of the Income-tax Act, 1961 by way of advancement of religion, spirituality or yoga are exempt.



Residential programmes or camps where the fee charged includes cost of lodging and boarding shall also be exempt as long as the primary and predominant activity, objective and purpose of such residential programmes or camps is advancement of religion, spirituality or yoga.

However, if charitable or religious trusts primarily provide accommodation or serve food and drinks against consideration, such activities will be taxable. Similarly, activities such as holding of fitness camps or classes such as those in aerobics, dance, music etc. will be taxable.

#### **GST on services provided TO charitable trusts**

Services provided to charitable or religious trusts are taxable.

#### **16. Religious ceremony / activities (E-13)**

(a) conduct of any religious ceremony;

(b) renting of precincts of a religious place meant for general public, owned or managed by an entity registered as a charitable or religious trust under section 12AA or 12AB of the Income-tax Act, 1961.

However, nothing contained in entry (b) of this exemption shall apply to-

(i) renting of rooms where charges are ₹ 1,000 or more per day;

(ii) renting of premises, community halls, kalyanmandapam or open area, and the like where charges are ₹10,000 or more per day;

(iii) renting of shops or other spaces for business or commerce where charges are ₹ 10,000 or more per month.

**17. The services provided by the Haj Committee and Kumaon Mandal Vikas Nigam Limited (KMVN)** in relation to pilgrimage to Mecca and Kailash- Mansarovar respectively are not liable to GST. **(E-60)**

**Example:** KMVN supplies numerous services, namely, medical facilities, catering services, security, accommodation services, etc. to the pilgrims undertaking Kailash-Mansarovar pilgrimage. Such services provided by KMVN in respect of the religious pilgrimage to Kailash-Mansarovar are covered under entry 60 and thus, are exempt.

#### **18. Performance by an Artist (E-78)**

Services by an artist by way of a performance in folk or classical art forms of-

(a) music, or

(b) dance, or

(c) theatre,

if the consideration charged for such performance is not more than ₹ **1,50,000** are exempt from GST.

The activities by a performing artist in folk or classical art forms of music, dance, or theatre are exempt if consideration does not exceed ₹ 1,50,000. However, if consideration from such activities exceeds ₹1,50,000, entire consideration is subject to GST.

Further, all other activities by an artist in **other art forms** e.g. western music or dance, modern theatres, performance of actors in films or television serials would be taxable. Similarly activities of artists in **still art forms** e.g. painting, sculpture making etc. are **taxable**.

However, the exemption shall not apply to service provided by such artist as a brand ambassador. **‘Brand ambassador’** means a person engaged for promotion or marketing of a brand of goods, service, property or actionable claim, event or endorsement of name, including a trade name, logo or house mark of any person.

#### **19. Services by an Unincorporated Body or a Non- Profit Entity**

Service by a non- profit entity registered under any law for the time being in force, to its own members as

(a) as a trade union or

(b) up to an amount of ₹ **7,500** per month per member for sourcing of goods or services from a third person for the common use of its members in a housing society or a residential complex.**(E-77)**

If any such RWA has given services to its members and amount charged is exceeding ₹7,500 p.m., in that case GST has to be charged on the entire amount. If RWA is unregistered, no GST shall be charged. If any person has two flats in the locality, ₹7,500 shall be per flat.

e.g. A particular RWA has turnover upto ₹20 lakh and is unregistered and it is charging ₹10,000 from each of its member as maintenance charge, in this case it is exempt from GST but if turnover is exceeding ₹20 lakh and RWA is registered, in this case RWA is required to charge GST on entire amount of ₹10,000.

**20. Services provided by an unincorporated body or a non-profit entity** registered under any law for the time being in force, engaged in,-

- (i) activities relating to the welfare of industrial or agricultural labour or farmers; or
- (ii) promotion of trade, commerce, industry, agriculture, art, science, literature, culture, sports, education, social welfare, charitable activities and protection of environment,

to its own members against consideration in the form of membership fee upto an amount of ₹ 1000/- per member per year. **(E-77A)**

**21. Tour operator service, which is performed partly in India** and partly outside India, supplied by a tour operator to a foreign tourist, to the extent of the value of the tour operator service which is performed outside India Provided that value of the tour operator service performed outside India shall be such proportion of the total consideration charged for the entire tour which is equal to the proportion which the number of days for which the tour is performed outside India has to the total number of days comprising the tour, or 50% of the total consideration charged for the entire tour, whichever is less:

Provided further that in making the above calculations, any duration of time equal to or exceeding 12 hours shall be considered as one full day and any duration of time less than 12 hours shall be taken as half a day.

Explanation. — "foreign 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.**(E-52A)**

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

- (i) to a state transport undertaking (STU), a motor vehicle meant to carry more than 12 passengers.
- (ii) to a local authority, an Electrically operated vehicle (EOV) meant to carry more than 12 passengers.
- (iii) to a goods transport agency, a means of transportation of goods.

**(E-22)**

**23. Services provided by an Incubatee**

Services provided by an incubatee up to a total turnover of ₹ 50 lakh in a financial year subject to the following conditions, namely:-

- (a) the total turnover had not exceeded ₹ 50 lakh during the preceding financial year; and
- (b) a period of 3 years has not elapsed from the date of entering into an agreement as an incubatee. **(E- 44)**

**Incubatee:** means an entrepreneur located within the premises of a Technology Business Incubator (TBI)/ Science and Technology Entrepreneurship Park (STEP) recognised by the National Science and Technology Entrepreneurship Development Board of the Department of Science and Technology, Government of India (NSTEDB) and who has entered into an agreement with the TBI/STEP to enable himself to develop and produce hi-tech and innovative products.

Taxable services, provided by a TBI/STEP recognised by NSTEDB or bio- incubators recognised by the Biotechnology Industry Research Assistance Council, under the Department of Biotechnology, Government of India (BIRAC). **(E-48)**

**24. Right to Admission to Various Events**

Services by way of admission to a **museum, national park, wildlife sanctuary, tiger reserve or zoo.** **(E-79)**

Services by way of admission to a **protected monument** so declared under the Ancient Monuments and Archaeological Sites & Remains Act 1958 or any of the State Acts, for the time being in force. **(E-79A)**

Services by way of right to admission to-

- (a) circus, dance, or theatrical performance including drama or ballet;
- (b) award function, concert, pageant, musical performance or any sporting event other than a recognised sporting event;
- (c) recognised sporting event;

(d) planetarium,

where the consideration for right to admission is not more than ₹ 500 per person. **(E-81)**

**Recognised sporting event** means any sporting event,-

(i) organised by a recognised sports body where the participating team or individual represent any district, state, zone or country;

(ii) organized

(A) by a national sports federation, or its affiliated federations, where the participating teams or individuals represent any district, State or zone;

(B) by Association of Indian Universities, Inter-University Sports Board, School Games Federation of India, All India Sports Council for the Deaf, Paralympic Committee of India or Special Olympics Bharat;

(C) by Central Civil Services Cultural and Sports Board;

(D) as part of national games, by Indian Olympic Association; or

(E) under Panchayat Yuva Kreedaa Aur Khel Abhiyaan (PYKKA) Scheme.

**Recognised sports body** means –

(i) the Indian Olympic Association;

(ii) Sports Authority of India;

(iii) a national sports federation recognised by the Ministry of Sports and Youth Affairs of the Central Government, and its affiliate federations;

(iv) national sports promotion organisations recognised by the Ministry of Sports and Youth Affairs of the Central Government;

(v) the International Olympic Association or a federation recognised by the International Olympic Association; or

(vi) a federation or a body which regulates a sport at international level and its affiliated federations or bodies regulating a sport in India.

## **25. Business Facilitator/Correspondent**

Services by the following persons in respective capacities –

(a) business facilitator or a business correspondent to a banking company with respect to accounts in its rural area branch;

(b) any person as an intermediary to a business facilitator or a business correspondent with respect to services mentioned in entry (a); or

(c) business facilitator or a business correspondent to an insurance company in a rural area. **(E-39)**

## **26. Services provided to Government**

### **Composite supply of goods and services TO Government (E-3A)**

Composite supply of goods and services in which the value of supply of goods constitutes not more than 25% of the value of the said composite supply provided to the Central Government, State Government or Union territory or local authority by way of any activity:

- ✓ in relation to any function entrusted to a Panchayat under article 243G of the Constitution or
- ✓ in relation to any function entrusted to a Municipality under article 243W of the Constitution.

**Example:** Work of maintenance of streetlights in a Municipal area to an agency which involves apart from maintenance, replacement of defunct lights and other spares. In this case, it is a composite supply of goods and it will be exempt from GST if the value of goods is not more than 25% of the total value of supply.

**Service provided by Fair Price Shops to Central Government**, State Government or Union territory by way of sale of food grains, kerosene, sugar, edible oil, etc. under Public Distribution System against consideration in the form of commission or margin. **(E-11A)**

**Services provided to the Central Government, State Government**, Union territory **under any insurance scheme** for which total premium is paid by the Central Government, State Government, Union territory. **(E-40)**

**Services provided to the Central Government, State Government**, Union territory administration **under any training programme** for which **75% or more** of the total expenditure is borne by the Central Government, State Government, Union territory administration. **(E-72)**

**Services provided to the Central Government**, by way of transport of passengers with or without accompanied belongings, by air, embarking from or terminating at a **RCS (Regional Connectivity Scheme) airport**, against consideration in the form of viability gap funding but exemption shall be allowed only for 3 years from the date of operation of the airport. **(E-16)**

## **27. Construction Services**

- Services supplied by **Electricity Distribution Utilities** by way of construction, erection, commissioning, or installation of infrastructure for extending electricity distribution network upto the tube well of the farmer or agriculturalist for agricultural use. **(E-10A)**
- Transmission/distribution of electricity by an electricity transmission / distribution utility. **(E-25)**. However, in this regard CBIC has clarified that the other services provided by DISCOMS (distribution companies) to consumer against charges are liable to GST such as,-
  - i. Application fee for releasing connection of electricity;
  - ii. Rental Charges against metering equipment;
  - iii. Testing fee for meters/transformers, capacitors etc.;
  - iv. Labour charges from customers for shifting of meters or shifting of service lines;
  - v. charges for duplicate bill [*Circular No. 34/8/2018 GST dated 01.03.2018*].
- Services by way of **pure labour contracts** of construction, erection, commissioning, or installation of original works pertaining to a **single residential unit otherwise than as a part of a residential complex**. Further it will be exempt from GST if the supply is given in connection with **Housing for All (Urban) Mission or Pradhan Mantri Awas Yojana (E-11)**

## **28. Sponsorship of Sports Events**

Services by way of sponsorship of sporting events organised -

- (a) by a national sports federation, or its affiliated federations, where the participating teams or individuals represent any district, State, zone or Country;
- (b) by Association of Indian Universities, Inter-University Sports Board, School Games Federation of India, All India Sports Council for the Deaf, Paralympic Committee of India or Special Olympics Bharat;
- (c) by the Central Civil Services Cultural and Sports Board;
- (d) as part of national games, by the Indian Olympic Association; or
- (e) under the Panchayat Yuva Kreedha Aur Khel Abhiyaan Scheme. **(E-53)**

## **29. Skill Development Services**

Any services provided by, \_

- (a) the National Skill Development Corporation set up by the Government of India;
- (b) a Sector Skill Council approved by the National Skill Development Corporation;
- (c) an assessment agency approved by the Sector Skill Council or the National Skill Development Corporation;
- (d) a training partner approved by the National Skill Development Corporation or the Sector Skill Council, in relation to-

- (i) the National Skill Development Programme implemented by the National Skill Development Corporation; or
- (ii) a vocational skill development course under the National Skill Certification and Monetary Reward Scheme; or
- (iii) any other Scheme implemented by the National Skill Development Corporation. **(E-69)**

Services of **assessing bodies empanelled centrally** by the Directorate General of Training, Ministry of Skill Development and Entrepreneurship by way of assessments under the Skill Development Initiative Scheme. **(E-70)**

Services provided by training providers (Project implementation agencies) under **Deen Dayal Upadhyaya Grameen Kaushalya Yojana (DDUGKY)** implemented by the Ministry of Rural Development, Government of India by way of offering skill or vocational training courses certified by the National Council for Vocational Training. **(E-71)**

**30.** Services provided to a recognised sports body by-

- (a) an individual as a player, referee, umpire, coach or team manager for participation in a sporting event organised by a recognized sports body;
- (b) another recognised sports body.

However, services by individuals such as selectors, commentators, curators, technical experts are taxable. The service of a player to a franchisee which is not a recognized sports body is also taxable. *The term 'recognised sports body' has been defined earlier in this chapter.* **(E-68)**

**Question:** Poorva acts as a Team Manager for Indian Sports Authority (ISA), a recognised sports body, for a tennis tournament organised by a multinational company and received a remuneration of ₹2,00,000. Determine whether GST is payable on the remuneration received by Poorva.

**Answer:** Services provided by a team manager to a recognised sports body for participation in a sporting event are exempt from GST provided said sporting event is organised by a recognized sports body.

In the given case, the services are being provided by a team manager to a recognised sports body, but the sporting event is not organised by a recognised sports body. Therefore, the services provided by Poorva are not exempt from GST.

### **31. Other Exempt Services**

Supply of services associated with transit cargo to Nepal and Bhutan (landlocked countries). **(E-9B)**

Services by way of renting of residential dwelling for use as residence except where the residential dwelling is rented to a registered person. **(E-12)**

Satellite launch services supplied by Indian Space Research Organisation, Antrix Corporation Limited or New Space India Limited. **(E-19C)**

Service by way of access to a road or a bridge on payment of toll charges. **(E-23)**

Service by way of access to a road or a bridge on payment of annuity. **(E-23A)**

Services by way of collecting or providing news by an independent journalist, Press Trust of India or United News of India. **(E-49)**

Services of public libraries by way of lending of books, publications or any other knowledge-enhancing content or material. **(E-50)**

Services by an organiser to any person in respect of a business exhibition held outside India. **(E-52)**

Services provided by the National Centre for Cold Chain Development under the Ministry of Agriculture, Cooperation and Farmer's Welfare by way of cold chain knowledge dissemination. **(E-58)**

Services by a foreign diplomatic mission located in India. **(E-59)**

Services by way of granting National Permit to a goods carriage to operate through-out India/ contiguous States **(E-61A)**

Services by way of providing information under the RTI Act (Right to Information Act, 2005). **(E-65A)**

Services by way of public conveniences such as provision of facilities of bathroom, washrooms, lavatories, urinal or toilets. **(E-76)**

Services by way of right to admission to the events organized under FIFA U-17 Women's World Cup 2020. **(E-82A)**

Services by way of right to admission to the events organised under AFC Women's Asia Cup 2022. **(E-82B)**

Services provided by and to Fédération Internationale de Football Association (FIFA) and its subsidiaries directly or indirectly related to any of the events under FIFA U-17 Women's World Cup 2020 to be hosted in India whenever rescheduled. **(E-9AA)**

Services provided by and to Asian Football Confederation (AFC) and its subsidiaries directly or indirectly related to any of the events under AFC Women's Asia Cup 2022 to be hosted in India. **(E-9AB)**

Services by way of transportation of goods by an aircraft from a place outside India upto the customs station of clearance in India shall be exempt from GST. **(E-19)**

**Exemption vide notification no. 9/2017 – Integrated Tax (Rate)**

Import of services shall be exempt in the following cases:

- (i) If services have been imported by the Central Government, State Government, Union territory, a local authority, a governmental authority
- (ii) If services have been imported by a charitable trust covered under section 12AA of Income Tax Act
- (iii) If services have been imported by an individual in relation to any purpose other than commerce, industry or any other business or profession.

No exemption shall be allowed in case of OIDAR services.  
**(E-10)**

**MISCELLANEOUS****Question 1: Explain Constitutional Provisions regarding GST.****Answer: Constitutional Provision**

The Constitution of India is the Supreme law in India. The Parliament can make law only with regard to the matters which are allowed as per the constitution otherwise the law made by parliament shall be called Ultra vires i.e. it is not enforceable. The constitution consists of a preamble, 25 parts containing 448 articles and 12 Schedules.

India has a three-tier federal structure, comprising the Union Government, the State Governments and the local Government. The power to levy taxes and duties is distributed among the three tiers of Governments, in accordance with the provision of the Indian Constitution.

Power to levy taxes emerges from the Constitution of India.

**Article 265:** No tax shall be levied or collected except by authority of Law.

**Article 245:** Subject to the provisions of the Constitution, Parliament may make laws for the whole or any part of the territory of India, and the Legislature of a State may make laws for the whole or any part of the State.

**Article 246:** It gives the respective authority to Union and state Governments for levying tax and such authority is given in Seventh Schedule of Indian Constitution and there are three list in Seventh Schedule.

1. Union List – If any matter is mentioned in Union List, parliament can make law with regard to such matter. (there are 97 entries)
2. State List – If matter is mentioned in State List, State legislature, can make law with regard to such matter. (there are 66 entries)
3. Concurrent List – If matter is mentioned in Concurrent List, both of the government can make law with regard to such matter. (there are 47 entries)

**Some of the important entries in the Union List are as given below:**

82. Taxes on income other than agricultural income.
83. Duties of customs including export duties.
84. Duties of excise on following goods manufactured or produced in India, namely —
  - (a) petroleum crude;
  - (b) high speed diesel;
  - (c) motor spirit (commonly known as petrol);
  - (d) natural gas;
  - (e) aviation turbine fuel; and
  - (f) tobacco and tobacco products.

**Some of the important entries in State List are as given below:**

46. Taxes on agricultural income
51. Duties of excise on alcoholic liquors for human consumption; opium, Indian hemp and other narcotic drugs.
53. Taxes on the consumption or sale of electricity.
54. Taxes on sale of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural Gas, aviation turbine fuel and alcoholic liquor for human consumption, but not including sale in the course of international trade or commerce of such goods.

**Amendment in the Constitution for the purpose of GST (Constitution (101<sup>st</sup> Amendment) act, 2016)****Article 246A: Power to make laws with respect to Goods and Services Tax:**

- This article grants power to Centre and State Governments to make laws with respect to GST imposed by Centre or such State for Intra state supply.
- Centre has the exclusive power to make laws with respect to GST in case of inter-state supply of goods / services.
- However, in respect to the following goods, GST shall apply from the date recommended by the GST Council.

- Petroleum crude
- High speed diesel
- Motor spirit (commonly known as petrol)
- Natural gas
- Aviation turbine fuel

**Article 269A: Levy and collection of GST on inter-state supply**

- Article 269A stipulates that GST on supplies in the course of inter-state trade or commerce shall be levied and collected by the Government of India and such tax shall be apportioned between the Union and the States in the manner as may be provided by parliament by law on the recommendations of the Goods and Services Tax Council.
- Import of goods / services into India will also be deemed to be Inter State supply.

**GST Council: Article 279A**

- ❖ Article 279A of the Constitution empowers the President to constitute a joint forum of the Centre and States namely, Goods & Services Tax Council (GST Council).
- ❖ The provisions relating to GST Council came into force on 12<sup>th</sup> September, 2016. President constituted the GST Council on 15<sup>th</sup> September, 2016.
- ❖ The Union Finance minister is the Chairman of this Council and Ministers in charge of Finance/Taxation or any other Minister nominated by each of the States & UTs with Legislatures are its members. Besides, the Union Minister of State in charge of revenue or Finance is also its member.
- ❖ The function of the Council is to make recommendations to the Union and the States on important issues like tax rates, exemptions, threshold limits, dispute resolution etc.
- ❖ It shall also recommend the date on which GST be levied on petroleum crude, high speed diesel, motor spirit, natural gas and aviation turbine fuel.

**Definitions of 'Goods and Services Tax', 'Services' and 'State' incorporated under Article 366**

The term Goods and Services Tax, Services and State have been defined under respective clauses of Article 366 as follows:

- ❖ **As per article 366(12A), Goods and Services Tax** means any tax on supply of goods, or services or both except taxes on the supply of the alcoholic liquor for human consumption. Consequently, GST can be levied on supply of all goods and services except alcoholic liquor for human consumption.
- ❖ **As per article 366(26A), Services** means anything other than goods.
- ❖ **As per article 366 (26B), State**, with reference to GST, includes a Union territory with Legislature i.e. Delhi and Pondicherry.
- ❖ **As per article 366 (30), Union Territory**, Union Territory means any union territory specified in the first schedule and includes any other territory comprised within the territory of India but not specified in that schedule.

**Question 2: Explain Levy and collection of CGST/Charging section of CGST.**

**Answer: Levy and Collection. Section 9**

9(1). There shall be levied a tax called the central goods and services tax on all intra-State supplies of goods/ services, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 and at such rates, not exceeding twenty per cent, as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person.

9(2). The central tax on the supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council.

9(3). The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient



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

9(4) The Government may, on the recommendations of the Council, by notification, specify a class of registered persons who shall, in respect of supply of specified categories of goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such supply of goods or services or both, and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to such supply of goods or services or both.

At present Government has notified that in case of cement and capital goods, the promotor or builder shall be liable to pay tax under reverse charge if the goods are purchased from unregistered persons. (Notification

Presently, (i) central excise duty is leviable on manufacture/production of tobacco, petroleum crude, diesel, petrol, ATF and natural gas (ii) State excise duty is leviable on manufacture/production of alcoholic liquor, opium, Indian hemp and narcotics, and (iii) VAT/CST is leviable on intra-State/inter-State sale of petroleum crude, diesel, petrol, ATF, natural gas and alcoholic liquor. Petroleum crude, diesel, petrol, ATF, natural gas are presently not taxable under GST and alcoholic liquor is outside the ambit of GST. Thus, supply of both these products (petrol/petroleum products and alcoholic liquor) being non-taxable under GST, will be exempt supplies u/s 2(47).

9(5). GST shall be collected by the aggregator and shall be responsible for making payment to the Government.

### **Question 3 : Explain the Statement : GST – A tax on goods and services**

#### **Answer:**

In general GST is levied on all goods and services but as per section 9(1), GST can not be levied on supply of alcoholic liquor for human consumption (i.e. State Excise Duty and Sales Tax / VAT / Central Sales Tax shall be leviable on alcoholic liquor for human consumption. In case of Opium, Indian hemp and other narcotic drugs, GST as well as State Excise Duty can be levied but Sales Tax / VAT / Central Sales Tax can not be levied.)

As per section 9(2), GST can not be levied on petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel. (i.e. Central Excise Duty and Sales Tax / VAT / Central Sales Tax shall be leviable on such product.) GST can be levied w.e.f. from such date as may be notified by the Govt. on the recommendation of GST council. (in case of Tobacco, GST as well as Central Excise Duty both can be levied but Sales Tax / VAT / Central Sales Tax can not be levied.)

### **Question 4:What are the States and Union Territory for the purpose of GST.**

#### **Answer:**

**As per section 2(103),** There are 28 States in India and are as under:

1. Andhra Pradesh
2. Arunachal Pradesh
3. Assam
4. Bihar
5. Chhattisgarh
6. Goa
7. Gujarat
8. Haryana
9. Himachal Pradesh
10. Jharkhand
11. Karnataka
12. Kerala
13. Madhya Pradesh
14. Maharashtra
15. Manipur
16. Meghalaya

17. Mizoram
18. Nagaland
19. Odisha
20. Punjab
21. Rajasthan
22. Sikkim
23. Tamil Nadu
24. Telangana
25. Tripura
26. Uttar Pradesh
27. Uttarakhand
28. West Bengal

States will include a Union territory also with Legislature i.e. it will include Delhi, Pondicherry and Jammu and Kashmir

**As per Section 2 (114) "Union territory" means the territory of—**

- (a) the Andaman and Nicobar Islands;
- (b) Lakshadweep;
- (c) Dadra and Nagar Haveli and Daman and Diu
- (d) Chandigarh;
- (e) Ladakh

**Explain GSTN. ( Goods and Service Tax Network )**

**Answer:**

The Goods and Service Tax Network (or GSTN) is a non-profit, non-government organization. It will manage the entire IT system of the GST portal. Private players own a 51% share in the GSTN, and the government owns the rest. The authorized capital of the GSTN is Rs 10 crore, of which 49% of the shares are divided equally between the Central and State governments, and the remaining is with private banks. The GSTN shall control and manager entire GST system though a portal which is called GST Common Portal

**Question 5: Explain GST Common Portal.**

**Answer: GST Common Portal**

Common GST Electronic Portal - [www.gst.gov.in](http://www.gst.gov.in) is a website managed by Goods and Services Network (GSTN) and it has been setup by the Government to establish a uniform interface for the tax payer and a common and shared IT infrastructure between the Centre and States. The portal is one single common portal for all GST related services. A common GST system provides linkage to all State/UT Commercial Tax Departments, Central Tax authorities, Taxpayers, Bank and other stakeholders.

The functions of the GSTN include:

- a. facilitating registration;
- b. forwarding the returns to Central and State authorities;
- c. computation and settlement of IGST;
- d. matching of tax payment details with banking network;
- e. providing various reports to the Central and the State Governments based on the taxpayer return information;

**Question 6: Explain GST Suvidha Providers(GSPs) / Application Services Provides (ASPs).**

**Answer: GST Suvidha Providers(GSPs) / Application Services Provides (ASPs)**

GSTN has selected certain Information Technology Enabled Services companies to be called GST Suvidha Providers(GSPs). GSPs develop applications to be used by taxpayers for interacting with the GSTN.

They facilitate the tax payers in uploading invoices as well as filing of returns and act as a single stop shop for GST related services.

They customize products that address the needs of different segment of users. GSPs may take the help of Application Services Provides (ASPs) who act as a link between taxpayers and GSPs.

**Question 7: Explain what are the taxes to be subsumed in GST.****Answer: Taxes to be subsumed in GST****Central levies to be subsumed**

- (i) Central Excise Duty & Additional Excise Duty.
- (ii) Service Tax.
- (iii) Excise Duty under Medicinal and Toilet Preparation Act.
- (iv) Countervailing Duty & Special Countervailing Duty. (Countervailing Duty (CVD) was levied in case of import in lieu of excise duty and Special Countervailing Duty also called Special Addition Duty was levied in case of import in lieu of sales tax / VAT)
- (v) Central Sales Tax (it was levied in case of inter state sales)
- (vi) Central surcharges and Cesses in so far as they relate to supply of goods and services.

**State levies to be subsumed**

- (i) State surcharges and Cesses in so far as they relate to supply of goods and services.
- (ii) Entertainment Tax (except those levied by local bodies)
- (iii) Tax on lottery, betting and gambling.
- (iv) Entry tax (All forms) & Purchase tax.
- (v) VAT/Sales tax.
- (vi) Luxury tax.
- (vii) Taxes on advertisements.

**Question 8: Explain origin based tax and destination based tax.**

**Answer:** In case of Inter State sale if tax is to be received and consumed by the State from where movement of Goods has started, It will be called origin based tax i.e. tax shall be received by the supplying State. If tax is to be received by the state where the goods are received for consumption, it will be called destination based tax or consumption based tax. Prior to GST it was origin based tax but under GST it is destination based tax, eg. If goods are sold from Delhi to UP, GST shall be received by UP but prior to GST Central tax was received by Delhi. It is one of the major change in GST.

**Question 9: Explain Goods And Services Tax Practitioners.****Answer: Goods And Services Tax Practitioners Section 48****Eligibility Criteria for becoming GST practitioner.**

Any person who

- (i) is a citizen of India
- (ii) is a person of sound mind
- (iii) is not adjudged as insolvent
- (iv) has not been convicted by a competent court

He should be a Chartered Accountant/ Cost Accountant / Company Secretary or should have any other qualification prescribed for this purpose.

**Procedure for enrollment**

A person desirous of becoming GST Practitioner has to submit an application in the form GST PCT-1. The application shall be scrutinised and GST practitioner certificate shall be granted in the form GST PCT-2. In case, the application is rejected, proper reasons shall have to be mentioned in the form GST PCT-4.

**Activities by GST practitioner**

A goods and services tax practitioner can undertake any or all of the following activities on behalf of a registered person:

- (a) furnish 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 and
- (e) file an application for amendment or cancellation of registration.

A GST practitioner shall also be allowed to appear as authorised representative before any officer of department, Appellate Authority or Appellate Tribunal, on behalf of such a registered person who has authorised him to be his GST practitioner.

### **Conditions for GST Practitioner**

Any registered person may give consent and authorise a GST practitioner in the form GST PCT-5 by listing the authorised activities in which he intends to authorise the GST practitioner. The registered person authorising a GST Practitioner shall have to authorise in the standard form Part A of form GST PCT-5 and the GST practitioner will have to accept the authorisation in Part B of the form GST PCT-5. The GST practitioner shall be allowed to undertake only such tasks as indicated in the authorisation form GST PCT-5. The registered person may, at any time, withdraw such authorisation in the prescribed form GST PCT-5.

### **Responsibility for correctness of particulars**

The responsibility for correctness of any particulars furnished in the return or other details filed by the GST practitioners shall continue to rest with the registered person on whose behalf such return and details are furnished. Any statement furnished by the GST practitioner shall be made available to the registered person on the GST Common Portal. For every statement furnished by the GST practitioner, a confirmation shall be sought from the registered person over email or SMS. The registered person before confirming, should ensure that the facts mentioned in the return are true and correct before signature. However, failure to respond to request for confirmation shall be treated as deemed confirmation. The GST practitioner shall prepare all statements with due diligence and affix his digital signature on the statements prepared by him or electronically verify using his credentials. If the GST practitioner is found guilty of misconduct, his enrolment will be liable to be cancelled. A show cause notice would be issued to him in the form GST PCT-3.

### **Question 10: Explain Concept of GST/ GST – A Cure for Ills of Existing Indirect Tax.**

**Answer:** The basic concept of GST is as given below:

- GST is a value added tax levied on manufacture, sale and consumption of goods and services.
- GST offers comprehensive and continuous chain of tax credits from the producer upto the retailer level thereby taxing only the value added at each stage of supply chain.
- The supplier at each stage is permitted to avail credit of GST paid on the purchase of goods and/or services and can set off this credit against the GST payable on the supply of goods and services to be made by him. Thus, only the final consumer bears the GST charged by the last supplier in the supply chain.
- Since, only the value added at each stage is taxed under GST, there is no multiple tax or cascading of taxes under GST system. GST does not differentiate between goods and services and thus, the two are taxed only once.

### **Question 11: Explain Seamless flow of credit.**

#### **Answer: Seamless flow of credit**

Since GST is a destination based consumption tax, revenue of SGST ordinarily accrues to the consuming States. The Inter - State supplier is allowed to set off the available credit of IGST, CGST and SGST/UTGST (in that order) against the IGST payable on inter -State supply made by him.

The buyer is allowed to avail the credit of IGST paid on Inter-State purchase made by him. Thus unlike the earlier scenario where the credit chain used to break in case of inter - State sales on account of non - VATable CST, under GST regime there is a seamless credit flow in case of inter - State supplies too.

### **Question 12: Explain Features of Indirect Taxes.**

#### **Answer: Features of Indirect Taxes**

1. **An important source of revenue:** Indirect Taxes are a major source of tax revenues for Governments worldwide and continue to grow as more countries move to consumption oriented tax regimes. In India, Indirect taxes contribute more than 50% of the total tax revenues of Central and State Governments.
2. **Shifting of burden:** There is a clear shifting of tax burden in respect of indirect taxes. For example, GST paid by the supplier of the goods is recovered from the buyer by including the tax in the cost of the commodity.

3. **No perception of direct pinch:** Since, value of indirect taxes is generally inbuilt in the price of the commodity, most of the time the tax payer pays the same without actually knowing that he is paying tax to the Government. Thus, tax payer does not perceive a direct pinch while paying indirect taxes.
4. **Inflationary:** Tax imposed on commodities and services causes an all-round price spiral. In other words, indirect taxation directly affects the prices of commodities and services and leads to inflationary trend.
5. **Wider tax base:** Unlike direct taxes, the indirect taxes have a wide tax base. Majority of the products or services are subject to indirect taxes.
6. **Promotes social welfare:** High taxes are imposed on the consumption of harmful products (also known as 'sin goods') such as alcoholic products, tobacco products etc. This not only checks their consumption but also enables the State to collect substantial revenue.
7. **Regressive in nature:** Generally, the indirect taxes are regressive in nature. The rich and the poor have to pay the same rate of indirect taxes on certain commodities of mass consumption. This may further increase the income disparities between the rich and the poor.

**Question 13: Explain what is tax?**

**Answer:** A tax may be defined as a "pecuniary (monetary) burden laid upon individuals or property owners to support the Government, a payment exacted by legislative authority. A tax "is not a voluntary payment or donation, but an enforced contribution, exacted pursuant to legislative authority".

In simple words, tax is nothing but money that people have to pay to the Government, which is used to provide public services.

**Question 14: Explain Direct tax and Indirect Tax.**

**Answer: Direct Tax / Indirect Tax**

If any particular tax is paid by a person and also its incidence is on that person, it is called direct tax like income tax e.g. If Mr. X has paid income tax of ₹5,00,000, it will be called direct tax because it is paid by Mr. X and also its incidence is borne by Mr. X.

If any tax is paid by one person but its incidence is on some other person, it will be called indirect tax like **Central GST, State GST, Integrated GST, UT GST etc.**

Its incidence is borne by the consumers who ultimately consume the product or the service, while the immediate liability to pay the tax may fall upon another person such as a manufacturer or provider of service or seller of goods e.g. If ABC Ltd. has manufactured a product and it is sold for ₹20,00,000 and CGST plus SGST of ₹2,00,000 has been recovered, the GST so collected shall be called indirect tax because the payment was made by a company but it is ultimately borne by the buyer.

**Question 15: Define Person**

**As per section 2 (84), "person" includes—**

- (a) an individual;
- (b) a Hindu Undivided Family;
- (c) a company;
- (d) a firm;
- (e) a Limited Liability Partnership;
- (f) an association of persons / a body of individuals, whether incorporated or not.
- (g) Statutory corporation.
- (h) any body corporate;
- (i) a co-operative society/other society
- (j) a local authority;
- (k) Central Government or a State Government;
- (l) trust;
- (m) every artificial juridical person, not falling within any of the above;

**Certain Definitions**

**As per 2 (5) "agent"** means a person, including a factor, broker, commission agent, *arhatia*, *del credere* agent, an auctioneer or any other mercantile agent, by whatever name called, who carries on the business of supply or receipt of goods or services or both on behalf of another

**As per 2(19) "capital goods"** means goods, the value of which is capitalised in the books of account of the person claiming the input tax credit and which are used or intended to be used in the course or furtherance of business.

**As per 2(62) input tax**

"input tax" in relation to a registered person, means the central tax, State tax, integrated tax or Union territory tax charged on any supply of goods or services or both made to him and includes—

- (a) the integrated goods and services tax charged on import of goods;
- (b) the tax payable under the provisions of sub-sections (3) and (4) of section 9;
- (c) the tax payable under the provisions of sub-sections (3) and (4) of section 5 of the Integrated Goods and Services Tax Act;
- (d) the tax payable under the provisions of sub-sections (3) and (4) of section 9 of the respective State Goods and Services Tax Act; or
- (e) the tax payable under the provisions of sub-sections (3) and (4) of section 7 of the Union Territory Goods and Services Tax Act, but does not include the tax paid under the composition levy;

**As per 2(67) "inward supply"** in relation to a person, shall mean receipt of goods or services or both whether by purchase, acquisition or any other means with or without consideration

**As per 2(78) "non-taxable supply"** means a supply of goods or services or both which is not leviable to tax under this Act or under the Integrated Goods and Services Tax Act;

**As per 2(82) "output tax"** in relation to a taxable person, means the tax chargeable under this Act on taxable supply of goods or services or both made by him or by his agent but excludes tax payable by him on reverse charge basis.

**As per 2(88) "principal"** means a person on whose behalf an agent carries on the business of supply or receipt of goods or services or both;

**As per 2(90) "principal supply"** means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary;

**As per 2(94) "registered person"** means a person who is registered under section 25 but does not include a person having a Unique Identity Number

**As per 2(107) "taxable person"** means a person who is registered or liable to be registered under section 22 or section 24.

**As per 2(117) "valid return"** means a return furnished under sub-section (1) of section 39 on which self-assessed tax has been paid in full.