

PAPER 4B: INDIRECT TAXES

STATUTORY UPDATE FOR NOVEMBER 2020 EXAMINATION

For the sake of brevity, Central Goods and Services Tax, Integrated Goods and Services Tax, Central Goods and Services Tax Act, 2017, Integrated Goods and Services Tax Act, 2017, Central Goods and Services Tax Rules, 2017 and Integrated Goods and Services Tax Rules, 2017 have been referred to as CGST, IGST, CGST Act, IGST Act, CGST Rules and IGST Rules respectively.

The provisions of the CGST Act, 2017 and the IGST Act, 2017 as amended by the Finance (No. 2) Act, 2019, which have become effective up to 30th April, 2020*, including significant notifications and circulars issued up to 30th April 2020, are applicable for November 2020 examination..

* The amendments made by the Finance (No. 2) Act, 2019 in the CGST Act and the IGST Act have become effective from 01.01.2020. However, amendments made by the Finance (No. 2) Act, 2019 - to the extent included in the syllabus read with the Study Guidelines - in sections 39 and 50 of the CGST Act, 2017 have not become effective as on 30.04.2020. Therefore, the same are not applicable for November 2020 examinations.

The subject matter of August 2019 Edition of the Intermediate (New Course) Study Material of Paper 4B: Indirect Taxes is based on the provisions of the CGST Act and IGST Act as amended upto 30.04.2019.

The amendments made by the notifications and circulars issued between 01.05.2019 and 30.04.2020 in GST laws are given in this Statutory Update.

It may be noted that in the August 2019 Edition of the Study Material, the erstwhile provisions of the CGST Act have been compared with the provisions as amended vide the Finance (No.2) Act, 2019, at the end of the relevant Chapters. Therefore, the same are not included in this Statutory Update. Students should read the amended provisions given at the end of the relevant Chapters in place of the erstwhile provisions discussed in the main body of the Chapters.

However, the amendments which have not become effective till 30.04.2020, as mentioned above, should not be referred to as the same are not applicable for November 2020 examinations. For ease of reference, the Chapters of the Study Material which cover the said amendments (which have not become effective till 30.04.2020) are given below:

Chapter 9: Payment of Tax [Amendment in section 50 of the CGST Act]

Chapter 10: Returns

For the ease of reference, the amendments have been grouped into Chapters which correspond with the Chapters of the Study Material.

It may be noted that August 2019 Edition of the Study Material for Intermediate Paper 4B is applicable for Intermediate (IPC) Paper 4B also.

SUPPLY UNDER GST

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

In terms of section 7(2) of the CGST Act, the Government has notified the following activity or transaction undertaken by the State Governments in which they are engaged as public authorities, to be treated neither as a supply of goods nor a supply of service, namely:-

“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.”

[Notification No. 25/2019 CT (R) dated 30.09.2019/ Notification No. 24/2019 IT (R) dated 30.09.2019]

Circular No. 121/40/2019 GST dated 11.10.2019 has clarified that the above special dispensation applies only to supply of service by way of grant of liquor licenses by the State Governments as an agreement between the Centre and States and has no applicability or precedence value in relation to grant of other licenses and privileges for a fee in other situations, where GST is payable.

It may be noted that services provided by the Government to business entities including by way of grant of privileges, licences, mining rights, natural resources such as spectrum etc. against payment of consideration in the form of fee, royalty etc. are taxable under GST. Tax is required to be paid by the business entities on such services under reverse charge.

2. Levy of GST on the service of display of name or placing of name plates of the donor in the premises of charitable organisations receiving donation or gifts from individual donors

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 aimed at giving publicity to the donor in such manner that it would be an advertising or promotion of his business, then it can be said that there is no supply of service for a consideration (in the form of donation). There is no obligation (*quid pro quo*) on part of recipient of the donation or gift to do anything (supply a service). Therefore, there is no GST liability on such consideration.

Some examples of cases where there would be no taxable supply are as follows:-

- (i) “Good wishes from Mr. Rajesh” printed underneath a digital blackboard donated by Mr. Rajesh to a charitable Yoga institution.
- (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.

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. Thus, where all the three conditions are satisfied namely the gift or donation is made to a charitable organization, the payment has the character of gift or donation and the purpose is philanthropic (i.e., it leads to no commercial gain) and not advertisement, GST is not leviable.

[Circular No. 116/35/2019 GST dated 11.10.2019]

CHARGE OF GST

1. Manufacturer of aerated water & supplier of aerated water cannot opt to pay tax under composition levy and **Notification No. 2/2019 CT (R) dated 07.03.2019** respectively

As per section 10(2)(e) of CGST Act read with *Notification No. 14/2019 CT dated 07.03.2019*, a manufacturer of following goods cannot opt for composition scheme:

Tariff item, sub-heading, heading or Chapter	Description
2105 00 00	Ice cream and other edible ice, whether or not containing cocoa
2106 90 20	Pan Masala
24	All goods i.e. Tobacco and manufactured tobacco substitutes

Further, as per *Notification No. 2/2019 CT (R) dated 07.03.2019*, a registered person making supplies of the above goods is also not eligible to pay concessional tax under the said notification.

With effect from 01.10.2019, *Notification No. 14/2019 CT dated 07.03.2019* and *Notification No. 2/2019 CT (R) dated 07.03.2019* have been amended to include aerated water (Tariff item 2202 1010) in the above list of negative goods.

Thus, now a manufacturer of aerated water (Tariff item 2202 1010) will also not be eligible to opt for composition scheme. Likewise, a supplier of aerated water (Tariff item 2202 1010) will also not be eligible to pay concessional tax under *Notification No. 2/2019 CT (R) dated 07.03.2019*¹.

[Notification No. 43/2019 CT dated 30.09.2019 & Notification No. 18/2019 CT (R) dated 30.09.2019]

2. Amendments in reverse charge notifications

The reverse charge notifications for services i.e., *Notification No. 13/2017 CT(R) dated 28.06.2017/ Notification No. 10/2017 IT (R) dated 28.06.2017* have been amended by **Notification No. 22/2019 CT (R) dated 30.09.2019 and Notification No. 29/2019 CT (R) dated 31.12.2019/ Notification No. 21/2019 IT (R) dated 30.09.2019 and Notification No. 28/ 2019 IT (R) dated 31.12.2019** as under:

(a) Payment of tax under reverse charge made optional in case of supply of services by an author by way of transfer/permitting the use or enjoyment of a copyright relating to original literary work to a publisher

Earlier, tax on supply of services by an **author**, music composer, photographer, artist by way of transfer or permitting the use or enjoyment of a copyright relating to original literary, dramatic,

¹ With effect from 01.01.2020, the provisions of *Notification No. 2/2019 CT (R) dated 07.03.2019* have been incorporated in sub-section (2A) of section 10 vide the Finance (No. 2) Act, 2019. However, *Notification No. 2/2019 CT (R) dated 07.03.2019* has not yet been rescinded and is still operational.

musical or artistic works, was payable under reverse charge by publisher, music company, producer. This entry has been substituted as under-

Sl. No. ²	Category of supply of services	Supplier of service	Recipient of service
9	Supply of services by a music composer, photographer, artist or the like by way of transfer or permitting the use or enjoyment of a copyright covered under section 13(1)(a) of the Copyright Act, 1957 relating to original dramatic, musical or artistic works to a music company, producer or the like.	Music composer, photographer, artist, or the like	Music company, producer or the like, located in the taxable territory

Simultaneously, a new entry has been inserted for transfer of copyright by an author to publisher. The new entry reads as under-

Sl. No.	Category of Supply of Services	Supplier of service	Recipient of Service
9A	Supply of services by an author by way of transfer or permitting the use or enjoyment of a copyright covered under section 13(1)(a) of the Copyright Act, 1957 relating to original literary works to a publisher	Author	Publisher located in the taxable territory

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;
- (ii) he makes a declaration on the invoice issued by him in prescribed form to the publisher.

(b) New services under reverse charge mechanism

Sl. No.	Category of supply of services	Supplier of service	Recipient of service
15	Services provided 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, provided to a	Any person, other than a body corporate who supplies the service to a body corporate and does not issue an invoice charging CGST @ 6% to the service recipient	Any body corporate located in the taxable territory

² Serial numbers given hereunder correspond to Entry numbers of Notification No. 13/2017 CT(R) dated 28.06.2017

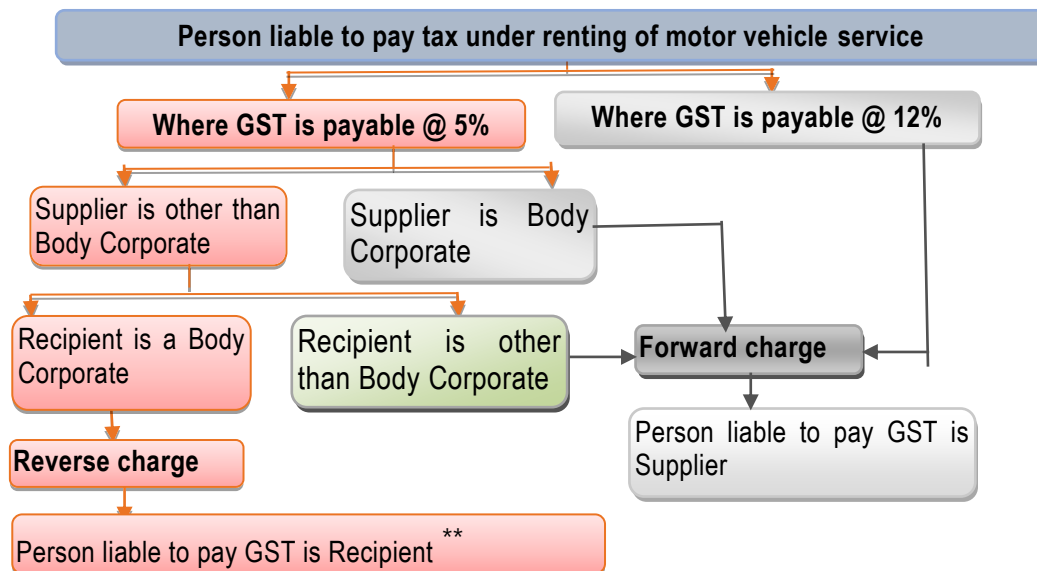
	body corporate.		
16	Services of lending of securities under Securities Lending Scheme, 1997 ("Scheme") of Securities and Exchange Board of India, as amended	Lender i.e., a person who deposits the securities registered in his name or in the name of any other person duly authorised on his behalf with an approved intermediary for the purpose of lending under the Scheme of SEBI	Borrower i.e., a person who borrows the securities under the Scheme through an approved intermediary of SEBI

3. Clarification regarding Reverse Charge Mechanism (RCM) on renting of motor vehicles service

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) or
- (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 and services used in supplying renting of motor vehicles service by the supplier of service.

In case of each of the above two rates, the person liable to pay tax will be as follows:



**** It is important to note here that when any service is placed under RCM, the supplier shall not charge any tax from the service recipient as this is the settled procedure in law under RCM. Thus, in this case, the supplier does not issue an invoice charging GST @12% (6% CGST+6% SGST/UTGST or 12% IGST) from the service recipient.**

[Circular No. 130/49/2019 GST dated 31.12.2019]

EXEMPTIONS FROM GST

1. Amendments relating to exemptions to supply of specified services

Notification No. 12/2017 CT (R) dated 28.06.2017 (hereinafter referred to as “**exemption notification**”) which grants exemption from CGST to intra-State supply of specified services, has been amended vide Notification No. 13/2019 CT (R) dated 31.07.2019 and Notification No. 21/2019 CT (R) dated 30.9.2019, as under-

Entry amended/ omitted/ newly inserted	Description of services (Prior to amendment)	Description of services (Post amendment)	Remarks, if any
Entry 7 amended	Services provided by the Central Government, State Government, Union territory or local authority to a business entity with an aggregate turnover of up to Rs. 20 lakh [Rs. 10 lakh in case of a Special Category States (hereinafter referred to as SCS)] in the preceding FY.	Services provided by the Central Government, State Government, Union territory or local authority to a business entity with an aggregate turnover of up to such amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act, 2017.	Exemption available under these entries to a business entity is restricted provided said business entity is not eligible for registration in the preceding FY. Accordingly, the threshold limit provided under these entries was aligned with the threshold limit for registration provided earlier [viz. Rs. 20 lakh (Rs. 10 lakh in case of SCS)].
Entry 45 amended	Services provided by- (a) an arbitral tribunal to – (i) or (ii) a business entity with an aggregate turnover up to Rs. 20 lakh (Rs. 10 lakh in the case of SCS) in the preceding FY;	Services provided by- (a) an arbitral tribunal to – (i) or (ii) a business entity with an aggregate turnover up to such amount in the preceding FY as makes it eligible for exemption from registration	Consequent to amendment in the threshold limit for registration prescribed for different States/UTs (including SCS), said entries have also been amended suitably so as to provide exemption to a business entity with an aggregate turnover up to such amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act.

	<p>(iii)</p> <p>(b) a partnership firm of advocates or an individual as an advocate other than a senior advocate, by way of legal services to-</p> <p>(i)</p> <p>(ii)</p> <p>(iii) a business entity with an aggregate turnover up to Rs. 20 lakh (Rs. 10 lakh in the case of SCS) in the preceding FY;</p> <p>(iv)</p> <p>(c) a senior advocate by way of legal services to-</p> <p>(i)</p> <p>(ii) a business entity with an aggregate turnover up to Rs. 20 lakh (Rs. 10 lakh in the case of SCS) in the preceding FY.</p> <p>(iii)</p>	<p>under the CGST Act, 2017;</p> <p>(iii)</p> <p>(b) a partnership firm of advocates or an individual as an advocate other than a senior advocate, by way of legal services to-</p> <p>(i)</p> <p>(ii)</p> <p>(iii) a business entity with an aggregate turnover up to such amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act, 2017;</p> <p>(iv)</p> <p>(c) a senior advocate by way of legal services to-</p> <p>(i)</p> <p>(ii) a business entity with an aggregate turnover up to such amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act, 2017.</p> <p>(iii)</p>	
New Entry 9AA	NA	Services provided by and to Fédération Internationale de Football Association (FIFA) and	

		<p>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.</p> <p><u>Condition to be fulfilled:</u></p> <p>Director (Sports), Ministry of Youth Affairs and Sports have to certify that the services are directly or indirectly related to any of the events under FIFA U-17 Women's World Cup 2020.</p>	
Entry 14 amended	Services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having value of supply of a unit of accommodation below Rs. 1,000 per day or equivalent.	Services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having value of supply of a unit of accommodation below or equal to Rs. 1,000 per day or equivalent.	Earlier, accommodation services were exempt only where value of supply per unit per day was less than Rs. 1,000/-, i.e., such services were taxable where value of supply per unit per day was Rs. 1,000/-or more. However, now, exemption has also been extended in a case where value of supply per unit per day is Rs. 1,000/- i.e., such services are taxable only where value of supply per unit per day exceeds Rs. 1,000/-.
Entry 41 amended	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	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	The ownership % referred in entry 41 has been reduced from 50% to 20%. Further, certain conditions for availing the exemption have been prescribed.

	<p>State Government Industrial Development Corporations or Undertakings or by any other entity having 50% or more ownership of Central Government, State Government, Union territory to the industrial units or the developers in any industrial or financial business area.</p> <p>Explanation - For the purposeUnion territory.</p>	<p>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.</p> <p>Explanation - For the purposeUnion territory.</p> <p>Provided that 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:</p> <p>Provided also that the State Government concerned shall monitor and enforce the above condition, as per the order issued by the State Government in this regard:</p> <p>Provided further that in case of any violation or subsequent change of land use, due to any reason whatsoever, the original lessor, original lessee as well as any subsequent lessee or buyer or owner shall be jointly and severally liable to pay such amount of integrated tax, as would have been payable on the upfront amount charged for the</p>	
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		<p>long term lease of the plots but for the exemption contained herein, along with the applicable interest and penalty:</p> <p>Provided also that the lease agreement entered into by the original lessor with the original lessee or subsequent lessee, or sub- lessee, as well as any subsequent lease or sale agreements, for lease or sale of such plots to subsequent lessees or buyers or owners shall incorporate in the terms and conditions, the fact that the integrated tax was exempted on the long term lease of the plots by the original lessor to the original lessee subject to above condition and that the parties to the said agreements undertake to comply with the same.</p>	
Entry 22 amended	<p>Services by way of giving on hire –</p> <p>(a) to a state transport undertaking (STU), a motor vehicle meant to carry more than 12 passengers; or</p>	<p>Services by way of giving on hire –</p> <p>(a) to a state transport undertaking (STU), a motor vehicle meant to carry more than 12 passengers; or</p> <p>(aa) to a local authority, an Electrically operated vehicle (EOV) meant to carry more than 12 passengers;</p> <p><u>EOV</u> means vehicle falling under Chapter 87 in the</p>	<p>With a view to encourage the extensive usage of environment friendly electric vehicles, GST exemption has been extended to hiring of electric buses by the local authorities.</p>

		<p>First Schedule to the Customs Tariff Act, 1975 which is run solely on electrical energy derived from an external source or from one/more electrical batteries fitted to such road vehicle.</p>	
	(b) (c)	(b) (c)	
New Entry 24B	NA	<p>Services by way of storage/ warehousing of cereals, pulses, fruits, nuts and vegetables, spices, copra, sugarcane, jaggery, raw vegetable fibres such as cotton, flax, jute etc., indigo, unmanufactured tobacco, betel leaves, tendu leaves, coffee and tea.</p>	
New Entry 29B	NA	<p>Services of life insurance provided/agreed to be provided by the Central Armed Police Forces (under Ministry of Home Affairs) Group Insurance Funds to their members under the Group Insurance Schemes of the concerned Central Armed Police Force.</p>	
Entry 35 amended	Entry 35 exempts services of general insurance business provided under specified schemes. Hitherto, 17 schemes were provided in this entry under clauses (a) to (q).	<p>A new clause '(r)' has been inserted:</p> <p>(r) Bangla Shasya Bima</p>	Service of general insurance business provided under Bangla Shasya Bima scheme have been exempted.
New Entry 82A		<p>Services by way of right to admission to the</p>	

		events organised under FIFA U-17 Women's World Cup 2020.	
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Parallel exemptions from IGST have been extended to supply of specified inter-State services by amending Notification No. 9/2017 IT (R) dated 28.06.2017 vide Notification No. 13/2019 IT (R) dated 31.07.2019/ Notification No. 20/2019 IT (R) dated 30.09.2019.

2. Clarification regarding applicability of GST on delayed payment charges in case of late payment of Equated Monthly Instalments (EMI)³

Issue: Whether GST is applicable on additional / penal interest on the overdue loan? Whether such penal interest would be exempt under Entry 27 of exemption notification or it would be taxable treating it as consideration for liquidated damages⁴?

Clarification: As per the provisions of section 15(2)(d) of the CGST Act, the value of supply shall include interest or late fee or penalty for delayed payment of any consideration for any supply. Entry 27 of exemption notification, *inter alia*, exempts the services by way of 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). Here, interest means interest payable in any manner in respect of any moneys borrowed/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 utilised.

There are two transaction options involving EMI that are prevalent in the trade. In view of the provisions of law discussed in preceding para, these two options, alongwith the GST applicability on them, have been explained with the help of examples as under -

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

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

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

Example: X sells a mobile phone to Y. The cost of mobile phone is Rs 40,000/-. Y has the option to avail a loan at interest of 2.5% per month for purchasing the mobile from M/s. ABC Ltd. The terms of

³ An EMI is a fixed amount paid by a borrower to a lender at a specified date every calendar month. EMIs are used to pay off both interest and principal every month, so that over a specified period, the loan is fully paid off along with interest. In cases where the EMI is not paid at the scheduled time, there is a levy of additional / penal interest on account of delay in payment of EMI.

⁴ It implies that it would amount to a separate taxable supply of services under GST covered under entry 5(e) of Schedule II of the CGST Act, 2017 i.e. "agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act".

the loan from M/s. ABC Ltd. allows Y a period of four months to repay the loan and an additional/ penal interest @ 1.25% per month for any delay in payment.

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

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

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

[Circular No. 102/21/2019-GST dated 28.06.2019]

3. Clarification on issues related to GST on monthly subscription/ contribution charged by a Residential Welfare Association from its members

Issue	Clarification											
Are the maintenance charges paid by residents to the Resident Welfare Association (RWA) in a housing society exempt from GST and if yes, is there an upper limit on the amount of such charges for the exemption to be available?	Supply of service by RWA (unincorporated body or a non-profit entity registered under any law) to its own members by way of reimbursement of charges or share of contribution up to an amount of Rs. 7,500/- per month per member for providing services and goods for the common use of its members in a housing society or a residential complex are exempt from GST.											
A RWA has aggregate turnover of Rs. 20 lakh or less in a FY. Is it required to take registration and pay GST on maintenance charges if the amount of such charges is more than Rs. 7500/- per month per member?	No. If aggregate turnover of an RWA does not exceed Rs.20 Lakh in a FY, it shall not be required to take registration and pay GST even if the amount of maintenance charges exceeds Rs. 7,500/- per month per member. RWA shall be required to pay GST on monthly subscription/ contribution charged from its members, only if such subscription is more than Rs. 7,500/- per month per member and the annual aggregate turnover of RWA by way of supplying of services and goods is also Rs. 20 lakh or more.											
	<table border="1"> <thead> <tr> <th>Annual turnover of RWA</th> <th>Monthly maintenance charge</th> <th>Whether exempt?</th> </tr> </thead> <tbody> <tr> <td rowspan="2">More than Rs. 20 lakhs</td> <td>More than Rs. 7,500/-</td> <td>No</td> </tr> <tr> <td>Rs. 7,500/- or less</td> <td>Yes</td> </tr> <tr> <td>Rs. 20 lakhs or less</td> <td>More than Rs. 7,500/-</td> <td>Yes</td> </tr> </tbody> </table>	Annual turnover of RWA	Monthly maintenance charge	Whether exempt?	More than Rs. 20 lakhs	More than Rs. 7,500/-	No	Rs. 7,500/- or less	Yes	Rs. 20 lakhs or less	More than Rs. 7,500/-	Yes
	Annual turnover of RWA	Monthly maintenance charge	Whether exempt?									
	More than Rs. 20 lakhs	More than Rs. 7,500/-	No									
Rs. 7,500/- or less		Yes										
Rs. 20 lakhs or less	More than Rs. 7,500/-	Yes										

		Rs. 7,500/- or less	Yes
Is the RWA entitled to take ITC of GST paid on input and services used by it for making supplies to its members and use such ITC for discharge of GST liability on such supplies where the amount charged for such supplies is more than Rs. 7,500/- per month per member?	RWAs are entitled to take ITC of GST paid by them on capital goods (generators, water pumps, lawn furniture etc.), goods (taps, pipes, other sanitary/hardware fittings etc.) and input services such as repair and maintenance services.		
Where a person owns 2 or more flats in the housing society/residential complex, whether the ceiling of Rs. 7,500/- per month per member on the maintenance for the exemption to be available shall be applied per residential apartment or per person?	As per general business sense, a person who owns 2 or more residential apartments in a housing society/residential complex shall normally be a member of the RWA for each residential apartment owned by him separately. The ceiling of Rs. 7,500/- per month per member shall be applied separately for each residential apartment owned by him. For example, if a person owns 2 residential apartments in a residential complex and pays Rs. 15,000/- per month as maintenance charges towards maintenance of each apartment to the RWA (Rs. 7,500/- per month in respect of each residential apartment), the exemption from GST shall be available to each apartment.		

[Circular No. 109/28/2019 GST dated 22.07.2019]

4. Clarification on applicability of GST exemption to the DG Shipping approved maritime courses conducted by Maritime Training Institutes of India

Under Entry 66 of the exemption notification, services provided by educational institutions to its students, faculty and staff are exempt only when such institution falls under the definition of educational institution provided under the exemption notification. Educational institution has been defined to mean, *inter alia*, an institution providing services by way of education as a part of a curriculum for obtaining a qualification/degree recognized by law.

In this regard, it has been clarified that Maritime Training Institutes and their training courses are approved by the Director General of Shipping which are duly recognised under the provisions of the Merchant Shipping Act, 1958 read with the Merchant Shipping (standards of training, certification and watch-keeping for Seafarers) Rules, 2014. Therefore, Maritime Training Institutes are educational institutions under GST Law and the courses conducted by them are exempt from levy of GST subject to fulfilment of other conditions specified under entry 66 of the exemption notification⁵.

[Circular No. 117/36/2019 GST dated 11.10.2019]

5. Clarification on the effective date of insertion of explanation in notification

Section 11(3) of CGST Act provides that the Government may insert an explanation in any notification issued under section 11, for the purpose of clarifying its scope or applicability, at any time within

⁵ This clarification applies, *mutatis mutandis*, to corresponding entries of respective IGST, UTGST, SGST exemption notifications.

1 year of issue of the notification and every such explanation shall have effect as if it had always been the part of the first such notification.

It is hereby clarified that the explanation having been inserted under section 11(3) of the CGST Act, is effective from the inception of the entry in notification and not from the date from which the notification (that inserted said explanation) becomes effective.

For example, the principal *Notification No. 11/2017 CT (R) dated 28.06.2017* came into force with effect from 1.07.2017. Thereafter, a new entry - Entry no. 3(vi) is inserted w.e.f. 21.09.2017. Subsequently, an explanation is also inserted with respect to entry no. 3(vi) on 26.07.2018. Although the effective date mentioned in the notification which inserted said explanation is 27.07.2018, said explanation will be effective from the inception of entry in notification i.e. 21.09.2017 and not 27.07.2018.

[Circular No. 120/39/2019 GST dated 11.10.2019]

INPUT TAX CREDIT

1. Restriction on availment of input tax credit (ITC) in respect of invoices/debit notes not uploaded by the suppliers in their GSTR-1s [New sub-rule (4) inserted in rule 36 of the CGST Rules]

Section 16(2) of the CGST Act provides certain conditions for availing ITC wherein one of the conditions is that the taxpayer must be in possession of the tax invoice or other tax paying document in respect of which he is claiming the ITC. Rule 36 of CGST Rules lays down the documents and other conditions basis which the registered person can claim ITC.

With effect from 09.10.2019, a new sub-rule (4) has been introduced in rule 36 vide **Notification No. 49/2019 CT dated 09.10.2019** to specify the quantum of ITC that can be claimed against the invoices/debit notes uploaded and invoices/debit notes not uploaded, by the supplier. As per sub-rule (4) of rule 36, ITC to be availed by a registered person in respect of invoices or debit notes, the details of which have not been uploaded by the suppliers in GSTR-1, cannot exceed 20% of the eligible credit available in respect of invoices or debit notes the details of which have been uploaded by the suppliers in GSTR-1.

With effect from 01.01.2020, **Notification No. 75/2019 CT dated 26.12.2019** has amended the said sub-rule to reduce the percentage of ITC that can be availed on invoices not uploaded by the suppliers in their GSTR-1s from **20% to 10%**.

This can be further understood as under-

Case	Amount of ITC to be claimed by recipient
Where invoice/debit note has been uploaded by the supplier in his GSTR-1	Full ITC, if all other conditions of availing ITC are fulfilled
Where invoice/debit note has not been uploaded by supplier in his GSTR-1	10% of the eligible ITC available in respect of the uploaded invoices/debit notes. However, the ITC so claimed should not exceed the actual eligible ITC available in respect of the invoices not uploaded.

Illustration 1

Mr. Vijay, a registered supplier, receives 100 invoices (for inward supply of goods/ services) involving GST of Rs. 10 lakh, from various suppliers during the month of October 20XX. Out of 100 invoices, 80 invoices involving GST of Rs. 6 lakh have been uploaded by the suppliers in their respective GSTR-1s filed on the prescribed due date therefor.

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

Answer

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

Invoices	Amount of ITC involved in the invoices (Rs.)	Amount of ITC that can be availed (Rs.)
80 invoices uploaded in GSTR-1s	6 lakh	6 lakh [Refer Note 1]
20 invoices not uploaded in GSTR-1s	4 lakh	Rs. 0.6 lakh [Refer Note 2]
Total	10 lakh	6.6 lakh

Notes:

- (1) 100% ITC can be availed on invoices uploaded by the suppliers in their GSTR-1s.
- (2) As per rule 36(4), the ITC in respect of invoices not uploaded by the suppliers in their GSTR-1s is restricted to 10% of eligible ITC in respect of invoices uploaded in GSTR-1s. Thus, in respect of 20 invoices not uploaded in GSTR-1s, the ITC has been restricted to Rs. 0.6 lakh [10% of Rs. 6 lakh].

Illustration 2

Mr. Ajay, a registered supplier, receives 100 invoices (for inward supply of goods/ services) involving GST of Rs. 10 lakh, from various suppliers during the month of October 20XX. Out of 100 invoices, 85 invoices involving GST of Rs. 9.5 lakh have been uploaded by the suppliers in their respective GSTR-1s filed on the prescribed due date therefor.

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

Answer

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

Invoices	Amount of ITC involved in the invoices (Rs.)	Amount of ITC that can be availed (Rs.)
85 invoices uploaded in GSTR-1	9.5 lakh	9.5 lakh [Refer Note 1]
15 invoices not uploaded in GSTR-1	0.5 lakh	Rs. 0.5 lakh [Refer Note 2]
Total	10 lakh	10 lakh

Notes:

- (1) 100% ITC can be availed on invoices uploaded by the suppliers in their GSTR-1s.
- (2) As per rule 36(4), the ITC in respect of invoices not uploaded by the suppliers in their GSTR-1s is restricted to 10% of eligible ITC in respect of invoices uploaded in GSTR-1s. However, since in this case, 10% of the eligible ITC in respect of invoices uploaded in GSTR-1s [Rs. 0.95 lakh (10% of Rs. 9.5 lakh)], exceeds the actual ITC [Rs. 0.5 lakh] in respect of 15 invoices not uploaded in GSTR-1s, ITC availed should be limited to actual amount of ITC.

Circular No. 123/ 42/ 2019 GST dated 11.11.2019 has clarified the following issues in relation to restriction in availment of ITC in terms of rule 36(4) as under:

- (1) The restriction is not imposed through the common portal and it is the responsibility of the taxpayer claiming credit to avail ITC on self-assessment basis.
- (2) The restriction shall be applied only on the invoices/ debit note, details of which are required by supplier to be uploaded under section 37(1) of the CGST Act. Therefore, taxpayer may avail full ITC in respect of IGST paid on imports, documents issued under RCM, credit received from ISD etc. which are outside the ambit of section 37(1).
- (3) ITC under rule 36(4) shall be calculated on total eligible ITC from all suppliers against all supplies whose details have been uploaded by the supplier. Therefore, the restriction is not on supplier basis.
- (4) The calculation would be based only on those invoices on which ITC is available and therefore, invoices on which ITC is not available [say under section 17(5) of the CGST Act] would not be considered for calculation of 20% **[amended to 10% subsequently]** of the eligible ITC available.
- (5) The amount of ITC in respect of the invoice/ debit note whose details have not been uploaded shall not exceed 20% **[amended to 10% subsequently]** of the eligible ITC in respect of invoice/ debit note which have been uploaded by supplier under section 37(1) **as on due date of filing Form GSTR-1** by the supplier for the said tax period. **The same can be ascertained as per GSTR 2A showing ITC on the due date of filing GSTR-1.**

For example: Due date for filing GSTR-1 for the month of January, 2020 is 11.02.2020.

Now, ITC in respect of invoice/ debit note which have not been uploaded by supplier shall be maximum of 20% **[amended to 10% subsequently]** of total ITC reflected in GSTR 2A as on 11.02.2020.

2. Restrictions on utilisation of ITC [Rule 86A]

A new rule 86A has been inserted in the CGST Rules to empower the Commissioner/ an officer (not below the rank of an Assistant Commissioner) authorised by him, to impose restrictions on utilization of ITC available in the electronic credit ledger if he has reasons to believe that such ITC has been fraudulently availed or is ineligible.

The restrictions can be imposed in the following circumstances:

- (i) ITC has been availed on the basis of tax invoices/valid documents -
 - issued by a non-existent supplier or by a person not conducting any business from the registered place of business; or
 - without receipt of goods or services or both; or
 - the tax in relation to which has not been paid to the Government
- (ii) Registered person availing ITC has been found non-existent or not to be conducting any business from the registered place of business; or
- (iii) Registered person availing ITC is not in possession of tax invoice/valid document.

If the ITC is so availed, the restrictions can be imposed by not allowing such ITC to be used for discharging any liability under section 49 or not allowing refund of any unutilised amount of such ITC. Such restrictions can be imposed for a period up to 1 year from the date of imposing such restrictions.

However, the Commissioner/officer authorised by him, can withdraw such restriction if he is satisfied that conditions for imposing the restrictions no longer exist.

[Notification No. 75/ 2019 CT dated 26.12.2019]

3. Amendment in rule 43 of the CGST Rules which prescribes the manner of determination of ITC in respect of capital goods and reversal thereof in certain cases

With effect from 01.04.2020, rule 43 of the CGST Rules which prescribes the manner of determination of ITC in respect of capital goods and reversal thereof in certain cases has been amended as under:

- (i) Clause (c) of sub-rule (1) of rule 43 has been substituted.
- (ii) Clause (d) of sub-rule (1) of rule 43 has been substituted.
- (iii) An explanation has been inserted in clause (e) of sub-rule (1).
- (iv) Clause (f) has been omitted.

The implications of the above amendments can be understood as under-

- (1) Input tax on capital goods used/intended to be used commonly for making taxable and/or zero rated supplies as well as exempt supplies and/or non-business purposes shall be denoted as 'A'. Such amount (as reflected on the invoice) will be credited to electronic credit ledger. The useful life of such capital goods will be taken as 5 years from the date of invoice.
- (2) When capital goods which were initially used only for non-business purpose/exempt supplies are subsequently used commonly for exempt supplies and/or non-business purposes as well as taxable and/or zero rated supplies, input tax in respect of the same should be denoted as 'A' and credited in the electronic credit ledger.

The ineligible credit attributable to the period during which such capital goods were used for non-business purpose/making exempt supplies shall be computed @ 5% per quarter or part thereof and be denoted as 'T_{ie}'. Such 'T_{ie}' shall be added to the output tax liability of the tax period in which credit on such capital goods is claimed.

- (3) The amounts of 'A' credited to electronic credit ledger in respect of common capital goods whose useful life remains during the tax period shall be added together to arrive at common credit 'T_c'.
- (4) When capital goods which were initially used only for taxable and/or zero rated supplies are subsequently used commonly for taxable and/or zero rated supplies as well as exempt supplies and/or non-business purposes, input tax claimed in respect of the same shall be added to the aggregate value of 'T_c'.
- (5) 'T_m' which is the common credit for a tax period [$T_c / 60$] is to be computed during the useful life of capital goods which is five years from the date of invoice.
- (6) Clause (g) provides the formula for determining 'T_e', i.e. amount of common credit attributable to exempt supplies, as $T_e = (E/F) \times T_r$. The term 'T_r' which is used in the said formula was defined in clause (f). Omission of clause (f) has thus, rendered the formula given in clause (g) otiose as now the term ('T_r') which is used in the formula is nowhere defined in the rule.

[Notification No. 16/2020 CT dated 23.03.2020]

REGISTRATION

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

While applying for registration on GST portal, a person is required to furnish the details of his bank account. This requirement has now been relaxed to a limited extent, by inserting a new rule 10A to the CGST Rules. In pursuance to the same, the registered person is allowed to 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, soon after obtaining certificate of registration and a GSTIN, but not later than 45 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.

This relaxation is not available for those who have been granted registration as TDS deductor/ TCS collector under rule 12⁶ or who have obtained *suo-motu* registration under rule 16.

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

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

[Notification No. 31/2019 CT dated 28.06.2019]

2. Meaning of not making taxable supply during suspension of registration clarified. Registered person required to issue revised tax invoice and file first return for supplies during suspension period [Rule 21A of the CGST Rules]

Rule 21A provides that once a registered person has applied for cancellation of registration or the proper officer seeks to cancel his registration, his registration shall remain suspended during pendency of the proceedings relating to cancellation of registration filed. Such person **shall not make any taxable supply** during the period of suspension and shall not be required to file any return [Rule 21A(3)].

An explanation has been inserted to this sub-rule (3) to rule 21A clarifying that the expression **“shall not make any taxable supply”** shall mean that the registered person shall not issue a tax invoice and, accordingly, not charge tax on supplies made by him during the period of suspension.

Further, a new sub-rule (5) has been inserted in said rule to provide that where any order having the effect of revocation of suspension of registration has been passed, the provisions of section 31(3)(a) [revised tax invoices] and section 40 [first return] in respect of the supplies made during the period of suspension and the procedure specified therein shall apply.

[Notification No. 49/2019 CT dated 09.10.2019]

⁶ Provisions relating to TDS and TCS have been discussed in detail at Final level.

3. Aadhaar authentication mandatory for new registrants for grant of registration

There is a simplified registration procedure under GST. However, in an endeavor to curb/check fly-by-night operators and to increase compliance, aadhaar e-KYC based registration has been introduced under the GST law. With effect from 01.04.2020, aadhaar authentication has been made mandatory for the new applicants (whether an individual applicant or an applicant other than individual) in order to be eligible for grant of registration. Subsequently, existing registrants will also be required to undergo aadhaar authentication otherwise their registration shall be deemed to be invalid.

Sub-sections (6A), (6B), (6C) and (6D) were inserted in section 25 of the CGST Act, 2017, vide the Finance (No.2) Act, 2019, to make aadhaar authentication mandatory for specified class of new taxpayers and to prescribe the manner in which certain class of registered taxpayers are required to undergo aadhaar authentication.

Section 25(6A) requires every registered person to undergo authentication/furnish proof of possession of aadhaar number, in prescribed form and manner and within prescribed time. Section 25(6B) and (6C) require every individual and Karta, Managing Director, Whole Time Director, partners of firm etc. respectively, to undergo authentication/furnish proof of possession of aadhaar number in prescribed manner. Such authentication is mandatory to be eligible for grant of registration. It shall be from a date to be notified. Section 25(6D) provides that the provisions of section 25(6A)/(6B)/(6C) shall not apply to notified person/class of persons/any notified State/UT/part thereof.

In pursuance to sub-sections (6B), (6C) and (6D) of section 25, following amendments have been made:

Rule 8 of the CGST Rules, 2017 provides the procedure for application of registration. A new sub-rule (4A) has been inserted after sub-rule (4) to rule 8. It provides that, with effect from 01.04.2020, the applicant shall, while submitting an application under sub-rule (4), undergo authentication of Aadhaar number for grant of registration. In exercise of powers conferred by section 25(6B) & (6C), an individual, authorised signatory of all types, Managing and Authorised partners of a partnership firm, Karta of Hindu undivided family, shall undergo authentication, of Aadhaar number, as specified in this rule, in order to be eligible for registration, with effect from 01.04.2020. However, if Aadhaar number is not assigned to the said persons, they shall be offered alternate and viable means of identification in the manner specified in rule 9 of the said rules.

Proviso inserted to rule 9(1) provides that where a person, other than those notified under section 25(6D), fails to undergo authentication of Aadhaar number as specified in rule 8(4A) above, then the registration shall be granted only after physical verification of the principal place of business in the presence of the said person, not later than 60 days from the date of application. A site survey (Physical verification) will be done and identification documents will be verified. In such cases, deemed approval of registration application [as provided in rule 9(5)] will not be applicable.

Rule 25 providing for physical verification of business premises has also been suitably amended to provide that where the proper officer is satisfied that the physical verification of the place of business of a person is required due to failure of aadhaar authentication before the grant of registration, or due to any other reason after the grant of registration, he may get such verification of the place of business, in the presence of the said person, done. The verification report along with the other documents, including photographs, shall be uploaded in prescribed form on the common portal within a period of 15 working days following the date of such verification.

In exercise of the powers conferred by section 25(6D), with effect from 01.04.2020, the provisions of section 25(6B) and (6C) shall not apply to a person who is not citizen of India or to a class of person other than the following class of persons, namely;

- (a) Individual;
- (b) Authorised signatory of all types;

- (c) Managing and Authorised partners and
- (d) Karta of HUF

[Notification No.s 16, 17, 18 and 19/2020 CT all dated 23.03.2020]

TAX INVOICE, CREDIT AND DEBIT NOTES; E-WAY BILL

1. Special provisions pertaining to tax invoice for services by way of admission to exhibition of cinematograph films in multiplex screens [Rule 46 and 54 of the CGST Rules]

A registered person has an option to issue consolidated tax invoice for supplies at the close of each day where the value of goods or services supplies is less than Rs. 200; recipient is unregistered and does not require tax invoice [in terms of section 31(3)(b) of the CGST Act read with fourth proviso to rule 46 of the CGST Rules]. With effect from 01.09.2019, fourth proviso to rule 46 has been amended to disallow this option to a supplier engaged in making supply of services by way of admission to exhibition of cinematograph films in multiplex screens.

Further, with effect from 01.09.2019, a new sub-rule (4A) has been inserted in rule 54⁷. Accordingly, a registered person who is supplying services by way of admission to exhibition of cinematograph films in multiplex screens shall be required to issue an electronic ticket. The said electronic ticket is deemed to be a tax invoice, even if such ticket does not contain the details of the recipient of service but contains the other information as mentioned under rule 46.

Moreover, supplier of such services in a screen other than multiplex screens also has been given an option to follow above procedure.

[Notification No. 33/2019 CT dated 18.07.2019]

2. Validity of e-way bill in case of multimodal shipment in which at least one leg involves transport by ship [Rule 138(10) of the CGST Rules]

Rule 138(10) of CGST Rules provides validity period of e-way bill for over dimensional cargo and for cases other than over dimensional cargo. The sub-rule (10) of rule 138 has been amended to also provide the validity period of e-way bill for multimodal shipment in which at least one leg involves transport by ship.

Thus, amended sub- rule (10) lays down as under-

Sl. No.	Distance within country	Validity period from relevant date
1.	Upto 100 km	One day in cases other than Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship
2.	For every 100 km or part thereof thereafter	One additional day in cases other than Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship
3.	Upto 20 km	One day in case of Over Dimensional Cargo or multimodal shipment in which at least one leg

⁷ Rule 54 provides for issuance of tax invoice in special cases

		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 sub-rule (10) has been further amended to lay down that the validity of the e-way bill can be extended within eight hours from the time of its expiry.

[Notification No. 31/2019 CT dated 28.06.2019]

3. Manner of issuing e-invoice

Sub-rule (4) has been inserted to rule 48 to provide that the e-invoice shall be prepared by notified class of registered persons, on the recommendations of the Council, by including such particulars contained in Form GST INV-01 after obtaining an IRN (Invoice Reference Number) by uploading information contained therein on the Common GST Electronic Portal* in prescribed manner and subject to prescribed conditions and restrictions. Every invoice, issued by said persons, in any manner other than the manner specified in the rule 48(4) shall not be treated as an invoice. The requirement of preparing the invoices in duplicate and triplicate in case of supply of services and goods respectively does not apply to such e-invoices.

*Following Invoice Registration Portals (IRPs) has been notified as Common GST Electronic Portal for the purpose of preparation of e-invoices:

- 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

Rules 46 and 49 of the CGST Rules, 2017 have been amended to provide that Government may, by notification, on the recommendations of the Council, and subject to such conditions and restrictions as mentioned therein, specify that the tax invoice/bill of supply shall have Quick Response (QR) code.

[Notification No. 31/2019 CT dated 28.06.2019 read with Notification No. 68, 69 and 71/2019 CT all dated 13.12.2019]

4. Restriction on furnishing of information in Part A of Form GST EWB-01

No person (including a consignor, consignee, transporter, an e-commerce operator or a courier agency) shall not be allowed to furnish the information in Part A of Form GST EWB-01 in respect of following registered persons, whether as a supplier or a recipient:

- (i) A person paying tax under composition scheme or under *Notification No. 2/2019 CT (R) dated 07.03.2019* has not furnished the statement for payment of self-assessed tax for 2 consecutive quarters, or

(ii) A person paying tax under regular scheme has not furnished the returns for 2 consecutive months,
or

(iii) A person paying tax under regular scheme has not furnished GSTR-1 (Statement of outward supplies) for any 2 months or quarters, as the case may be.

However, Commissioner (jurisdictional commissioner) may, on receipt of an application from a registered person in prescribed form, on sufficient cause being shown and for reasons to be recorded in writing, by order, in prescribed form allow furnishing of the said information in Part A of Form GST EWB-01, subject to prescribed conditions and restrictions. An order rejecting said request shall not be passed without giving the said person a reasonable opportunity of being heard. The permission granted or rejected by the Commissioner of State tax or Commissioner of Union territory tax shall be deemed to be granted or, as the case may be, rejected by the Commissioner.

[Notification No. 74/2018 CT dated 31.12.2018 read with Notification No. 36/2019 CT dated 20.08.2019 and Notification No. 75/ 2019 CT dated 26.12.2019]

PAYMENT OF TAX

1. Amendments in rule 87 of the CGST Rules prescribing provisions relating to electronic cash ledger

- (i) The second proviso to sub-rule (2) which gave an option to a person supplying OIDAR services from a place outside India to a non-taxable online recipient, to generate challan through the Board's payment system namely, Electronic Accounting System in Excise and Service Tax has been omitted.
- (ii) Sub-rule (9) provided that any amount deducted under section 51 or collected under section 52 and claimed in Form GSTR-02 by the registered taxable person from whom the said amount was deducted or, as the case may be, collected shall be credited to his electronic cash ledger in accordance with the provisions of rule 87.

The words, letters and figures "in Form GSTR-02" and words and figures "in accordance with the provisions of rule 87" have been omitted from sub-rule (9).

[Notification No. 31/2019 CT dated 28.06.2019]

2. Refund of tax that has been paid wrongly or in excess by utilising ITC [Rule 86]

A new sub rule (4A) has been inserted in rule 86 of the CGST Rules to provide that where a registered person has claimed refund of any tax that has been paid wrongly or in excess through electronic credit ledger, the said refund, if found admissible, will be credited to the electronic credit ledger.

[Notification No. 16/2020 CT dated 23.03.2020]

1. Person supplying online information technology and database access retrieval [OIDAR] services not required to furnish annual return and reconciliation statement

Section 44(1) of the CGST Act read with rule 80(1) of the CGST Rules requires every registered person, other than an Input Service Distributor, a person paying tax under section 51 or section 52 of the CGST Act, a casual taxable person and a non-resident taxable person, to furnish an annual return.

The Government has notified the persons compulsorily registered under section 24(xi) of the CGST Act read with rule 14 of CGST Rules supplying OIDAR services from a place outside India to a person in India, other than a registered person, as the class of registered persons who shall not be required to furnish the annual return under section 44(1) of the CGST Act read with rule 80(1) of the CGST Rules.

[Notification No. 30/2019 CT dated 28.06.2019]

2. Form GSTR-3B to be treated as a return furnished under section 39 of the CGST Act [Rule 61(5) of the CGST Rules]

Section 39(1) of the CGST Act prescribes a monthly return in Form GSTR-3 for every registered person, other than input service distributor, a non-resident taxable person, a composition taxpayer, person deducting tax at source, person collecting tax at source i.e., an electronic commerce operator and supplier of OIDAR services. However, filing of GSTR-3 has been deferred by the GST Council.

Rule 61(5) of CGST Rules provided that where the time limit for furnishing of details in Form GSTR-1 under section 37 has been extended and the circumstances so warrant, the Commissioner may, by notification, specify the manner and conditions subject to which the return shall be furnished in Form GSTR-3B. The said rule has been amended retrospectively **with effect from 01.07.2017**, to specify that the return in Form GSTR-3B is the return under section 39(1) and that where a return in GSTR-3B is furnished by a person then such person shall not be required to furnish the return in Form GSTR-3.

[Notification No. 49/2019 CT dated 09.10.2019]

AMENDMENTS FOR NOV 2020 EXAM

Earlier there were two composition scheme one covered under section 10 and the other covered under the notification number 2/2019 but now notification no. 2/2019 has been merged under section 10 as section 10(2A). However for convenience of student, we are giving here complete new section 10.

1. COMPOSITION SCHEME.

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 in the State/Turnover in the Union Territory in case of manufacturer.
- (ii) 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.
- (iii) 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)

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.

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 7 lakhs, in this case his eligibility can be computed in the manner given below:

Turnover excluding exempt services of charging interest on loan or advance ₹118 lakhs

10% of ₹118 lakhs = ₹11.80 lakhs or 5 lakh, higher is ₹11.80 lakhs

In this case services rendered are only of the value of 7 lakhs hence he will continue to be in the composition scheme.

GST payable by him shall be

100 lakhs x 0.5% CGST + 0.5% SGST

11 lakhs x 2.5% CGST + 2.5% SGST

7 lakhs x 0.5% CGST + 0.5% SGST

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 provides services other than restaurant services equivalent to

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)

Notwithstanding anything to the contrary contained in this Act, but subject to the provisions of sub-sections (3) and (4) of section 9, a registered person, 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, in lieu of the tax payable by him under sub-section (1) of section 9, an amount of 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 a manufacturer of such goods which are notified for this purpose i.e. **Pan masala, Tobacco and Ice cream and Aerated water.**
 4. 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.
 5. The person covered in composition scheme shall get shifted to the normal scheme if the limit of **₹1,50,00,000 exceeds at any time in a financial year.**
 6. If any person has wrongly opted such scheme, penalty may be imposed under section 73/74.
 7. **As per Rule 3**, a person applying for registration may give option for composition scheme in **part B of REG-01.**
 8. If any person has opted for composition scheme for any place of business in any state or union territory, shall be automatically covered in composition scheme for all other places of business in any other State / UT i.e. same scheme will be applicable for all registration with same PAN.
 9. **As per Rule 4**, 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 90 days** from the date of commencement of composition scheme.
- In case of new registration it will be applicable from the effective date of registration.
10. **As per Rule 5**, such person should be neither casual taxable person nor non - resident taxable person.
 11. 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.

12. **As per Rule 6**, If turnover exceeds ₹150,00,000 he will be shifted to normal scheme with immediate effect and he will give an intimation in CMP-04 within 7 days of exceeding the limit.

13. 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.

14. **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.

15. 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.

16. 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.

17. If person opting for composition scheme is taking supply of goods or services where reverse charge is applicable under section 9(3) or 9(4), shall pay tax in the normal manner.

18. *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.*

19. *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.]*

20. He is not engaged in making any supply which are not leviable to tax under this Act i.e. non taxable supply.

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.

2. Amendment in section 49 (10) & (11) / Rule 87 (13)

A registered person may, on the common portal, transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under this Act, to the electronic cash ledger for integrated tax, central tax, State tax, Union territory tax or cess, in such form and manner and subject to such conditions and restrictions as may be prescribed and such transfer shall be deemed to be a refund from the electronic cash ledger under this Act.

Where any amount has been transferred to the electronic cash ledger under this Act, the same shall be deemed to be deposited in the said ledger.

Section 49 (10) A registered person may, on the common portal, transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under this Act, to the electronic cash ledger for integrated tax, central tax, State tax, Union territory tax or cess, in such form and manner and subject to such conditions and restrictions as may be prescribed and such transfer shall be deemed to be a refund from the electronic cash ledger under this Act.

Section 49 (11), Where any amount has been transferred to the electronic cash ledger under this Act, the same shall be deemed to be deposited in the said ledger as provided in sub-section (1).]

Rule 87 (13) A registered person may, on the common portal, transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under the Act to the electronic cash ledger for integrated tax, central tax, State tax or Union territory tax or cess in **FORM GST PMT-09**].

3. Proviso inserted in section 22

Provided also that the Government may, at the request of a State and on the recommendations of the Council, enhance the aggregate turnover from twenty lakh rupees to such amount not exceeding forty lakh rupees in case of supplier who is engaged exclusively in the supply of goods, subject to such conditions and limitations, as may be notified.

4. FORM PMT-09

FORM GST PMT-09

[SEE RULE 87(13)]

Transfer of amount from one account head to another in electronic cash ledger

1	GSTIN	
2	(a) Legal Name	
	(b) Trade Name, if any	
3	ARN	
4	Date of ARN	

5. Details of the amount to be transferred from one account head to another (Amount in ₹)

Sn. No	Amount to be transferred from		Amount to be transferred to		
	Major head	Minor Head	Major head	Minor head	Amount transferred
	Central Tax, State/UT Tax, Integrated Tax, Cess	Tax Interest Penalty Fee Others Total	Central Tax, State/UT Tax, Integrated Tax, Cess	Tax Interest Penalty Fee Others Total	

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6. Verification

I hereby solemnly affirm and declare that the information given herein above is true and correct to the best of my knowledge and belief and nothing has been concealed therefrom.

Place

Date

Signature

Name of Authorised Signatory

Designation / Status

Instructions -

1. Major heads refers to – Integrated tax, Central tax, State/UT tax and cess
2. Minor heads refers to – tax, interest, penalty, fee and others
3. The form may be filled up if the amount from one major/minor head is intended to be transferred to another major/minor head. Minor head for transfer of amount may be same or different.
4. The amount from one minor head can also be transferred to another minor head under the same major head.
5. Amount can be transferred from the head only if balance under that head is available at the time of transfer.