CHARTMASTER's

SUM-ART [Volume 1]

(A Summary book with ART)

on

INDIRECT TAX LAWS

For

CA Final May 27 & onwards |

CMA Final June 27 & onwards

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CHARTMASTER'S SUM-ART

On Indirect Tax Laws

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Laws stated in this book is amended upto 31st October 2026.

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CHARTMASTER's GST

Sl No.	Particulars	Page No.
1.	Supply	1.1 – 1.35
2.	Nature of Supply	2.1 – 2.6
3.	Charge of GST	3.1 – 3.16
4.	Composition levy	4.1 – 4.7
5.	Registration	5.1 – 5.30
6.	Exemptions from GST	6.1 – 6.44
7.	Value of Supply	7.1 – 7.20
8.	Tax Invoice, Credit and Debit Notes	8.1 – 8.21
9.	Accounts and Records	9.1 – 9.6
10.	E-way bill	10.1 – 10.8
11.	Time of Supply	11.1 – 11.6
12.	Input Tax Credit	12.1 – 12.27
13.	Job Work	13.1 – 13.6
14.	Input service distributor	14.1 – 14.6
15.	Payment of Tax	15.1 – 15.11
16.	Tax deducted at source	16.1 – 16.3
17.	Electronic Commerce Transactions under GST	17.1 – 17.10
18.	Returns	18.1 - 18.24

Sl No.	Particulars	Page No.
19.	Advance Ruling	19.1 – 19.5
20.	Assessment	20.1 – 20.5
21.	Audit	21.1 – 21.3
22.	Inspection, Search, Seizure and Arrest	22.1 – 22.9
23.	Demands and Recovery	23.1 – 23.15
24.	Appeals and Revision	24.1 – 24.23

Chapter 1: Supply

Introduction

Before we start with learning GST there are some basic things we should learn in order to understand GST easily and in a smooth way.

Those basics have been given below as an annexure named as GST Introduction & Overview.

Introduction to Goods & Services

- Taxable event under GST law is supply of goods or services or both. Hence no supply no GST.
- However, before we learn supply let's first learn what are goods and services, because only if something qualifies as goods or services, GST can be imposed on it.

Goods	Services
Means	Means
Every kind of movable property	Anything other than goods
Excludes	Excludes
• Money • Securities	• Money • Securities
But includes	But includes
• actionable claim,	• activities relating to the use of money or
• 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.	• its conversion by cash or by any other mode, From One form, currency/denomination to another form, currency or denomination for which a separate consideration is charged. Explanation - clarified that "services" includes facilitating/arranging transactions in securities.

Movable property shall mean property of every description, except immovable property

Immovable property shall include

- land,
- benefits to arise out of land, and
- things attached to the earth, or
- permanently fastened to anything attached to the earth;

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 RBI

- 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;

Securities: shares, scrips, stocks, bonds, debentures, debenture stock or other marketable securities, derivatives, government securities, rights or interest in securities.

Actionable claim means a claim

- to any debt, other than a debt secured by mortgage of immoveable property or by hypothecation or pledge of moveable property, or
- to any beneficial interest in moveable property not in the possession, either actual or constructive, of the claimant,
- which the Civil Courts recognize as affording grounds for relief,
- whether such debt or beneficial interest be existent, accruing, conditional or contingent.

Examples of Actionable claims are:

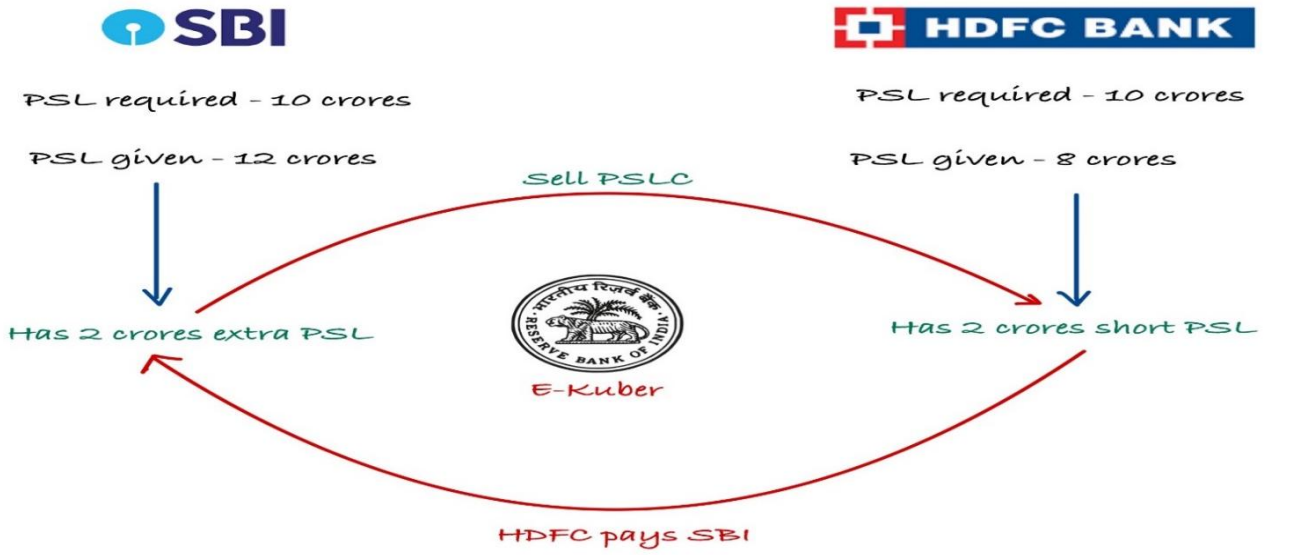
- Lottery, Betting, gambling: Right to claim the prize or the amount.
- Claim for arrears of rent: Right to receive rent
- Claim for the money due under insurance policy: Right to receive policy amount

Circular on Priority Sector Lending Certificates (PSLCs)

Issue: Whether PSLCs are outside the purview of GST and therefore not taxable?

Clarification:

- There is no exemption on trading in PSLCs
- PSLCs are goods & not securities,
- Sale of PSLC by bank is supply of goods u/s 7(1)(a) and taxable,
- Nature of supply - interstate & IGST is applicable.
- Moreover, RCM is applicable on PSLCs. (RCM is discussed in Chapter of charge of GST)



Chapter 1: Supply

Author: Having learned about goods and services, now let's, go ahead and learn about supply.

So what is supply?

- Supply is the taxable event occurrence of which results in GST being levied.
- Section 7 of the CGST act defines supply, hence only if an activity/transaction falls within the definition, GST will be levied on the activity or transaction.

Hence, let's go ahead and understand section 7 of the CGST act 2017.

Section 7: Scope of Supply

Section 7(1): For the purposes of this Act, the expression "supply" includes—

Section 7(1)(a):

- 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;

Circular: Art works sent by artists to galleries for exhibition

Issue: Artists give their work of art to galleries where it is exhibited. However, no consideration flows from the gallery to the artist when the art works are sent to the gallery for exhibition, is it supply?

Clarification:

- At the time of sending to art galleries for exhibition: No consideration: not a supply.
- When a buyer selects a particular art work displayed at the gallery: it's a sale for a consideration, hence supply.





Clarification on taxability of salvage/ wreck value earmarked in the claim assessment of the damage caused to the motor vehicle

Issue: Whether the insurance company is liable to pay GST on the salvage/ wreckage value earmarked in the claim assessment of the damage caused to the motor vehicle?

Clarification:

- If an insurance claim is settled by deducting the value of salvage/wreckage from the claim amount, the salvage remains the property of the insured, and there's no GST liability for the insurance company on this salvage value.
- If an insurance claim is settled for the full amount without deducting the value of the salvage, the salvage becomes the property of the insurance company, which must pay GST on the supply of the salvage to the buyer.

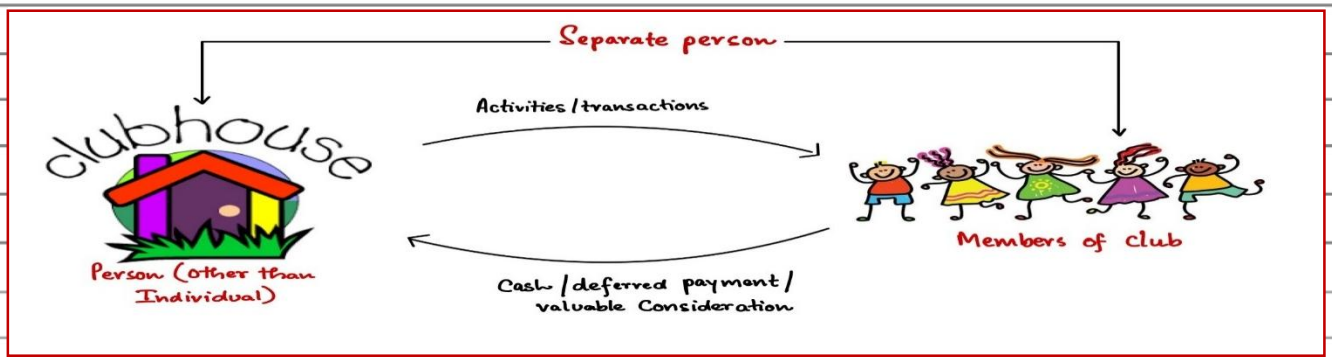
Wrecked car



Section 7(1)(aa)

- the activities or transactions, by a person, other than an individual,
- to its members or constituents or vice-versa,
- for cash, deferred payment or other valuable consideration.

Explanation clarified that the person and its members or constituents shall be deemed to be two separate persons.



Section 7(1)(b):

Importation of services,

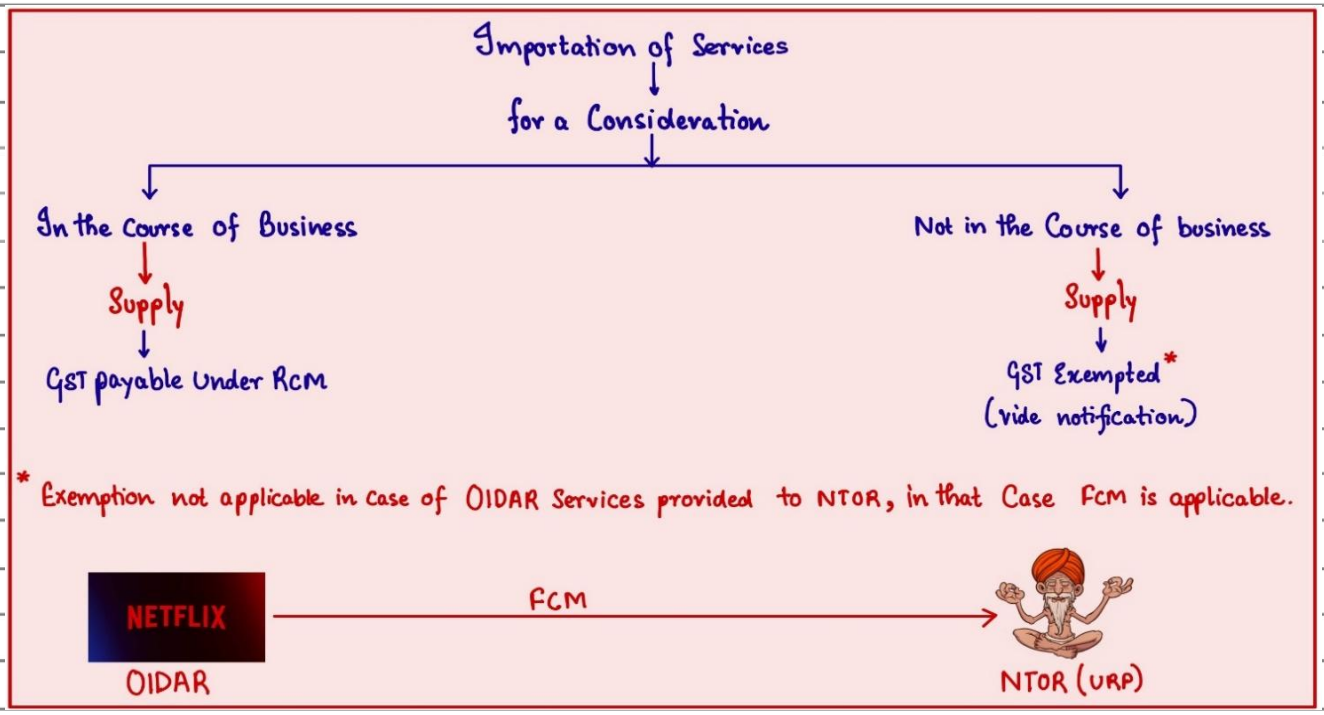
- For a consideration
- Whether or not in the course or furtherance of business.

Additional points:

- Import of services means the supply of any service, where-

(i) the supplier of service is located outside India;
(ii) the recipient of service is located in India; and
(iii) the place of supply of service is in India;

- GST is payable under RCM by recipient in case any service supplied by any person from outside India to any person in India other than Non-taxable online recipient (NTOR).
- Also exemption has been provided vide notification for services received from outside India for non-business purpose
- However, the exemption is not available if online information database access and retrieval services (OIDAR) services are received from outside India by NTOR, in that case the GST is payable under FCM i.e. forward charge mechanism by the OIDAR supplier.
- NTOR means any unregistered person including person registered as TDS deductor.
- Additional discussion on OIDAR shall be done in the chapter of imports under GST.



Section 7(1)(c): Deemed supply (Supply without consideration)

The activities specified in Schedule I made or agreed to be made without a consideration.

Four activities have been specified in Schedule I, Let us now analyse each of them one by one:

Para 1: Permanent transfer/disposal of business assets where ITC has been availed on such assets:

Conditions to be satisfied to qualify as supply

1. There must be disposal or transfer of business assets
2. Transfer must be on permanent basis.

3. Input tax credit has been availed on such assets.

Hence, Permanent transfer or disposal will not cover the following assets:

1. Business assets on which ITC is blocked under GST.
2. Business assets though eligible for ITC, ITC has not been availed by the registered person.

Notification: Relaxation on sale of old and used motor vehicle held as capital assets

Generally GST is payable on transaction value, however margin scheme may be availed on sale of motor vehicle held as capital asset.

- If depreciation is claimed: GST payable on selling price – WDV
- If depreciation is not claimed: GST payable on selling price – purchase price.

Para 2: Supply of goods, services or both between related person/ distinct persons as specified in section 25, when made in the course or furtherance of business:

Exception: Gifts not exceeding Rs 50,000 in value in a FY by an employer to an employee shall not be treated as supply of goods or services or both.



Related persons – Mnemonic: SCOPE + Family + Sole agent

S: Stock/Shares: Any third person owns/controls/holds at least 25% of voting stock/ shares of both of them;

C: Control: One of them directly/indirectly controls the other, Both of them are directly/ indirectly controlled by a third person, Together they directly/indirectly control a third person.

O: Officer/Director: Such persons are officers or directors of one another's businesses

P: Partners: Such persons are legally recognised partners in business

E: Employer & Employee: Such persons are employer and employee

+ Family: Spouse & Children (SC), parents, grand-parents, brothers & sisters (PGBS)-dependent.

+ Sole agent: sole agent or sole distributor or sole concessionaire (someone who has been given a concession to sell or do something), shall be deemed to be related.

Distinct persons (as specified in section 25)

Separate registration makes distinct person: A person who has obtained or is required to obtain more than one registration, whether in one state/UT or more than one state/UT shall, in respect of each such registration, be treated as distinct person for the purpose of this act.

Examples: Ram has an electronics shop registered in Bangalore (Karnataka) and another electronic shop in Mangalore (Karnataka) and he has obtained separate registration for both the shops. Ram shall be treated as distinct person in respect of both registrations.

Establishment in another state is a separate person: Where a person has obtained or is required to obtain registration in a state/UT in respect of an establishment, has an establishment in another state or union territory, then such establishments shall be treated as establishments of distinct persons for the purpose of this act.

Example: Ram has electronics shop registered in Bangalore (Karnataka) and a liquor shop in Tamil Nadu. Since supply of alcoholic liquor for human consumption is a non-taxable supply i.e., exempt supply, Ram is not required to obtain registration in the state of Tamil Nadu. In such a situation the electronic shop and liquor shop shall be treated as establishment of distinct person.

Circular: Interstate movement of various modes of conveyance carrying goods or passengers or rigs, tools & spares and all goods on wheels (like cranes) for repairs & maintenance between distinct persons

Issue: Whether inter-state movement of various modes of conveyance, carrying goods or passengers or for repairs and maintenance, between distinct persons as specified in section 25(4) of the CGST act, 2017, [except for further supply of the same conveyance is leviable to IGST]?

Clarification:

- Inter-state movement of conveyances, rigs, tools & spares and all goods on wheels carrying goods/passengers/both: shall be treated 'neither as a supply of goods nor as a supply of service' & hence not leviable to IGST.
- On Repairs and maintenance or work done: applicable CGST/SGST/IGST, as the case may be, shall be leviable
- If movement is for further supply of conveyance: Treated as supply and IGST leviable.





Para 3: Principal to Agent supply or vice-versa

Supply of goods

a. by a **principal to his agent**, where the agent undertakes to supply such goods on behalf of the principal is considered as supply.

b. by an **agent to his principal**, where the agent undertakes to receive such goods on behalf of the principal is considered as supply.

Author's comment: Points to be noted:

- Only **supply of goods is covered** and not supply of services.
- This section covers only transactions without consideration.
- Supply of services between principal and agent will be covered only if for a consideration.

Circular explaining scope of Principal-agent relationship in the context of Schedule I

Issue: How to determine whether the agent is an agent in terms of Schedule I ?

Clarification:

- Where the invoice for further supply is being issued by the agent in his name then, any provision of goods from the principal to the agent would fall within the fold of the said entry.
- Where the invoice is issued by the agent to the customer in the name of the principal, such agent shall not fall within the ambit of Schedule I of the CGST Act.
- Similarly, where the goods being procured by the agent on behalf of the principal are invoiced in the name of the agent then further provision of the said goods by the agent to the principal would be covered by the said entry.
- In other words, the crucial point is whether or not the agent has the authority to pass or receive the title of the goods on behalf of the principal.

Para 4: Import of services by a person from a related person or from his establishments located outside India, without consideration, in the course or furtherance of business

Examples:

1. Ram Ltd. of Mumbai imports business support services from its head office located in USA. The head office has rendered such services free of cost to its branch office. Services received by Ram Ltd. will qualify as supply even though the head office has not charged anything from it.
2. Ram, a proprietor registered in Karnataka, has sought architect services from his son located in London, with respect to their newly constructed house in Karnataka. Although services have been received by Ram without any consideration from his son - a related person, still it will not qualify as supply since the same has not been received in course or furtherance of business.

Section 7(1A): Activities or transactions to be treated as supply of goods/services

Where certain activities/transactions constitute a supply in accordance with provisions of sub-section (1), they shall be treated either as supply of goods/services as referred to in Schedule II;

Schedule II is as follows:

1. Transfer of title/right in goods
   (a) any transfer of the title in goods: supply of goods;
   (b) any transfer of right in goods/of undivided share in goods without the transfer of title thereof: supply of services;

(c) 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: supply of goods.

2. Land and Building

(a) any lease, tenancy, easement, licence to occupy land – Supply of Services

(b) any lease or letting out of the building including a commercial, industrial or residential complex for business or commerce, either wholly or partly - Supply of Services

Circular on Issue related to taxability of 'tenancy rights' under GST – Pagadi system

Issue: Whether Transfer of tenancy rights to a new tenant against consideration would attract GST although stamp duty & registration charges have been levied on such transfer?

Clarification:

- The activity of transfer of 'tenancy rights' is covered under the scope of supply and taxable.
- However, grant of tenancy rights in a residential dwelling for use as residence against tenancy premium or periodic rent or both to unregistered person is exempt.
- Merely because a transaction or a 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 of goods and services and from payment of GST.

Issue: Whether services provided by outgoing tenant by way of surrendering the tenancy rights against consideration in the form of a portion of tenancy premium would be liable to GST?

Clarification: As regards services provided by outgoing tenant by way of surrendering the tenancy rights against consideration in the form of a portion of tenancy premium is liable to GST.

3. Any treatment or process which is applied to another person's goods: supply of services.

Circular on retreading of tyres & Bus body building

Whether retreading of tyres is a supply of goods or services?

Activity	SOG/SOS
Supplier buys old tyres, does the re-threading and supplies re-treaded tyres.	Supply of goods.
Supplier only does re-threading on old tyres for customers, using rubber & other material.	Supply of service.

Whether activity of bus body building, is a supply of goods or services?

Activity	Supply of Goods or Service
If the Bus body building entity builds a bus by working on the chassis that is owned by him & supplies bus.	Supply of goods

Only building the body of the bus on the chassis provided by a customer and charging fabrication charges.	Fabrication of body on chassis is the principal supply, and it is a supply of service.





4. Transfer of Business Assets

(a) where goods forming part of the assets of a business are transferred/disposed of by or under the directions of the person carrying on the business so as no longer to form part of those assets, such transfer or disposal is a supply of goods by the person;

(b) where, by or under the direction of a person carrying on a business, goods held or used for the purposes of the business are

- put to any private use or are used, or made available to any person for use, for any purpose other than a purpose of the business,
- the usage or making available of such goods is a supply of services;

(c) 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,

unless-

(i) Business is transferred as a going concern to another person; or

(ii) Business is carried on by a personal representative who is deemed to be a taxable person.

5. Supply of Services

(a) Renting of immovable property

Author's comment: Land and building has already been covered under para 2, hence this para covers all other immovable property like telecommunication towers.

(b) Construction of complex, building, civil structure, etc.

Except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier.

(c) Temporary transfer or permitting use or enjoyment of any intellectual property right.

Author's comments: IPR means patents, trademarks, copyrights, etc.

(d) Development, design, programming, customisation, adaptation, upgradation, enhancement, implementation of IT software

(e) Agreeing to obligation

- to refrain from an act, or
- to tolerate an act or situation, or
- to do an act

Author's comments: Refrain: stop oneself from doing something, Tolerate: allow the occurrence/practice of (something that one dislikes/disagrees with) without interference

(f) Transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration.

6. Composite Supplies

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

(a) works contract as defined in section 2(119); and

(b) Restaurant service [supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption)], where such supply or service is for cash, deferred payment or other valuable consideration.

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.

Circular: Applicability of GST on Location Charges or Preferential Location Charges (PLC) collected along with consideration for sale/transfer of residential/commercial properties

- Preferential Location Charges (PLC) collected for choice of apartment location are considered an integral part of construction services.
- When charged before issuance of the completion certificate, PLC forms part of the total consideration.
- PLC and construction services constitute a composite supply, with construction service being the principal supply.
- Accordingly, PLC is taxed at the same GST rate applicable to the main construction service.



GST applicability on liquidated damages, compensation and penalty arising out of breach of contract or other provisions of law

Questions about the taxability of activities or transactions as a supply of service, such as agreeing to refrain from an act, tolerating an act or situation, or doing an act, have been examined under para 5(e) of Schedule II of the CGST Act.

Agreeing to refrain from an act includes non-compete agreements, builders refraining from extra construction for compensation, or industrial units pausing operations for a neighbouring school's benefit.

Agreeing to tolerate an act or situation covers cases like a shopkeeper allowing a hawker to operate nearby or an RWA accepting payment for tolerating loudspeakers.

Agreeing to do an act involves scenarios like an industrial unit installing zero-emission equipment at the request and cost of a neighboring RWA, even without a legal requirement.

The description "agreeing to the obligation to refrain from an act or to tolerate an act or a situation, or to do an act" was intended to cover services such as described above.

Above three activities must comply with the following conditions:

1. There must be an express or implied agreement or contract
2. Consideration must flow in return to this contract/agreement

Taxability of these transactions is discussed in greater detail in the following paragraphs.

Liquidated Damages

- Liquidated damages are payments for ensuring contract performance, not for tolerating breaches.
- They compensate for loss due to contract breach but are not a remedy or desired outcome of the contract.
- Such damages are not considered a supply and are not taxable, as they merely compensate the aggrieved party without involving an agreement to refrain from or tolerate an act.

Examples of such cases are:

(1) damages resulting from damage to property, negligence, piracy, unauthorized use of trade name, copyright,

(2) penalty stipulated in a contract for delayed construction of houses,

Cheque dishonour fine/ penalty

- The supplier wants payment to be received on time & does not want cheque to be dishonoured.
- Fines or penalties for dishonoured cheques are imposed to penalize and deter such acts, not to tolerate them.

- Therefore, cheque dishonour fines or penalties are not considered payment for any service and are not taxable.

Penalty imposed for violation of laws

- Penalties for violations such as traffic, pollution, or mining laws are not considered payment for any supply and are not taxable.
- These fines deter violations, not tolerate them, and there is no agreement allowing violations in exchange for fines.
- Consequently, fines imposed by the government or local authorities for breaking laws, bye-laws, rules, or regulations are not subject to tax.

Forfeiture of salary or payment of bond amount in the event of the employee leaving the employment before the minimum agreed period

- Forfeiture of salary or bond recovery for premature quitting is to discourage non-serious candidates from employment.
- These amounts are penalties, not consideration for tolerating premature quitting.
- The employee receives nothing in return for these payments.
- Thus, these amounts are not taxable as consideration for tolerating an act or situation

Late payment surcharge or fee

- Accepting late payments with interest/late fees is a service naturally bundled with the main supply (e.g., electricity, water, telecom).
- This facility is common and provided by most service providers worldwide.
- Even if considered as tolerating late payment, it is ancillary to the principal supply and should be assessed as such.
- It should be taxed at the same rate as the main supply (e.g., electricity, water, telecom, gas).
- However, this does not apply to cheque dishonour fines, which were discussed earlier.

Fixed charges for power

- Electricity prices include a minimum fixed charge and a variable per unit charge.
- Minimum fixed charges remain constant regardless of electricity consumption.
- These charges are not for tolerating under-consumption; both fixed and variable charges are for the sale of electricity.
- Electricity is exempt from GST, so these charges are not taxable

Cancellation charges

- Cancellation fees are commonly charged by service providers (e.g., hotels, travel, transportation) for the costs involved in making and canceling arrangements.

- These fees are part of a composite supply of services that includes booking, transportation facilities, and basic necessities.
- Allowing cancellations with fees is naturally bundled with the principal supply of services and should be assessed as such.
- GST on cancellation charges is assessed at the same rate as the main service, such as air or rail transport.

Forfeiture of earnest money

- Forfeiture of earnest money in property sales or government bids is simply a flow of money, with no return benefit to the buyer or bidder.
- These forfeitures are penalties to compensate for losses and discourage non-serious buyers or bidders, not for tolerating contract breaches.
- Such payments are not considered as consideration for any supply and are not taxable

Applicability of GST on penal charges being levied by the Regulated Entities (REs) in place of penal interest.

Whether GST is applicable on penal charges being levied by the Regulated Entities (REs) in view of RBI instructions dated 18.08.2023 directing such Regulated Entities (REs) to levy penal charges in place of penal interest.

Clarification:

- The RBI issued instructions directing Regulated Entities (REs) like banks and NBFCs to replace penal interest with penal charges for non-compliance with loan terms.
- The objective of penal charges is to promote credit discipline among borrowers.
- These instructions do not apply to credit cards, external commercial borrowings, trade credits, or structured obligations.
- Some field formations view penal charges as payment/consideration for tolerating an act, raising questions on GST applicability.
- Circular No. 178/10/2022-GST clarified that payments like liquidated damages for breach of contract are not a consideration for tolerating an act but rather serve as a deterrent.
- The essence of a contract is its performance, not its breach, meaning penal charges are meant to prevent non-compliance rather than tolerate it.
- Since penal charges are for breach of contract terms, they fall within the scope of this clarification.
- As recommended by the 55th GST Council, it is officially clarified that GST is NOT payable on penal charges levied by REs under RBI's directive.

Section 7(2): Notwithstanding anything contained in sub-section (1),

(a) Activities or transactions specified in Schedule III or

(b) Such activities or transactions undertaken by the CG, SG, or any local authority in which they are engaged as public authorities,

- as may be notified by the Government
- On the recommendations of the Council

shall be treated neither as a supply of goods nor a supply of services.

Section 7(2)(a) read with Schedule III: Activities/transactions shall be treated as neither supply of goods nor supply of services

Para 1: Services by an employee to the employer in the course of or in relation to his employment

Clarification on perquisite provided by the employer to its employees in terms of contractual agreement

Issue: Whether various perquisites provided by the employer to its employees in terms of contractual agreement entered into between the employer and the employee are liable for GST?

Clarification: Any perquisites provided by the employer to its employees in terms of contractual agreement entered into between the employer & the employee are in lieu of the services provided by employee to the employer in relation to his employment & will not be subjected to GST.

Clarification on the taxability of ESOP/ESPP/RSU provided by a company to its employees through its overseas holding company

Issue: whether such transfer of shares/ securities by the foreign holding company directly to the employees of the Indian subsidiary company and subsequent re-imbursement of the cost of such shares/ securities by the Indian subsidiary company to the foreign holding company can be considered as import of financial services by the Indian subsidiary company from the foreign holding company and whether the same can be considered as liable to GST in the hands of Indian subsidiary company on reverse charge basis.

Clarification:

- Indian companies can offer their employees shares/securities from their foreign holding companies as part of their compensation package.
- When employees of the Indian subsidiary choose this option, the shares are given directly by the foreign holding company, and the Indian subsidiary reimburses the cost of such securities to the holding company.

- For plans like Employee Stock Purchase Plan (ESPP) or Employee Stock Option Plan (ESOP) or Restricted Stock Unit (RSU), GST is not applicable on the compensation paid to the employees by the employer since trading shares/securities is neither goods nor services.
- ESOP/ESPP/RSU is part of the employee's remuneration under employment terms, covered under Schedule III Para 1.
- Reimbursement for the transfer of securities done by the Indian subsidiary to the foreign holding on a cost-to-cost basis is not treated as import of services and is not liable for GST.
- If the foreign holding company charges an extra fee or commission for issuing ESOP/ESPP/RSU, it is seen as a service for facilitating the transaction. GST must be paid by the domestic subsidiary on a reverse charge basis for this service.

Para 2: Services by any court/Tribunal established under any law for the time being in force

Court includes: District court, high court and Supreme Court.

Clarification on levy of GST on fees charged by Consumer Disputes Redressal Commission.

Issue: Whether GST is leviable on fees/penalty/any other amount charged by Consumer Disputes Redressal Commissions (CDRCs)?

Clarification: CDRCs (National/ State/ District) may not be tribunals literally as they may not have been set up directly under Article 323B of the Constitution. However, they are clothed with the characteristics of a Tribunal. Consequently, fee paid by litigants while registering complaints to said Commissions are not leviable to GST. Any penalty in cash imposed by or amount paid to these Commissions will also not attract GST.

Crux: CDRCs have the characteristics of a Tribunal, Consequently No GST on fees/penalty/any other amount charged by CDRCs.

Para 3: Services by Government officials (name given by author).

(a) Functions performed by the
- Members of Parliament, Members of State Legislature,
- Members of Panchayats, Members of Municipalities and Members of other local authorities;

(b) Duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity; or

Example: President of India, Vice President of India, Prime Minister of India, Chief Justice of India, Speaker of the Lok Sabha, Chief Election Commissioner, Comptroller and Auditor General of India, Attorney General of India, in that capacity.

(c) Duties performed by

- any person as a Chairperson or a Member or a Director
- in a body established by the CG/SG/LA and who is not deemed as an employee before the commencement of this clause.

Example: Chairman of Telecom regulatory authority of India (TRAI), Members and directors of finance commission who are not employees.

Para 4: Services of funeral, burial, crematorium/mortuary including transportation of deceased.

Para 5: Sale of land and, subject to clause (b) of para 5 of schedule II, sale of building

Particulars	Supply of Goods or Service	GST Liability
Sale of Land	Neither supply of goods nor service – Schedule III	No GST
Sale of building – Entire consideration received after issuance of completion certificate or first occupancy (whichever is earlier)	Neither supply of goods nor service – Schedule III	NO GST
Sale of building – where part or full consideration received before issuance of completion certificate/first occupancy (whichever is earlier)	Supply of service (schedule II- Para 5(b)	Liable to GST – Supply of service

Clarifications on applicability of GST on sale of land after levelling, laying down of drainage lines etc.

Issue: Whether GST is applicable on sale of land after levelling, laying down of drainage lines etc.

Clarification:

- Land may be sold either as it is or after some development such as levelling, laying down of drainage lines, water lines, electricity lines, etc.
- It is clarified that sale of such developed land is also sale of land and is covered by Sr. No. 5 of Schedule III and accordingly does not attract GST.
- However, it may be noted that any service provided for development of land, like levelling, laying of drainage lines (as may be received by developers) shall attract GST.

Crux: Sale of developed land is also sale of land and is covered by Para 5 of Schedule III & accordingly, does not attract GST.

Para 6: Actionable claims, other than specified actionable claims.

Actionable claims are goods, supply of actionable claims is supply of goods, and however GST shall be leviable only on specified actionable claims.

Specified actionable claim means the actionable claim involved in or by way of—

(i) betting; (ii) gambling; (iii) lottery;
(iv) casinos; (v) horse racing; (vi) online money gaming;

Para 7: Supply of goods from a place in the non-taxable territory (NTT) to another place in the non-taxable territory without such goods entering into India. (Merchant trading)

Example: Ram purchased goods from China and sold it to Shyam in USA without bringing the goods in India. This transaction is neither supply of goods nor supply of services.

Para 8: High seas sales or Bond to bond transfer (In Bond sales)

(a) Supply of warehoused goods to any person before clearance for home consumption;

Example: Ram imported some goods in India but kept the goods in customs bonded warehouse without clearing it for home consumption. In the meantime, Ram sold these goods to Shyam while they were in warehouse. This transaction between Ram & Shyam is neither supply of goods nor supply of services.

(aa) Supply of goods warehoused in a Special Economic Zone or in a Free Trade Warehousing Zone to any person before clearance for exports or to the Domestic Tariff Area;

Author: This brings transactions relating to supply of goods warehoused in SEZ/FTWZ at par with the existing provision in GST for transactions in Customs bonded warehouse.

(b) Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption.

Examples: Mr. P of India imported some goods from Japan. While the goods were in high seas, Mr. P sold the goods to Mr. Q in India by way of endorsement of documents of title of goods. This transaction between Mr. P and Mr. Q is neither supply of goods nor supply of services.

Para 9: Activity of apportionment of co-insurance premium by the lead insurer to the co-insurer

Activity of apportionment of co-insurance premium by the lead insurer to the co-insurer for the insurance services jointly supplied by the lead insurer & the co-insurer to the insured in co-insurance agreements, subject to the condition that the lead insurer pays the central tax, the State tax, the UT tax & the integrated tax on the entire amount of premium paid by the insured.

Para 10: Services by insurer to the reinsurer

Services by insurer to the reinsurer for which ceding commission or the reinsurance commission is deducted from reinsurance premium paid by the insurer to the reinsurer, subject to the condition that the central tax, the State tax, the Union territory tax and the integrated tax is paid by the reinsurer on the gross reinsurance premium payable by the insurer to the reinsurer, inclusive of the said ceding commission or the reinsurance commission.

Notified services under section 7(2)(b)

- Services by way of any activity in relation to a function entrusted to a Panchayat under article 243G of the Constitution or to a Municipality under article 243W of the Constitution.
- Services 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.

Circular on applicability of GST on all other licenses and privileges by the government

Issue: Whether in case of all other licenses and privileges for a fee in other situations also no GST is payable?

Clarification:

- 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.

Crux:

- Supply of service by way of grant of Alcoholic liquor license by the SG is out of scope of supply
- any other services by way of grant of mining right, natural resources against fees/royalty are taxable.

Section 7(3): Power of Government to notify transaction as SOG and not SOS/vice versa

Subject to sub-sections (1), (1A) and (2)

- The Government may, on the recommendations of the Council, specify, by notification
- The transactions that are to be treated as —
  (a) a supply of goods and not as a supply of services; or
  (b) A supply of services and not as a supply of goods.

Section 8 - Tax liability on Composite & Mixed Supply

Composite supply [Section 2(30)]

Composite supply means a supply made by a taxable person to a recipient and:

- comprises two/more taxable supplies of goods/services/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.



Section 8(a): Taxability of composite supply

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.

Mixed supply [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.



Section 8(b): Taxability of mixed Supply

A mixed supply comprising of

- two or more supplies
- shall be treated as supply of that particular supply
- which attracts highest rate of tax.

Clarification on registration, road tax, insurance & FASTag charges recovered on top of lease rent

Issue: How are registration, road tax, insurance and FASTag charges recovered on top of lease rent treated?

Clarification: They form part of the composite leasing supply. They are taxed at the rate that applies to the vehicle leasing service.

Clarification on taxability of supply of food and beverages at cinema halls.

Issue: Whether supply of food and beverages at cinema halls is taxable as restaurant service which attract GST at the rate of 5% or not.

Clarification:



- Supply of food or beverages in a cinema hall is taxable as 'restaurant service' as long as:
  (a) the food/beverages are supplied by way of/as part of a service, &
  (b) supplied independent of the cinema exhibition service.
- Further clarified that where the sale of cinema ticket & supply of food and beverages are clubbed together, and such bundled supply satisfies the test of composite supply, the entire supply will attract GST at the rate applicable to service of exhibition of cinema, the principal supply.

Crux:

- If food & beverages at cinema halls are supplied independently: taxable as restaurant service
- but if sale of cinema ticket and supply of food & beverage are clubbed & satisfying the test of composite supply, then rate of principal supply i.e. exhibition of cinema will apply.

Clarification on servicing of cars involving both supply of goods (spare parts) & services (labour)



Issue: Servicing of cars involving both supply of goods (spare parts) & services (labour), where the value of goods and services are shown separately, to be treated under GST?

Clarification: Where a supply involves supply of both goods & services & the value of such goods and services supplied are shown separately, the goods & services would be liable to tax at the rates as applicable to such goods & services separately.

Clarification on taxability of printing contracts

Issue: whether supply of books, pamphlets, brochures, envelopes, annual reports, leaflets, cartons, boxes etc., printed with design, logo, name, address or other contents supplied by the recipient of such supplies, would constitute supply of goods or supply of services.

Clarification:

Activity	Supply of Goods or Service
In case of printing of books, pamphlets, brochures, annual reports, where only content is supplied by the publisher/ person who owns the usage rights to the intangible inputs while the physical inputs including paper used for printing belong to printer	Supply of printing [of the content supplied by the recipient of supply] is the principal supply and therefore such supplies would constitute supply of service.
In case of supply of printed envelopes, letter cards, printed boxes, tissues, napkins, wall paper etc. by the printer using its physical inputs including paper to print the design, logo etc. (supplied by the recipient of goods).	Predominant supply is supply of goods and the supply of printing of the content is ancillary to the principal supply of goods and therefore such supplies would constitute supply of goods







Clarification on taxability of shares held in a subsidiary company by holding company

Issue: Whether the activity of holding shares by a holding company of the subsidiary company will be treated as a supply of service or not and whether the same will attract GST or not.

Clarification:

- Securities held by the holding company in the subsidiary company are neither goods nor services.
- Further, purchase or sale of shares or securities, in itself is neither a supply of goods nor a supply of services.
- It cannot be said that a service is being provided by the holding company to the subsidiary company solely on the basis that there is a specific entry in the scheme of classification of services mentioning; "the services provided by holding companies, i.e. holding securities of (or other equity interests in) companies and enterprises for the purpose of owning a controlling interest.", unless there is a supply of services by the holding company to the subsidiary company in accordance with section 7.

Crux: The activity of holding of shares of subsidiary co. by the holding co. per se cannot be treated as a supply of services by a holding co. to the said subsidiary co. and cannot be taxed.

Clarification on various doubts related to treatment of sales promotion schemes under GST

There are several promotional schemes which are offered by taxable persons to increase sales volume and to attract new customers for their products.

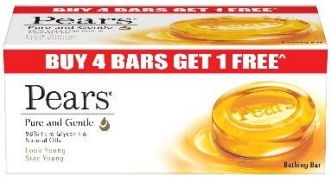
Taxability of two such schemes has been clarified as under:

A. Free samples and gifts:



- Free samples (without consideration) are not treated as "supply" under GST, except for activities in Schedule I of the CGST Act.
- ITC is not available for the distribution of gifts/free samples if it doesn't fall within the scope of supply.
- If it falls within the scope of supply, ITC is available.

B. Buy one get one free offer:



- Buy One, Get One Free 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 be either composite or mixed supply.
- ITC shall be available to the supplier for the inputs, input services and capital goods used in relation to supply of goods or services or both as part of such offers.

Clarification on Taxability of Cost Petroleum

Production Sharing Contract: When an oil exploration & production contractor gets a license/lease to explore/mine the petroleum crude and/or natural gas from the Government, it enters into a Production Sharing Contract (PSC) with the Government.

- The relationship of the contractors with the Government is not that of partners but that of licensor/lessor and licensee/lessee.
- As per these PSCs, when a contractor discovers oil/gas, he is at first entitled to recover the contract cost [expenses incurred in exploration, development, production and payment of royalty] involved in the extraction of oil/gas from the total sale proceeds and thereafter, he is expected to share with the Government the profit from his venture [known as profit petroleum], as per the PSC.
- The value of petroleum which the contractor is entitled to take in a year for recovery of the contract costs is called the cost petroleum.
- Further, the total value of petroleum produced and saved from the contract area in a particular period, as reduced by cost petroleum, is called the profit petroleum.
- The Government's share of profit petroleum which is the consideration paid by the contractor to the Central Government for the services of grant of license/lease to explore/mine petroleum crude and/natural gas is exempt from GST.

- The cost petroleum is not a consideration received by the contractor for the services provided to Government and thus not taxable per se. The reason for the same is that the contractors carry exploration and production of petroleum for themselves and not as a service to Government.
- They had acquired the right to explore, exploit and sell petroleum in lieu of royalty and a share in profit petroleum.

Crux:

- Government grants license/lease to explore/mine the petroleum crude and/or natural gas in consideration for profit petroleum, which is exempted from GST.
- The cost petroleum is not a consideration received by the contractor for the services provided to Government and thus not taxable.

Circular: Levy of GST on the service of display of name/placing of name plates of the donor in the premises of charitable organizations receiving donation/gifts from individual donors.

Issue: whether GST is applicable on donations or gifts received from individual donors by charitable organisations involved in advancement of religion, spirituality or yoga which is acknowledged by them by placing name plates in the name of the individual donor.

About donations to Charitable organisation: Individual donors provide financial help 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 (generosity) 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.

Hence, where all the 3 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.

All other cases – Where the name plate is basically for promoting business of donor – Activity will fall in supply and GST is leviable.

Clarification on Joint Venture (JV) - taxable services provided by the members of JV to the JV & vice versa & inter se between the members of the JV-reg

JV being an unincorporated temporary association constituted for the limited purpose of carrying out a specified project within a time frame. Whether a cash call is merely a transaction in money and hence not in the nature of consideration for taxable service, would depend on the terms of the Joint Venture Agreement, which may vary from case to case.

'Cash calls' are raised by an operating member of the joint venture on other members in proportion to their participating interests in the joint venture (unincorporated) to meet the expenditure on the operations to be carried out as per the approved work Programme and budget.

Let us understand the taxability of cash calls with the help of following examples:

Example: There are 4 members in the JV including the operating member and each one contributes Rs 100 as part of their share. A total amount of Rs 400 is collected. The operating member purchases machinery for Rs 400 for the JV to be used in oil production.

In above case, cash calls will not be subject to GST since the operating member is not carrying out an activity for another for consideration. Here, the money paid for purchase of machinery is merely in the nature of capital contribution and is therefore a transaction in money.

Example: There are 4 members in the JV including the operating member and each one contributes Rs 100 as part of their share. A total amount of Rs 400 is collected. The operating member thereafter uses its own machine and performs exploration and production activities on behalf of the JV.

In above case, the operating member uses its own machinery and is therefore providing 'service' within the scope of 'supply' because here operating member is recovering the cost appropriated towards machinery & services from other JV members in their participating interest ratio.

Clarification on liability to pay GST in respect of warranty replacement of parts and repair services during warranty period.

Issue 1: When an original equipment manufacturer (OEM) provides warranty replacements or repairs without charging the customer during the warranty period, is GST payable?

Clarification:

- The original price of goods includes the cost of potential replacements or repairs during the warranty period, and GST has already been paid on this value.
- Therefore, no further GST is chargeable on warranty replacements or repairs if no additional consideration is charged.
- If additional charges are made for parts or services, GST is payable on that extra amount.

Issue 2: Whether GST would be payable on replacement of parts and/ or repair services provided by a distributor without any consideration from the customer, as part of warranty on behalf of the manufacturer?

Clarification:

- If a distributor provides warranty services on behalf of the manufacturer without charging the customer, no GST is payable by the distributor.
- However, if the distributor charges additional consideration for any part or service, GST will be payable on that additional amount.

Issue 3: In the above scenario where the distributor provides replacement of parts to the customer as part of warranty on behalf of the manufacturer, whether any supply is involved between the distributor and the manufacturer?

Clarification:

There can be 4 instances as discussed below:-

(a) Distributor uses own stock or buys parts and charges the manufacturer. GST is payable by the distributor on this supply to the manufacturer.

(b) Distributor requests parts from the manufacturer for replacement without separate charges. No GST is payable on this replacement.

(c) Distributor uses stock received from the manufacturer for replacements, and the manufacturer issues a credit note. Tax liability is adjusted by the manufacturer.

(d) Distributor uses own stock, then requests replenishment from the manufacturer via a delivery challan without separate charges. No GST is payable on this replenishment.

Issue 4: Where the distributor provides repair service, in addition to replacement of parts or otherwise, to the customer without any consideration, as part of warranty, on behalf of the manufacturer but charges the manufacturer for such repair services either by way of issue of tax invoice or a debit note, whether GST would be payable on such activity by the distributor?

Clarification: This is considered a supply of service by the distributor to the manufacturer, making the manufacturer the recipient of the service. Therefore, GST is payable on this service provided by the distributor.

Issue 5: Sometimes companies provide offers of Extended warranty to the customers which can be availed at the time of original supply or just before the expiry of the standard warranty period. Whether GST would be payable in both the cases?

Clarification:

- If the extended warranty is agreed upon at the time of the original supply, it becomes part of the composite supply (with the goods) and GST is payable accordingly.
- If the extended warranty is provided by someone other than the goods supplier, it's treated as a separate supply of services and is taxable.

- If the extended warranty is agreed upon after the original supply, it's treated as a distinct supply of services, and GST liability applies to the supplier of the extended warranty services.

Note: The provisions pertaining to availability of ITC shall be discussed in the chapter of ITC.

Clarification on various issues pertaining to GST treatment of vouchers

Issue 1 - Whether "transactions in vouchers" falls under the category of supply of goods and/or services?

Clarification: Voucher is just an instrument which creates an obligation on the supplier to accept it as consideration or part consideration and the transactions in voucher themselves cannot be considered either as a supply of goods or as a supply of services.

However, supply of underlying goods and/or services, for which vouchers are used as consideration or part consideration, may be taxable under GST.

Issue 2: What would be the GST treatment of transactions in vouchers by distributors/ sub-distributors/ agents etc.?

A. Where vouchers are distributed through the distributors/ sub-distributors/ dealers on Principal-to-Principal (P2P) basis.

Clarification:

- In such cases, the distributor/ dealer purchases voucher from the voucher issuer typically at a discounted rate and subsequently sells the same to the sub-distributors, corporates or end customers and generate revenue through a trading margin, which is a difference between the acquisition cost and the selling price of the vouchers by the said distributor/ dealer.
- In such cases, distributors/ dealers (including sub-distributors) own the vouchers and operate autonomously with full control over the process from purchase to the final sale of the vouchers to the end user
- As the transaction in vouchers is neither supply of goods nor supply of services, therefore, pure trading of vouchers in this case would not constitute either supply of goods or supply of services.
- Accordingly, such trading of vouchers would not be leviable to GST as per section 9 (1) of CGST Act.

B. Where vouchers are distributed using distributors/ sub-distributors/ agents on commission/ fee basis:

- In such cases, the transactions between the voucher issuer and the distributors/ sub-distributors/ agents are on principal-agency basis.
- These arrangements, as per contract/agreement between distributor/sub-distributor/agents and the voucher issuer may specify a set of obligations on such agents

such as marketing & promotion and other related support activities for distribution of vouchers against a commission/fee or any other amount by whatever name called, for such purpose.

- In such cases, distributors/sub-distributors/agents do not operate autonomously, do not own the vouchers and only act as agent of the voucher issuer.
- In such cases, GST would be payable by such distributor/sub-distributor/agent, acting as an agent of the voucher issuer, on the commission/fee or any other amount by whatever name called, for such purpose, as a supply of services to the voucher issuer.

Issue 3 -What would be GST treatment of additional services such as advertisement, co-branding, marketing & promotion, customization services, technology support services, customer support services etc.

Clarification: There may be cases where additional services such as advertisement, co-branding, customization services, technology support services, customer support services, etc. are provided by either the distributor/ sub-distributor or by another person to the voucher issuer against a service fee/ service charge/ affiliate charge or any other amount, by whatever name called, as per contract/agreement between such service provider and the service recipient (voucher issuer).

In such a case, the said service fee/ service charge/ affiliate charge or other amount for supply of such additional services to the voucher issuer as per the terms of contract/agreement, would be liable to GST at the applicable rate in the hands of the said service provider.

Issue 4 - What would be the GST treatment of unredeemed vouchers (breakage)

Clarification:

- Unused/unredeemed vouchers at the end of their expiry period are accounted for as breakage in business income statements.
- Ambiguities exist regarding GST applicability on breakage and whether it constitutes a taxable consideration.
- Section 9(1) of the CGST Act states GST applies only to the supply of goods and/or services.
- In case of breakage, there is no redemption of voucher and no underlying supply, meaning GST does not apply.
- Section 2(31) of the CGST Act defines "consideration" in relation to supply, but breakage does not involve an actual supply, hence cannot be construed as consideration.
- Circular No. 178/10/2022-GST (dated 03.08.2022) clarifies that taxable supply requires an express or implied agreement for payment in exchange for an act or forbearance.
- When a voucher is issued only for redemption, and there is no agreement between issuer and redeemer regarding payment for non-redemption, it cannot be treated as a taxable supply.
- Thus, the amount attributed to unredeemed vouchers (breakage) does not qualify as consideration for supply, meaning GST is NOT payable on breakage.

Summary:

1. Transactions in vouchers – Vouchers are instruments of payment rather than goods or services. Their trade does not constitute a taxable supply under GST. However, GST applies to the goods/services for which vouchers are redeemed.
2. Distribution of vouchers:

   Principal-to-Principal (P2P) basis – Distributors purchase vouchers at a discount and sell them for a margin. Since they own and control vouchers, GST is not applicable on voucher trading.

   Commission-based distribution – Distributors act as agents and receive a commission/fee. GST is applicable on this commission as a supply of services.
3. Additional services – If distributors or third parties provide services like advertisement, co-branding, tech support, customer services, etc., to the voucher issuer for a fee, GST is payable on these services.
4. Unredeemed vouchers (breakage) – If vouchers expire unused, the retained amount does not qualify as consideration for any supply of goods or services. Thus, no GST is payable on breakage.

Annexure: GST Introduction and Overview (Basics)

These basics are important to have a strong foundation in order to learn GST, they are not important from exam point of view.

What is GST – Goods and Services Tax?

As per Article 366: Definitions of Goods and Services Tax

Clause 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.

Author's comment: Alcoholic liquor for human consumption has always been a major source of revenue for the states & hence all the states disagreed to subsume it into GST and so the government in order to ensure smooth transition into GST, agreed to keep alcoholic liquor for human consumption out of the ambit of GST.

Various features of GST are as under:

- GST is a tax on supply of goods or services or both.
- GST is a consumption tax i.e.; burden is shifted to ultimate consumers.
- GST is a destination-based tax (DBT).
- GST is a Value added tax: VAT as a model is adopted in GST.

Pre and Post GST Scenario

Tax	Goods/ Service	Taxable Event	Tax Imposed	Taxable person	levied by & paid to
Pre GST					
Excise	Goods	Manufactured	Central Excise duty	Manufacturer	CG
VAT	Goods	Sales – Intrastate	Value added tax	Trader/ Dealer	SG
CST	Goods	Sales – Interstate	Central Sales tax	Trader/ Dealer	Levied :CG Collected: SG
Service tax	Services	Provisioning of service	Service tax	Service provider	CG
Post GST					

GST	Goods/ Services	Supply	GST	Taxable person	CG + SG

Note: CG: Central government, SG: State government

Dual Model of GST

- India has adopted dual model of GST which is imposed concurrently by the centre and the state i.e., both centre and state will impose tax on a transaction simultaneously.
- GST to be levied by centre will be called CGST & that to be levied by states and UT with legislature (Delhi, J&K, Puducherry) will be called SGST. GST to be levied by UTs to be called UTGST (UTs without legislature).

Nature of supply and types of GST charged on different types of trade and Commerce

Intrastate Supply: Where the Location of supplier and place of supply is within the same state/ union territory it is known as intrastate supply.

Interstate Supply: Where the Location of supplier and place of supply are in
(i) Two different states,
(ii) Two different Union Territories,
(iii) A State and a Union territory
it is known as interstate supply.

In case of Intrastate supply within state/UT: we always charge CGST & SGST/CGST & UTGST.
In case of Interstate supply: we always charge IGST (i.e., CGST & SGST integrated together).

Taxes Subsumed into GST

Central taxes subsumed

- Central Excise duty
- Service tax
- Countervailing duty (CVD) & Special CVD (Special additional duty) levied under Customs
- Central Sales Tax
- Surcharges and Cesses

State taxes subsumed

- State surcharges and cesses in so far as they relate to supply of goods & services

- Entertainment Tax (except those levied by local bodies)
- Tax on lottery, betting and gambling
- Entry Tax (All Forms)
- VAT/Sales tax
- Luxury tax

Taxes not subsumed into GST

- Basic customs duty
- Property tax and stamp duty
- Electricity duty
- Excise duty on Alcoholic liquor for Human consumption
- Excise duty on petrol, diesel etc.
- Entertainment tax charged by local bodies (municipality)

Note: In case of tobacco and tobacco products, the centre alone would have the power to levy excise duty in addition to GST. The levy of excise duty is only in manufacturing stage, GST is leviable on the amount (inclusive of excise duty).

Entertainment tax by local bodies is levied on cinema, video shows, cable T.V. operators, amusement, performance, pageant and game/sports and horse races.

Various Taxes on Goods/Services (Summary)

Goods/Services	SED	CED	VAT/CST	GST
Alcoholic Liquor for Human Consumption	Yes		Yes	
High Speed Diesel, Crude Petroleum, Motor Spirit, Aviation turbine fuel, Natural Gas (HPMAN)		Yes	Yes	
Tobacco and tobacco products		Yes		Yes
Opium Indian hemp & Other narcotic substances	Yes			Yes
Other Goods/Services				Yes

SED: State excise duty CED: Central excise duty

Constitutional Provisions

Constitutional Amendment: Introduction of the GST required amendment in the Constitution so as to enable integration of the central excise duty, additional duties of customs, State VAT and certain State specific taxes and service tax into a comprehensive GST and to empower both Centre and the States to levy and collect it. Earlier CG had power to levy taxes on manufacture, whereas state government had power to levy VAT on sale of goods within the state, with the

introduction of GST both the government wanted to simultaneously levy and collect the tax, and existing Article 246 does not provide for making taxation laws together by centre and state. Hence the constitution of India had to be amended and Article 246-A is introduced in order to empower the centre & the state to levy and collect the GST simultaneously.

Article 246A: Special provisions with respect to GST

(1)	Notwithstanding anything contained in Articles 246 and 254, ➢ Parliament, and, ➢ subject to clause (2), the Legislature of every State, ➢ have power to make laws with respect to GST imposed by the Union or by such State.
	Author's comments: This article overrides article 246 and 254, Article 246 distributes power between the parliament & state legislature and 254 deals with situation when there is inconsistency between the law of parliament and law of state legislature, where it says law by parliament shall prevail. Article 246A provides concurrent power to CG & SG to levy GST.
(2)	Parliament has exclusive power to make laws with respect to GST where the supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.
	Author's comments: Parliament to make law regarding interstate supply and state will have no power in case of interstate trade.

Article 269A: Levy and collection of GST on inter-State supply

(1)	GST on supplies in the course of inter-State trade or commerce (IGST) ➢ shall be levied & collected by the government of India (CG) & ➢ such tax shall be apportioned between the Union & the States ➢ in the manner provided by Parliament by law on the recommendations of the GST Council.
	Explanation: for the purpose of this clause, Supply of goods, or of services or both in the course of import into the territory of India shall be deemed to be supply of goods, or of services, or both in the course of inter-state trade or commerce

GST (Compensation to states) act 2017

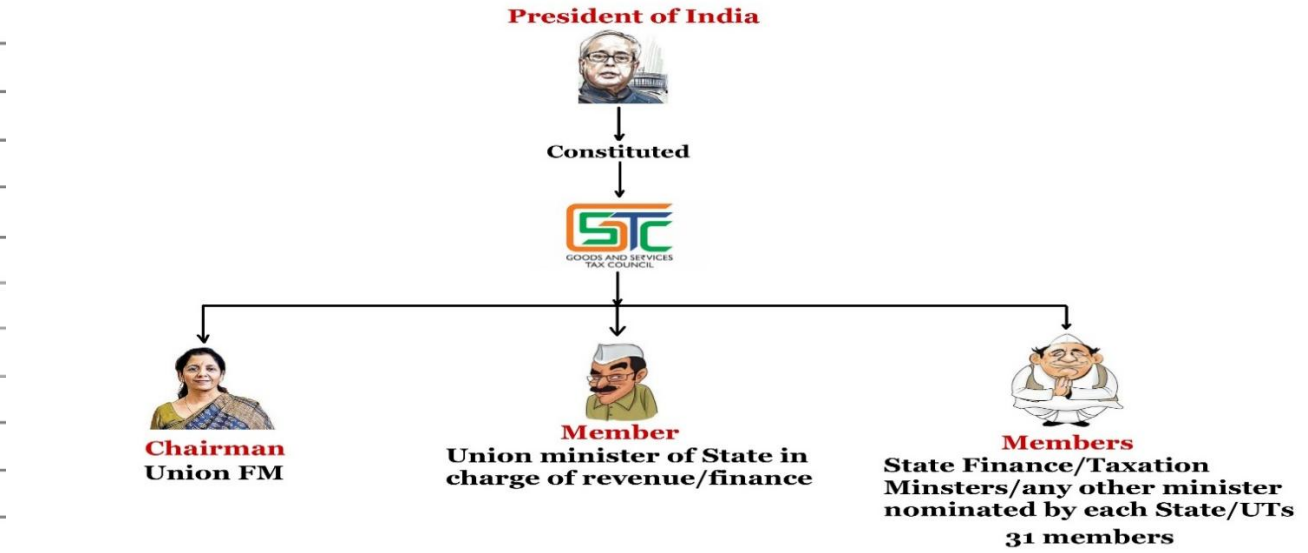
A GST Compensation Cess at specified rate has been imposed under the GST (Compensation to States) Cess Act, 2017 on the specified luxury items or demerit goods, like pan masala, tobacco, aerated waters, motor cars etc., computed on value of taxable supply. Compensation Cess was leviable on intra-State supplies & inter-State supplies with a view to provide for compensation to the States for the loss of revenue arising on account of implementation of the GST. Compensation

is to be provided to a State for a period of 5 years from the date on which the State brings its SGST Act into force.

Initially, GST compensation cess was levied for a period of 5 years upto 30th June, 2022. However, its levy and collection was extended till 31st March, 2026. Now it has been phased out and no longer exists as a levy.

Article 279A: GST Council-Constitutional body

Section 2(36): Council means the GST Council established under article 279A of the Constitution.



(1) 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).

(2) Members of the GST council-total 33 members

- The Union Finance Minister - Chairman
- The Union Minister of State in charge of Revenue or Finance- Member
- Ministers in charge of Finance/Taxation or any other Minister nominated by each of the States & UTs with Legislatures - Members.

(3) The function of the Council is to make recommendations to the Union & States on issues like:

- The taxes, cesses and surcharges which may be subsumed in the GST;
- The Goods and services subjected to/ exempted from GST
- Model GST laws, principles of levy, apportionment of GST levied on Inter-State supplies & the principles that govern the place of supply;
- Threshold limit of turnover below which no GST shall be charged on goods/services
- Rates of GST,
- Special rates for specified period to raise additional resources during any natural calamity or disaster.

- Special provisions with respect to the States of Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand; and
- Any other matter relating to the GST, as the Council may decide.

(4) The GST Council shall recommend the date on which the goods and services tax be levied on petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas & aviation turbine fuel.

Common Portal

- GST Portal – www.gst.gov.in – is a website managed by Goods and Services Tax Network.
- The portal is one single common portal for all GST related services like obtaining registration, paying tax, filing of returns, etc.
- GSTN provides three front end services to the taxpayers namely registration, payment and return through GST Common Portal.
- The Common GST Electronic Portal for furnishing electronic way bill is www.ewaybillgst.gov.in.
- The Common GST Electronic Portal for e-invoicing, namely:
  - 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 Laws: Act and Rules

Particulars	ACT			
	CGST	IGST	SGST	UTGST
Act	CGST Act, 2017	IGST Act, 2017	SGST Act, 2017	UTGST Act, 2017
Applicable on	Intra-state supply	Inter-state supply	Intra-state supply	Intra-state supply
No of Acts	1 CGST act	1 IGST act	31 SGST acts	1 UTGST act
No of Sections	1 to 174	1 to 25	1 to 174	1 to 26
	Rules			
Rule	CGST rules, 2017 Refer: Section 164 of CGST act	IGST rules, 2017 Refer: Section 22 of IGST act	State wise rules. E.g.: Karnataka GST rules, 2017	NA

India: Section 2(56) of CGST act

India means

- the territory of India as referred to in article 1 of the Constitution,
- its territorial waters,
- seabed and sub-soil underlying such waters,
- continental shelf,
- exclusive economic zone or any other maritime zone as referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976, and
- the air space above its territory and territorial waters

State: State includes a Union territory with Legislature

Union territory

Union territory means the territory of —

(a) the Andaman and Nicobar Islands;

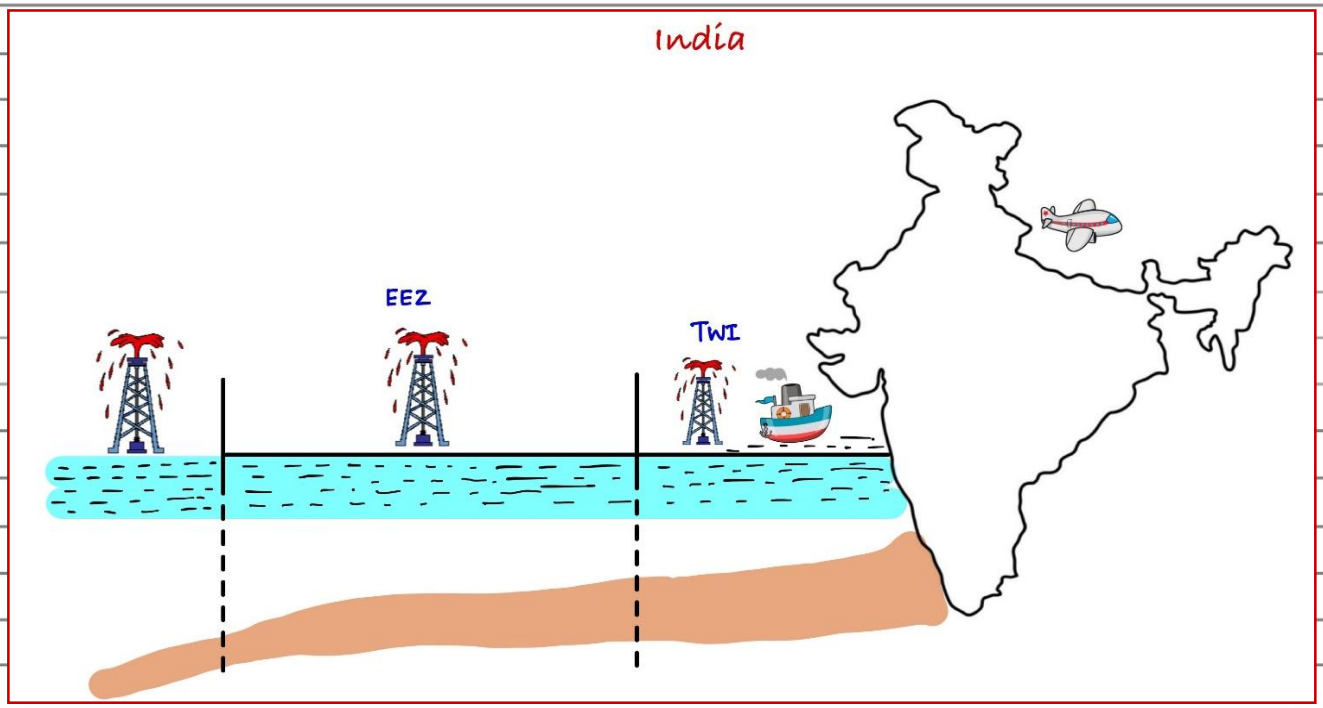
(b) Lakshadweep;

(c) Dadra and Nagar Haveli and Daman and Diu;

(d) Ladakh

(e) Chandigarh; and

(f) other territory. (EEZ)



Section 9 of IGST act: Supplies in territorial waters

Notwithstanding anything contained in this Act, —

(a)	where the location of the supplier is in the territorial waters,	the location of such supplier;	shall, for the purposes of this Act, be deemed to be in the coastal State or UT where the nearest point of the appropriate baseline is located.
(b)	where the place of supply is in the territorial waters,	the place of supply,	

Section 7 of IGST act: Inter-State supply

(1)	Supply of goods between different states/UTs
	Subject to the provisions of section 10, supply of goods, where the location of the supplier and the place of supply are in— (a) two different States; (b) two different Union territories; or (c) a State and a Union territory, shall be treated as a supply of goods in the course of inter-State trade or commerce.
(2)	Import of goods be treated as inter-state
	Supply of goods imported into the territory of India, till they cross the customs frontiers of India, shall be treated to be a supply of goods in the course of inter-State trade/commerce.
(3)	Supply of services between different states/UTs be treated as inter-state
	Subject to the provisions of section 12, supply of services, where the location of the supplier and the place of supply are in— (a) two different States; (b) two different Union territories; or (c) a State and a Union territory, shall be treated as a supply of services in the course of inter-State trade or commerce.
(4)	Import of services be treated as inter-state
	Supply of services imported into the territory of India shall be treated to be a supply of services in the course of inter-State trade or commerce.
(5)	Following to be treated as Inter-state supply
	Supply of goods or services or both, — (a) when the supplier is located in India and the place of supply is outside India; (b) to or by a SEZ developer or a SEZ unit; or (c) in the taxable territory, not being an intra-State supply and not covered elsewhere in this section, shall be treated to be a supply in the course of inter-State trade or commerce.

Section 8 of IGST act: Intra-State supply

(1)	Supply of goods within same state/UT- intrastate supply
	Subject to the provisions of section 10, • supply of goods where the LOS and the POS of goods are in the same State or same UT shall be treated as intra-State supply: Proviso: the following supply of goods shall not be treated as intra-State supply, namely: (i) supply of goods to or by a SEZ developer or a SEZ unit; (ii) goods imported into the territory of India till they cross the customs frontiers of India; or (iii) supplies made to a tourist referred to in section 15.
(2)	Supply of services within same state/UT- intrastate supply
	Subject to the provisions of section 12, • supply of services where the LOS and the POS of services are in the same State or same UT shall be treated as intra-State supply: Proviso: the intra-State supply of services shall not include supply of services to or by a SEZ developer/a SEZ unit.

Explanation 1. — For the purposes of this Act, where a person has, —

(i) an establishment in India and any other establishment outside India;

(ii) an establishment in a State or UT and any other establishment outside that State or UT; or

(iii) an establishment in a State or UT and any other establishment registered within that State/UT,

then such establishments shall be treated as establishments of distinct persons.

Explanation 2. — A person carrying on a business through a branch/an agency/a representational office in any territory shall be treated as having an establishment in that territory.

Circular: Services of short-term accommodation, conferencing, banqueting etc. provided to a SEZ developer/SEZ unit – whether to be treated as inter-State or intra-State supply

Issue: Services of short-term accommodation, conferencing, banqueting etc., provided to a SEZ developer or a SEZ unit shall be treated as Intrastate or Interstate supply.

Clarification & Analysis:

- As per section 7(5)(b) of the IGST Act, the supply of goods or services or both to a SEZ developer/unit shall be treated to be a supply in the course of inter-State trade or commerce.
- However, as per section 12(3)(c) of the IGST Act, the place of supply of services by way of accommodation in any immovable property for organising any functions shall be the location

at which the immovable property is located. Thus, in such cases, if the location of the supplier and the place of supply is in the same State/ UT, it would be treated as an intra-State.

- In the instant case, section 7(5)(b) of the IGST Act is a specific provision relating to supplies made to a SEZ developer/unit, which states that such supplies shall be treated as inter-state.
- It is therefore, clarified that services of short-term accommodation, conferencing, banqueting etc., provided to a SEZ developer/ unit shall be treated as an inter-State supply.

Export of goods, means taking goods out of India to a place outside India;

Export of services means the supply of any service when, —

(i) the supplier of service is located in India;
(ii) the recipient of service is located outside India;
(iii) the place of supply of service is outside India;
(iv) the payment for such service has been received by the supplier of service in convertible foreign exchange or in Indian rupees wherever permitted by the Reserve Bank of India; and
(v) the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in section 8;

Section 16: Zero rated supply

(1)	Zero rated supply (ZRS) means export and supply to SEZ
	ZRS means any of the following supplies of goods or services or both, namely: (a) export of goods or services or both; or (b) supply of goods or services or both for authorised operations to a SEZ developer/unit.
(2)	ITC may be availed for making ZRS, even if such supply is an exempt supply
	Subject to the provisions of section 17(5) of the CGST Act, ITC may be availed for making zero-rated supplies, notwithstanding that such supply may be an exempt supply.
(3)	ZRS under bond/LUT and don't pay IGST
	A RP making ZRS shall be eligible to claim refund of unutilised ITC on supply of goods or services or both, without payment of IGST, under bond/Letter of Undertaking, in accordance with section 54 of the CGST Act/the rules made thereunder, subject to such conditions, safeguards and procedure as may be prescribed: Provided that • RP making ZRS of goods shall, in case of non-realisation of sale proceeds, be liable to deposit the refund so received along with the applicable interest u/s 50 of the CGST Act

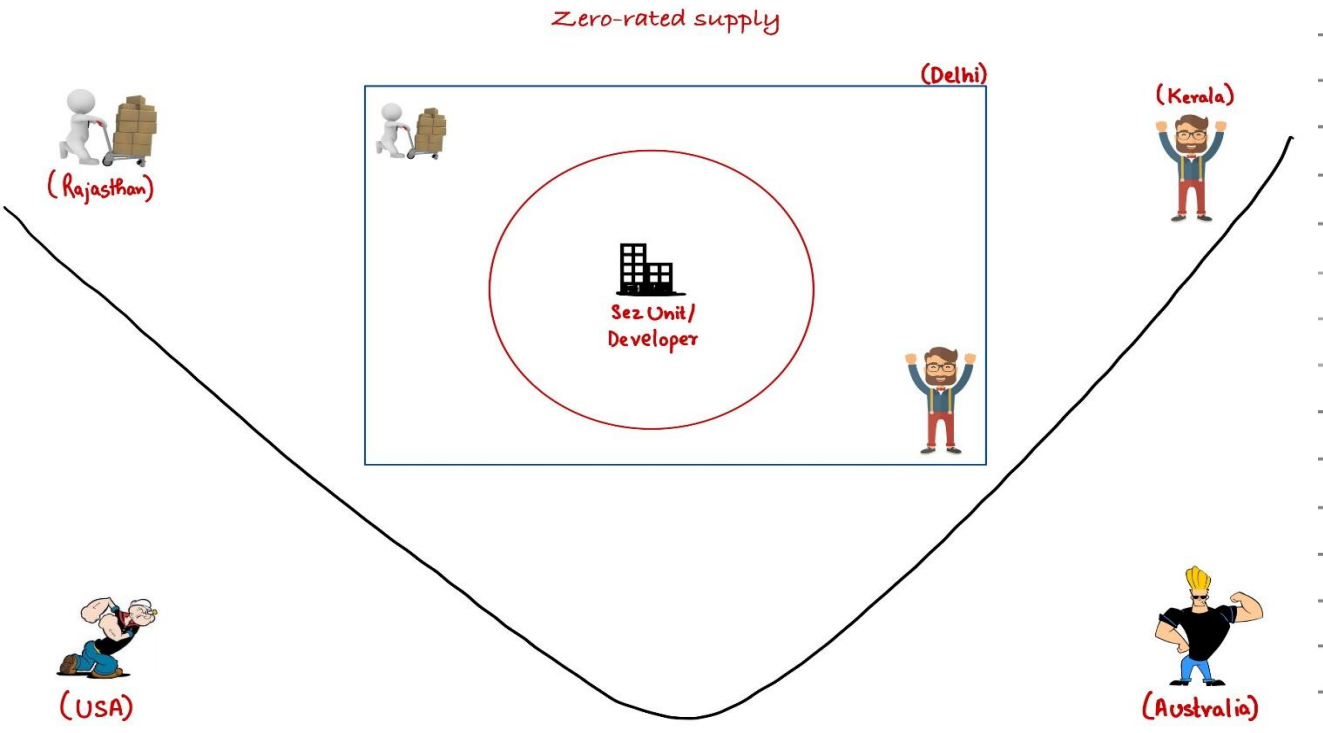
	• within 30 days after the expiry of the time limit prescribed under the FEMA, 1999 for receipt of foreign exchange remittances, in such manner as may be prescribed.
(4)	ZRS on IGST payment
	The Government may, on the recommendation of the Council, and subject to such conditions, safeguards and procedures, by notification, specify– (i) a class of persons who may make zero rated supply on payment of integrated tax and claim refund of the tax so paid in accordance with the provisions of section 54 of the CGST Act or the rules made thereunder; (ii) a class of goods or services or both, on zero rated supply of which, the supplier may pay IGST and claim the refund of tax so paid, in accordance with the provisions of section 54 of the CGST act or the rules made thereunder.
(5)	Notwithstanding anything contained in sub-sections (3) and (4), no refund of unutilised ITC on account of ZRS of goods or of IGST paid on account of ZRS of goods shall be allowed where such ZRS of goods are subjected to export duty.

Notification: Following goods/services/suppliers have been notified under Section 16(4):

(i) Class of goods or services which may be exported on payment of IGST & Claim refund of IGST: all goods/services (except specified goods – list of goods not required for exams); and

(ii) Class of persons who may make supply of goods or services (except specified goods) to such Developer or a unit in SEZ for authorised operations on payment of IGST & claim refund of IGST paid: all suppliers to a Developer or a unit in SEZ undertaking authorised operations.

Specified goods: Tobacco, Pan masala containing tobacco, essential oil of peppermint, etc.



Supply from a company incorporated in India to its related establishments outside India, which are incorporated under the laws outside India, would qualify as 'export of services'

Issue: whether the supply of service by a subsidiary/ sister concern/ group concern, etc. of a foreign company in India, which is incorporated under the laws in India, to the foreign company incorporated under laws of a country outside India, will qualify as export of services under section 2(6) of the IGST Act.

Clarification:

- A company incorporated in India and a body corporate incorporated by or under laws of a country outside India, which is also referred to as foreign company under the Companies Act, are separate persons under the CGST Act, and thus are separate legal entities.
- Accordingly, these two separate persons would not be considered as "merely establishments of a distinct person in accordance with Explanation 1 in section 8".
- Therefore, supply of services by a subsidiary/sister concern of a foreign company, which is incorporated in India to the establishments of the said foreign company located outside India (incorporated outside India), would not be treated as supply between merely establishments of distinct persons.
- Similarly, the supply from a company incorporated in India to its related establishments outside India, which are incorporated under the laws outside India, would not be treated as supply to merely establishments of distinct person under Explanation 1 of section 8 of IGST Act 2017.
- Such supplies, therefore, would qualify as 'export of services', subject to fulfilment of other conditions as provided under section 2(6) of IGST Act.

Chapter 3: Charge of GST

Section 9 of the CGST act: Levy & collection of CGST – The Charging section

Section 9(1): CGST levied on Intra-state supply of g/s/b (except AL)

Subject to the provisions of sub-section (2),

- there shall be levied a tax called the CGST
- on all intra-State supplies
- of goods or services or both,
- except on the supply of alcoholic liquor for human consumption and
- un-denatured extra neutral alcohol or rectified spirit used for manufacture of alcoholic liquor, for human consumption,
- on the value determined under section 15
- at such rates, not exceeding 20%,
- as may be notified by the Government on the recommendations of the Council (NG-RC)
- collected in such manner as may be prescribed
- and shall be paid by the taxable person.

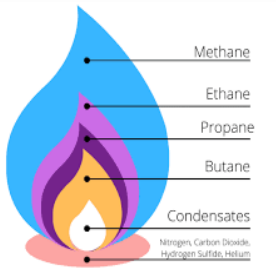
Notification no. 1/2017, 11/2017-Central Tax (Rate): Notifying the rates applicable.

Section 9(2): CGST on 5 specified petro products (HPMAN)

The central tax on the supply of [HPMAN]

- High speed diesel,
- Petroleum crude,
- Motor spirit (commonly known as petrol),
- Aviation turbine fuel
- Natural gas and





shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council (NG-RC).

Section 9(3): Reverse charge on notified goods & services

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 RCM by the recipient of such g/s/b 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.

Notification: Notified categories of goods on which 100% GST to be paid by recipient:

SN	Description of supply of goods	Supplier of goods	Recipient (liable to Pay)
1	Cashew nuts, not shelled/ peeled 	Agriculturist	Any Registered Person (RP)
2	Bidi wrapper leaves (tendu) 	Agriculturist	Any RP
3	Tobacco leaves	Agriculturist	Any RP
3A	Following essential oils other than those of citrus fruit namely: - a) Of peppermint; b) Of other mints: • Spearmint oil (exmentha spicata), • Water mint oil (exmentha aquatic), • Horsemint oil (exmentha sylvestries), • Bergament oil (exmentha citrate), • Mentha arvensis.	Any Unregistered Person 	Any RP
4	Silk yarn 	Any person who: Manufactures silk yarn from raw silk/silk worm cocoons for supply of silk yarn	Any RP
4A.	Raw cotton 	Agriculturist	Any RP
5	Supply of lottery 	SG/UT/LA	Lottery distributor or selling agent
6	Used vehicles, seized & confiscated goods, old & used goods, waste & scrap 	CG excluding Ministry of Railways (Indian Railways), SG/UT/LA	Any RP
7	Priority Sector Lending Certificate (PSLC)	Any registered person	Any RP
8	Metal scrap	Any Unregistered Person	Any RP

Author's comment: Mnemonic CROPS BELT + Metal scrap

Cashew nuts, Raw cotton, Old & used goods, used vehicles, PSLC, Silk yarn, Bidi leaves, Essential Oils, Supply of lottery, Tobacco leaves & Metal Scrap.

Simplified Version:

Supplier	Recipient	Description of supply of goods
Agriculturist	Any RP	• Cashew nuts, not shelled/ peeled • Bidi wrapper leaves (tendu) • Tobacco leaves • Raw cotton
Any Unregistered Person	Any RP	• Essential oils • Metal scrap
Any RP	Any RP	Priority Sector Lending Certificate (PSLC)
Any person (who manufactures silk yarn)	Any RP	Silk yarn
SG/UT/LA	Lottery distributor or selling agent	Supply of lottery
CG excluding Indian Railways, SG/UT/LA	Any RP	Used vehicles, seized & confiscated goods, old & used goods, waste & scrap

Notified categories of services on which 100% GST to be paid by recipient of services

SN	Category of Supply of Services	Supplier of service	Recipient (liable)
1	Supply of Services by a goods transport agency (a) Any factory registered under the Factories act; (b) Any body-corporate established by/under any law; (c) Any society registered under Societies Registration Act/any other law for the time being in force (d) Any co-operative society established by/under any law (e) Any partnership firm (reg/un-reg) including AOPs; (f) Any person registered under GST act (g) Any Casual taxable person [Mnemonics – FBSCOOP]	Goods Transport Agency	Persons mention under (a) to (g), but located in taxable territory (TT). 
Proviso: RCM is not applicable if: Services provided by a GTA to— (a) a Department/Establishment of CG/SG/UT; (b) Local authority; or (c) Governmental agencies, which has taken registration only for deducting TDS under section 51 & not for making a taxable supply of goods or services. Proviso: RCM is not applicable if:			

i. Supplier has taken registration & exercised option to pay tax on GTA services under forward charge; and
ii. the supplier has issued a tax invoice to the recipient charging CGST at the applicable rates and has made a declaration as prescribed on such invoice issued by him.

Important notes on GTA:

- GTA means any person who provides services in relation to transport of goods by road and issues consignment note, by whatever name called (Consignment note means bilty)
- Recipient of GTA service is person who pays/liable to pay the freight.
- GTA has the following two options:
  - If GTA opts to pay GST under FCM: 18% GST under FCM (with ITC) & 5% GST under FCM (Without ITC).
  - If GTA does not opt to pay GST under FCM: Recipient pays 5% RCM.

Exemptions:Entry no. 21A: Services provided by a GTA to an unregistered person, including an unregistered casual taxable person, other than the following recipients: [Mnemonics – FBSCOOP]

- any factory registered under or governed by the Factories Act, 1948; or
- any body corporate established, by or under any law for the time being in force; or
- any Society registered under the Societies Registration Act, 1860/under any other law
- any Co-operative Society established by or under any law for the time being in force; or
- any partnership firm whether registered/not under any law including association of persons;
- any CTP registered under the CGST Act/ the IGST Act/the SGST Act/the UTGST Act

are exempt.

Entry No. 21B: Services provided by a GTA, by way of transport of goods in a goods carriage, to
(a) a Department or Establishment of the CG/SG/UT; or
(b) local authority; or
(c) Governmental agencies,
which has taken registration for the purpose of deducting tax u/s 51 & not for making a taxable supply of goods/services.

Entry No. 21: Services provided by a GTA, by way of transport in a goods carriage of: [RANDOM]

- R: Relief materials meant for victims of natural/man-made disasters, calamities, accidents/mishap; or
- A: Agricultural produce;
- N: Newspaper or magazines registered with the Registrar of Newspapers;
- D: Defence or military equipment.
- O: Organic manure;
- M: Milk, salt and food grain including flour, pulses and rice;

SN	Category of Supply of Services	Supplier of service	Recipient (liable)
2	Services provided by an individual advocate including a senior advocate/firm of advocates by way of legal services, directly or indirectly. 	Individual advocate/ a senior advocate/ firm of advocates.	Any business entity located in the taxable territory.

Important notes:

- Legal service means any service provided in relation to advice, consultancy/ assistance in any branch of law, in any manner & includes representational services before any court, tribunal or authority.
- LLP formed & registered under LLP Act shall also be considered as a partnership firm.

Exemption: Entry no. 45: Legal services

Services provided by -

- 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 ATO up to such amount in the PFY as makes it eligible for exemption from registration under the CGST act; or
  - (iv) the CG, SG, UT, local authority, Governmental Authority or Government Entity
- a senior advocate by way of legal services to-
  - (i) any person other than a business entity; or
  - (ii) a business entity with an ATO up to such amount in the preceding financial year as makes it eligible for exemption from registration under the CGST act; or
  - (iii) the CG, SG, UT, local authority, Governmental Authority or Government Entity

SN	Category of Supply of Services	Supplier of service	Recipient (liable)
3	Services supplied by an arbitral tribunal to a business entity	An arbitral tribunal	Any business entity in TT

Exemption: Entry no. 45

Services provided by an arbitral tribunal to –

(i) any person other than a business entity; or

(ii) a business entity with an ATO up to such amount in the preceding financial year as makes it eligible for exemption from registration under the CGST act; or

(iii) the CG, SG, UT, local authority, Governmental Authority or Government Entity

SN	Category of Supply of Services	Supplier of service	Recipient (liable)
4	Services provided • by way of sponsorship • to any body corporate or partnership firm.	Any person other than a body corporate	Any Body corporate/ partnership firm located in TT

Exemption: Entry No. 53: Sponsorship

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,

(c) by School Games Federation of India, All India Sports Council for the Deaf, Paralympic Committee of India or Special Olympics Bharat;

(d) by the Central Civil Services Cultural and Sports Board; as part of national games, by the Indian Olympic Association; or under the Panchayat Yuva Kreeda Aur Khel Abhiyaan Scheme.

SN	Category of Supply of Services	Supplier of service	Recipient (liable)
5	Services supplied by the CG, SG, UT, LA to a BE excluding- (1) renting of Immovable Property, and (2) services specified below- (i) Services by Department of Posts and the Ministry of Railways (Indian Railways); (ii) Services in relation to an aircraft/a vessel, inside/outside the precincts of a port/an airport; (iii) Transport of goods or passengers.	CG, SG, UT, LA	Any business entity located in TT
5A	Services supplied by the Central Government [excluding the Ministry of Railways (Indian Railways)], State Government, Union territory or local authority • by way of renting of immovable property to a person registered under the CGST act	CG, SG, UT or LA	Any person registered under the CGST act 2017

Explanation: Provisions of this notification, in so far as they apply to the CG and SGs, shall also apply to the Parliament and State Legislatures, Courts and Tribunals.

Author's comment:

- RCM applicable in respect of taxable services supplied by Courts and Tribunals such as renting of premises to telecommunication companies for installation of towers, renting of chamber to lawyers, etc.
- For complete discussion on government, read the various exemptions relating to government in the chapter of Exemption.

Clarification whether Delhi Development Authority (DDA) can be treated as local authority under GST law?

Services supplied by local authority to a business entity are taxable under reverse charge (RCM) basis vide entry at Sr. No. 5 of Notification No. 13/2017-CT(R) dated 28.06.2017.

Issue: The issue which arose for consideration was whether DDA can be treated as local authority under GST law.

Clarification: Local authority means an authority which is similar to the elected self-governing body such as Municipal Committee and which is entrusted with the control and management of municipal or local fund can be termed as local authority.

Thus, it has been clarified that DDA cannot be treated as local authority under GST law as DDA does not meet the requirement of local authority as per section 2(69) of the CGST Act, 2017.

SN	Category of Supply of Services	Supplier of service	Recipient (liable)
5AA	Service by way of renting of residential dwelling to a registered person.	Any person	Any registered Person

Exemption: Entry No. 12: Renting of Residential house

Services by way of renting of residential dwelling for use as residence except where the residential dwelling is rented to a registered person.

Explanation. - For the purpose of exemption under this entry, this entry shall cover services by way of renting of residential dwelling to a registered person where, –

(i) the registered person is proprietor of a proprietorship concern and rents the residential dwelling in his personal capacity for use as his own residence; and

(ii) such renting is on his own account and not that of the proprietorship concern.

SN	Category of Supply of Services	Supplier of service	Recipient (liable)
5AB	Services by way of renting of any immovable property other than residential dwelling.	Any unregistered person	Any registered person other than a person who has opted to pay tax under composition levy

SN	Category of Supply of Services	Supplier of service	Recipient (liable)
5B	Services supplied • by any person • by way of transfer of development rights/Floor Space Index (FSI) (including additional FSI) for construction of a project by a promoter.	Any person	Promoter
5C	Long term lease of land (30 years/more) • by any person against consideration in the form of upfront amount (called as premium, salami, cost, price, development charges or by any other name) and/or periodic rent for construction of a project by a promoter.	Any person	Promoter

Exemption & analysis: Entry No: 41A & 41B:

- Supply of TDR, FSI, long term lease (premium) of land by a landowner to a developer are exempted subject to the condition that the constructed flats are sold before issuance of completion certificate and tax is paid on them.
- Exemption of TDR, FSI, long term lease (premium) shall be withdrawn in case of flats sold after issue of completion certificate.
- In case exemption is withdrawn, the liability to pay tax on TDR, FSI, long term lease (premium) has been shifted from land owner to builder under the reverse charge mechanism (RCM) – as illustrated in table above.

SN	Category of Supply of Services	Supplier of service	Recipient (liable)
6	Services supplied • by a director of a Company/ Body Corporate to the said company or the body corporate	A Director of a company or a body corporate	The Co/Body Corporate in TT

Clarification in respect of levy of GST on Director's remuneration

Issue: Whether the remuneration paid by companies to their directors falls under the ambit of entry in Schedule III i.e., "services by an employee to the employer in the course of or in relation to his employment" or whether the same are liable to be taxed under RCM.

The issue of remuneration to directors has been examined under following 2 different categories:

(i) leviability of GST on remuneration paid by companies to the independent directors or those directors who are not the employees of the said company; and

(ii) leviability of GST on remuneration paid by companies to the whole-time directors including managing director who are employees of the said company.

Clarification:

- Independent Director - is not an employee of the company, GST payable by Company under RCM.
- Whole time director - as per definition under companies' act, he may be a person who is not an employee and hence,
  - If Director is working in the capacity of an employee + amount accounted as salary & TDS u/s 192 of IT act is deducted: then the same is falling in schedule III – Not a supply, hence no GST.
  - If Director is not working in the capacity of an employee + amount paid is in the nature of professional fees and not salary and TDS u/s 194J of the IT Act is deducted: Supply, GST payable by co. under RCM.

Clarification on Taxability of services supplied by director of a company in his personal capacity such as renting of immovable property to the company/body corporate.

- Services supplied by director in the capacity of director: shall be taxable under RCM
- Other services supplied by director in his personal capacity: Not taxable under RCM.

SN	Category of Supply of Services	Supplier of service	Recipient (liable)
7	Services supplied • by an Insurance agent • to any person carrying on insurance business	An insurance agent	Any person carrying on insurance business in TT- life/ general insurance
8	Services supplied • by a recovery agent • to Banking Co/FI/NBFC in TT	A recovery agent	Banking Co/ Financial institution/ NBFC in TT

SN	Category of Supply of Services	Supplier of service	Recipient (liable)
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 relating to original dramatic, musical/artistic works to a, music company, producer/the like.	Music composer, photographer, artist, or the like	Music company, producer or the like, located in the taxable territory.
9A	Supply of services by an author by way of transfer or permitting the use or enjoyment of a copyright relating to original literary works to a publisher.	Author	Publisher located in the taxable territory:

Proviso: nothing contained in this entry shall apply where—

(i) the author has taken CGST registration, &

- filed a declaration with the jurisdictional CGST/SGST Commissioner, as the case may be, that he exercises the option to pay CT under forward charge & to comply with all the provisions of CGST Act, as they apply to a person liable for paying the tax in relation to the supply of any goods or services or both and
- that he shall not withdraw the said option within a period of 1 year from the date of exercising such option;

(ii) the author makes a declaration on the invoice issued by him in GST INV-I to the publisher.

Author's comment: Authors have been given an option to pay tax under FCM. If Author chooses to pay tax under FCM: he shall:

- File declaration in prescribed form with Jurisdictional CGST/SGST commissioner that he is opting to pay tax under FCM.
- Make declaration as prescribed on the invoice issued by him in form GST INV-I to the publisher.

SN	Category of Supply of Services	Supplier of service	Recipient (liable)
10	Supply of services by members of overseeing committee to Reserve Bank of India	Members	RBI
11	Services supplied • by individual Direct Selling Agents (DSAs) other than a body corporate, partnership/ LLP to bank or NBFCs.	Individual DSAs other than a body corporate, partnership or LLP.	A banking company/a NBFC in TT

Direct selling agents

- A DSA is a person who works as a referral agent for a Bank.
- Their main job is to find potential customers who want to take a loan.
- Government banks appoint Agents to bring business to Banks certain percentage is given by banks to DSAs.

Author:

- RCM is applicable only if DSA is an Individual, and hence bank will be liable to pay.
- However, if DSA is another entity (body corporate/partnership Firm) FCM will be applicable.

SN	Category of Supply of Services	Supplier of service	Recipient (liable)
12	Services provided • by business facilitator (BF) to a banking company	Business facilitator (BF)	A banking company, located in the TT.
13	Services provided • by an agent of business correspondent to business correspondent (BC)	An agent of business correspondent	A business correspondent, located in the TT

Exemption: Entry No. 39: Services by business facilitator

Services by the following persons in respective capacities –

(a) business facilitator/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.

Clarification on value to be adopted for computing GST on services of Business Facilitator/ a Business Correspondent to Banking Company [Circular No. 86/05/19 GST]

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

Clarification:

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

SN	Category of Supply of Services	Supplier of service	Recipient (liable)
14	Services provided by way of supply of security personnel to a RP: Proviso: this entry shall not apply to, — (i) a Department or Establishment of the CG/SG/UT; or LA/Governmental agencies; registered as TDS deductor & not for making a taxable supply of g/s; or (ii) A RP paying tax under section 10	Any person except a body corporate	A registered person, located in the TT. 

SN	Category of Supply of Services	Supplier of service	Recipient (liable)
15	Services provided by way of renting of a motor vehicle - designed to carry passengers - where the cost of fuel is included in the consideration charged from the service recipient, - provided to a body corporate.	Any person other than a body corporate, who supplies the service to a body corporate and does not issue an invoice charging CT at the rate of 9 % (CGST) to the service recipient	Any body corporate located in the taxable territory.

Author's comment:

There are two rates applicable on the service of renting of vehicles,

- 5% with limited ITC (ITC only of input service in the same line of business) and
- 18% with full ITC.

RCM shall be applicable only, If the supplier fulfils all the following conditions: –

1. Supplier of service is other than a body-corporate;
2. does not issue an invoice charging GST @18% from the service recipient; and
3. supplies the service to a body corporate.

Illustration on Renting of motor vehicles (fuel cost is included in consideration charged):

Case	Supplier	Invoice/Document issued	Recipient	Whether RCM is applicable?
1	Ram a registered person (RP)	Tax Invoice with GST @ 5%	Shyam (an individual)	NO RCM
2	Ram a RP	Tax Invoice with GST @ 5%	Shyam limited	RCM applicable
3	Ram limited a RP	Tax Invoice with GST @ 5%	Shyam limited	NO RCM

Case	Supplier	Invoice/Document issued	Recipient	Whether RCM is applicable?
4	Ram an Unregistered person	Does not issue tax Invoice, however issues a commercial Invoice	Shyam limited	Shyam ltd to pay GST @ 5 % under RCM.
5	Ram a RP under composition scheme - section 10(2A)	Bill of supply	Shyam limited	Shyam ltd liable to pay GST @ 5 % under RCM.

SN	Category of Supply of Services	Supplier of service	Recipient (liable)
16	Services of lending of securities under Securities Lending Scheme, 1997 ("Scheme") of Securities and Exchange Board of India ("SEBI"), 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	Borrower i.e., a person who borrows the securities under the Scheme through an approved intermediary of SEBI.

Clarification on taxability of supply of securities under Securities Lending Scheme, 1997

Issue: Trade has requested clarification on whether the supply of securities under Securities Lending Scheme, 1997 ("Scheme") by the lender is taxable under GST.

About Securities Lending Scheme, 1997:

- Under the Scheme, lender of securities lends to a borrower through an approved intermediary under an agreement for a specified period with the condition that the borrower will return equivalent securities of the same type or class at the end of the specified period along with the corporate benefits accruing on the securities borrowed.
- The transaction takes place through an electronic screen-based order matching mechanism provided by the recognised stock exchange in India.
- There is anonymity between the lender and borrower since there is no direct agreement between them. The lenders earn lending fee for lending their securities to the borrowers.

Clarification:

- Transaction of securities where there is disposal of securities is not supply & hence not taxable.
- Supply of services by lending securities – GST applicable
- RCM applicable and borrower liable to pay tax

- Nature of Supply: Always treat as interstate and always IGST shall be payable.
- Apart from above, the activities of the intermediaries facilitating lending and borrowing of securities for commission or fee are also taxable separately.

Clarification: Situations in which corporate recipients are liable to pay GST on renting of motor vehicles designed to carry passengers

Issue: Whether RCM is applicable on service of transportation of passengers or on renting of motor vehicle designed to carry passengers.

Clarification:

- Where body corporate hires the motor vehicle for a period of time, during which the motor vehicle shall be at the disposal of the body corporate, the body corporate shall be liable to pay GST on the same under RCM.
- where the body corporate avails the passenger transport service for specific journeys or voyages and does not take vehicle on rent for any particular period of time, the service would fall under service of transportation of passengers and the body corporate shall not be liable to pay GST on the same under RCM.

Section 9(4): RCM on specified class of registered person w.r.t specified supplies from unregistered supplier.

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/services/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.

SN	Category of supply of goods and services	Supplier	Recipient
1	Supply of such g/s/b [other than services by way of grant TDR, long term lease of land (against upfront payment in the form of premium, salami, development charges etc.) or FSI (incl. additional FSI)] which constitute the shortfall from the minimum value of g/s/b required to be purchased by a promoter for construction of project, in a FY (or part of the FY till the date of issuance of CC/FO, whichever is earlier)	Supplier of goods/service	Promoter
2	Cement	Supplier of cement	Promoter

SN	Category of supply of goods and services	Supplier	Recipient
3	Capital goods supplied to a promoter for construction of a project on which tax is payable/paid at the rate prescribed.	Supplier of CGs	Promoter

Section 5 of the IGST act: Levy and Collection of IGST

Section 5(1): IGST is levied on Inter-state supply of g/s/b (except AL) on value (u/s 15) @ max 40%

Subject to the provisions of sub-section (2),

- there shall be levied a tax called the IGST
- on all inter-State supplies of goods or services or both,
- except on the supply of alcoholic liquor for human consumption and
- un-denatured extra neutral alcohol or rectified spirit used for manufacture of alcoholic liquor, for human consumption,
- on the value determined under section 15 of the CGST Act and
- at such rates, not exceeding forty 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:

Provided that

- the IGST on goods other than the goods as may be notified by the Government on the recommendations of the Council
- imported into India shall be
- levied and collected in accordance with the provisions of section 3 of the Customs Tariff Act,
- on the value as determined under the said Act
- at the point when duties of customs are levied on the said goods u/s 12 of Customs Act, 1962.

NOTIFICATION No. 03/2023 -Integrated Tax

Supply of online money gaming as the goods on import of which the proviso to section 5(1) shall not apply, but on which IGST shall be levied and collected under section 5(1) of the said Act.

Author's comments:

- Difference in IGST act from CGST: Intra-state – Interstate, Rate of tax - 20% - 40%
- Import of specified actionable claim of online money gaming will be taxed under IGST as import of goods without applicability of customs duty.

Section 5(2): IGST on 5 petroleum products (HPMAN) shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council.

Section 5(3): Reverse charge under IGST on notified goods & services

SN	Category of Supply of Services	Supplier	Recipient (liable)
1	Any services supplied • by any person located in a non-taxable territory (NTT) • to any person other than Non-taxable online recipient (NTOR)	Any person located in an NTT	Any person located in the TT Other than NTOR
NTOR means any unregistered person receiving OIDAR services located in taxable territory. Explanation: For the purposes of this clause, the expression "unregistered person" includes a person registered solely in terms of section 24(vi) i.e. a TDS deductor.			

Section 5(4): RCM on specified class of registered persons w.r.t specified supplies

Author's comment: Services notified under 9(4), also notified here.

Section 9(5) of CGST act & Section 5(5) of IGST act: Discussed in Chapter of ECO.

Chapter 4: Composition Levy

Introduction

The Composition levy scheme is a very simple, hassle free compliance scheme for small taxpayers (traders, manufacturers and service providers). It is a voluntary and optional scheme.

Turnover in State or Turnover in Union territory

- 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 made within a State or Union territory by a taxable person,
- exports of goods or services or both and
- inter-State supplies of g/s/b made from the State or UT by the said taxable person but
- excludes central tax, State tax, Union territory tax, integrated tax and cess;

Author's comment: Same as ATO, only difference word aggregate is missing. Hence, we do not aggregate All India under same PAN.

Section 2(92): Quarter

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;

Section 10: Composition levy

(1) Notwithstanding anything to the contrary contained in this Act but subject to the provisions of sub-sections (3) and (4) of section 9,

- a RP, whose ATO in the PFY did not exceed 50 lakh rupees, may opt (rule 3) to pay, in lieu of the tax payable by him under section 9(1),
- an amount of tax calculated at such rate as may be prescribed, (rule 7) but not exceeding:

(a) 1% of the turnover in State or turnover in Union territory in case of a manufacturer,

(b) 2.5% of the turnover in State or turnover in UT in case of persons engaged in making supplies referred to in clause (b) of paragraph 6 of Schedule II [Restaurant], and

(c) ½ % of the turnover in State or turnover in UT in case of other suppliers [trader],

subject to such conditions and restrictions as may be prescribed: (rule 5)

Proviso: the Government may, by notification,

- increase the said limit of 50 lakh rupees to such higher amount, not exceeding Rs. 1.5 crores, as may be recommended by the Council:

Author's comment: The rates stated above are the maximum rate prescribed by act, however the actual rate shall be taken as prescribed by the rules, which is given in rule 7.

Notification No. 14/2019 CT dated 07.03.2019: Specifying turnover limit

An eligible RP, whose aggregate turnover in the PFY did not exceed 1.5 crores, may opt to pay, under composition, an amount of tax as prescribed under rule 7 of the CGST Rules, 2017:

Proviso: the said aggregate turnover in the PFY shall be Rs 75 lakh in the case of a registered person, in any of the following States, namely: [Mnemonic: M^{3}antus]
M - Manipur, Meghalaya, Mizoram,
A - Arunachal Pradesh
N – Nagaland,
T – Tripura,
U – Uttarakhand
S- Sikkim,

Note: RP shall be ineligible to opt for composition, if such person is a manufacturer:
[Mnemonic: A TIP BET]
A - Aerated Water
T - Tobacco and manufactured tobacco substitutes.
I – Ice cream and other edible ice, whether or not containing cocoa.
P – Pan masala.
B – Building bricks, Bricks of fossil meals or similar siliceous earths, Fly ash bricks or fly ash aggregates; Fly ash blocks
ET – Earthen or roofing tiles

2nd proviso to section 10(1):

- Manufacturer/trader/restaurant may supply services [other than restaurant services] of value not exceeding
- 10% of turnover in a State/UT in the PFY or Rs 5 lakhs, whichever is higher.

Explanation. — While calculating 10% of turnover, turnover shall exclude interest or discount.

Rule 3: Intimation for composition levy

❖ Any person who applies for registration under rule 8(1) may give an option to pay tax u/s 10 in Part B of GST REG-01, which shall be considered as an intimation to pay tax under the said section.

Note: Rule 4:

- Where the application has been submitted within a period of 30 days from becoming liable: option to pay tax under composition will be effective from the date on which the person becomes liable.
- Where an application has been submitted by the applicant after 30 days from the date of his becoming liable, the effective date of registration shall be the date of grant of registration.

❖ Already registered person switching to composition

- Electronically file an intimation in GST CMP-02, prior to the commencement of the financial year for which the option to pay tax under the aforesaid section is exercised and
- shall furnish the statement in GST ITC-03 in accordance with rule 44(4) within a period of 60 days from the commencement of the relevant financial year.

Note: Rule 4: The option to pay tax u/s 10 shall be effective from the beginning of the FY.

❖ Any intimation in respect of any place of business in any State/UT shall be deemed to be an intimation in respect of all other places of business registered on the same PAN.

Rule 7: Rate of tax of the composition levy (under CGST)

SN	Section under which composition levy is opted	Category of registered persons	Rate of tax (under CGST)
1	Sub-sections (1) and (2) of section 10	Manufacturers, other than manufacturers of notified goods	½ % of the turnover in the State/UT
2	Sub-sections (1) and (2) of section 10	Suppliers making supplies referred to in Schedule II – Para 6(b)	2 ½ % of the turnover in the State/UT
3	Sub-sections (1) and (2) of section 10	Any other supplier – Traders	½ % of the turnover of taxable supplies of goods & services in State/UT
4	Sub-section (2A) of section 10	Registered persons eligible to opt to pay tax u/s 10 (2A)	3 % of the turnover of supplies of goods & services in the State/UT.

Author's comment: Total rate shall be double the above percent, since it will be CGST + SGST.

Rule 5: Conditions and restrictions for composition levy

(1) Compliance by person opting for composition scheme

The person exercising the option to pay tax under section 10 shall comply with the following conditions, namely: -

- he is neither a CTP/NRTP;
- he shall pay tax under section 9(3)/(4) on inward supply of goods or services or both;
- he was not engaged in the manufacture of goods as notified u/s 10(2)(e), during the PFY;
- he shall mention the words "composition taxable person, not eligible to collect tax on supplies" at the top of the bill of supply issued by him; and
- he shall mention the words "composition taxable person" on every notice or signboard displayed at a prominent place at his principal place of business and at every additional place or places of business.

(2) RP not required to file fresh intimation every year

The registered person paying tax u/s 10 may not file a fresh intimation every year and he may continue to pay tax under the said section subject to the provisions of the Act and rules.

Section 10(2): Person ineligible to opt for composition

The registered person shall be eligible to opt under sub-section (1), if —

- he is not a manufacturer (m) of such goods as may be notified by the Government on the recommendations of the Council; and
- he is not engaged in making any inter-State outward supplies (i) of goods or services;
- he is not engaged in making any supply of goods or services which are not leviable to tax under this Act; i.e. Non taxable supply (n)
- he is neither a NRTP nor a CTP. (n)
- he is not engaged in making any supply of services through an ECO who is required to collect tax at source under section 52; (e)
- save as provided in sub-section (1), he is not engaged in the supply of services; (s)

[Mnemonic – MINES]

❖ Multiple registered units under same PAN to opt together.

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 RP, not eligible to opt to pay tax under sub-section (1) and sub section (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 section 9(1),
- an amount of tax calculated at such rate as may be prescribed, but not exceeding 3% of the turnover in State or turnover in Union territory,
- if he is not— [Mnemonic – Mine]
  - a manufacturer (m) of such goods or supplier of such services as may be notified by the Government on the recommendations of the Council; and
  - engaged in making any inter-State outward supplies (i) of goods or services;
  - engaged in making any supply of goods/services which are not leviable to tax (n) under this Act;
  - a casual taxable person or a non-resident taxable person (n):
  - engaged in making any supply of services through an electronic commerce operator (e) who is required to collect tax at source under section 52;

❖ Multiple registered units under same PAN to opt together.

Section 10(3): Composition levy shall lapse with effect from the day RP crosses applicable ATO limit.

Rule 6: Validity of composition levy

(1) Option for paying tax under composition shall be valid till RP satisfies all the conditions.

(2) If RP ceases to satisfy conditions, he shall be liable to pay tax u/s 9(1), issue tax invoice & also file intimation in GST CMP-04 within 7 days of such event.

(3) RP intending to withdraw shall file GST CMP 04 before the date of such withdrawal

(4) Where PO has reason to believe that the RP is not eligible/has contravened provisions of the act, he may issue SCN in CMP 05 to show cause within 15 days why composition shall not be denied.

(5) Upon receipt of notice RP to reply in GST CMP 06 and the PO to issue order in GST CMP 07 within 30 days, either accepting the reply, or denying the option to pay tax under section 10 from the date of the option or from the date of the event concerning such contravention.

(6) RP, who ceases/filed an application for withdrawal/PO passed a withdrawal order shall file a statement in GST ITC 01 containing details of the stock of inputs and inputs contained in semi-finished or finished goods held in stock by him on the date on which the option is withdrawn or denied, within 30 days.

(7) Intimation/application for withdrawal/denial in respect of any place shall be deemed to be an intimation in respect of all other places of business registered on the same PAN

Circular: Denial of composition option by tax authorities and effective date thereof

Doubt: Doubts have been raised as to the date from which withdrawal from the composition scheme shall take effect in a case where the composition taxpayer has exercised such option to withdraw.

Clarification: The effective date shall be the date indicated by him in his intimation/application filed in GST CMP-04 but such date may not be prior to the commencement of the financial year in which such intimation/application for withdrawal is being filed.

Doubt: Doubts have also been raised regarding the effective date of denial of the option to pay tax under the composition scheme where action has been initiated by the tax authorities to deny such option to the composition taxpayer.

Clarification: the effective date of such denial shall be from a date, including any retrospective date as may be determined by tax authorities, but shall not be prior to the date of contravention of the provisions of the CGST Act or the CGST Rules.

Doubt: Clarification has been sought regarding the follow up action to be taken by the tax authorities when the composition option is denied to the taxpayer retrospectively.

Clarification: In such cases, proceedings would have to be initiated under the provisions of section 73/74 for determination of tax, interest and penalty for the period starting from the date of contravention of provisions till the date of issue of order in FORM GST CMP-07.

Section 10(4): A taxable person (under composition) not to collect tax, nor take ITC

Section 10(5): TP pays tax under compo even if ineligible, he shall be liable to penalty

If the PO has reasons to believe that a taxable person has paid tax under sub-section (1) or sub-section (2A), as the case may be, despite not being eligible, such person shall, in addition to any tax that may be payable by him under any other provisions of this Act, be liable to a penalty and the provisions of section 73 or 74 or section 74A shall, mutatis mutandis, apply for determination of tax and penalty.

Explanation 1.— 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.

Explanation 2. — For the purposes of determining the tax payable by a person under this section, the expression turnover in State/UT 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.

Author's comment:

- For the purpose of Checking eligibility: ATO shall include supplies from 1st April upto date of becoming liable for registration but exclude interest/discount.
- For the purpose of paying tax: TO in state/UT shall exclude supplies from 1st April upto date of becoming liable for registration and interest/discount.

Returns and Statement to be furnished by Person under Composition

GST CMP-08 Quarterly: Furnish a statement, every quarter or, as the case may be, part thereof, containing the details of payment of self-assessed tax in GST CMP-08, till the 18th day of the month succeeding such quarter; and

GSTR-4 by 30th day of June following the end of such FY: Furnish a return for every FY or, as the case may be, part thereof in GSTR-4, till the 30th of June following the end of such FY.

Some important definitions

Registered person means a person who is registered under section 25

- but does not include a person having a Unique Identity Number.

Taxable person means a person

- Who is registered or
- liable to be registered under section 22 or section 24.

Taxable supply means a supply of goods or services or both which is leviable to tax under this Act;

Non-taxable supply means a supply of goods or services or both which is not leviable to tax under this Act or under the IGST Act;

Non-Taxable supplies: Supply of AL for human consumption and 5 petroleum products (HPMAN).

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 u/s 6 of the IGST Act, and
- includes non-taxable supply;

Aggregate turnover means the aggregate value of [Mnemonics- TIEE]

- T - all taxable supplies
- I - inter-State supplies of persons having the same Permanent Account Number,
- E - exempt supplies,
- E - exports of goods or services or both and

Excluding

- the value of inward supplies on which tax is payable by a person on reverse charge basis,
- central tax, State tax, Union territory tax, integrated tax and cess;
- to be computed on all India basis

Important notes:

1. ATO means PAN-wise turnover
2. Activities which are out of scope of supply [Section 7(2)], will not form part of ATO. Since they are not supply at all. For example: Salary received.
3. Outward supplies on which tax payable under RCM to be included.

Section 22 - Persons liable for registration

Section 22(1): Registration on crossing applicable aggregate turnover

Every supplier shall be liable to be registered under this act

- in state/UT, (other than special category states)
- from where he makes taxable supply of goods or services or both,
- if his aggregate turnover (ATO) in a FY exceeds 20 lakh rupees:

Proviso: Person makes taxable supplies from any of the special category states (SCS), he shall be liable to be registered if his aggregate turnover in a FY exceeds ten lakh rupees:

Notification No. 10/2019 CT: Threshold limit increased to Rs 40 lacs for specified states

The following category of persons has been exempt from obtaining registration, namely:

Any person, who is engaged in exclusive supply of goods and whose aggregate turnover in the financial year does not exceed forty lakh rupees, except,

(a) persons required to take compulsory registration u/s 24;

(b) persons engaged in making supplies of the following goods: [Mnemonics – TIP BET]

T – Tobacco and manufactured tobacco substitutes

I – Ice cream and other edible ice, whether or not containing cocoa

P – Pan masala

B – Building bricks, bricks of fossil meals/similar siliceous earths, Fly ash bricks/aggregates/ blocks

ET – Earthen or roofing tiles

(c) persons engaged in making intra-State supplies in the States of

Mnemonics – M^2NT	Mnemonics - PUMAS of Telangana
Manipur	Puducherry,
Mizoram	Uttarakhand
Nagaland	Meghalaya
Tripura	Arunachal Pradesh
	Sikkim
	Telangana

(d) persons exercising voluntary registration u/s 25(3), or such RPs who intend to continue with their registration.







State-wise registration limit - Crux:

Turnover Limit	States	Mnemonic
10 Lacs for Both SOG/SOS	Manipur, Mizoram, Nagaland, Tripura	M^2NT
20 Lacs for Both SOG/SOS	Puducherry, Uttarakhand, Meghalaya, Arunachal Pradesh, Sikkim, Telangana	PUMAS of Telangana
40 Lacs for SOG, 20L for SOS	Other states, Assam, J&K, HP	OAK of HP

Explanation. - a person shall be considered to be engaged exclusively in the supply of goods

- even if he is engaged in exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.

Illustration on Registration requirement and Applicable ATO:

Supplier	State	Turnover (in lakhs)	ATO	ATO applicable	Remarks
Ram	Assam	Sale of Goods: 38 Interest Income: 5	43 lakhs	40 lakhs	ATO shall include interest/discount income, but Ram shall be deemed to be exclusive supplier of goods even if he is engaged in exempt supply of services where consideration is interest or discount. He shall be required to obtain registration.
Shyam	Assam	Sale of Goods: 38 Interest Income: 1	39 lakhs	40 lakhs	Shyam shall not be required to obtain registration since ATO did not exceed Rs. 40 lacs.

Explanation to section 22. —

(i) ATO shall include all supplies made by the taxable person, whether on his own account or made on behalf of all his principals;

(ii) the supply of goods, after completion of job work, by a registered job worker shall be treated as supply of goods by the principal, and included in the ATO of principal.

(iii) Special category States shall mean the States of Manipur, Mizoram, Nagaland & Tripura.

Clarification on honorarium to the Guest Anchors

Issue: Whether GST is applicable on payment of honorarium to the Guest Anchors.

Clarification: Yes GST is applicable. It's a supply of service. However, guest anchors whose aggregate turnover in a financial year does not exceed Rs. 20 lakh (Rs. 10 lakh in case of specified Special Category States) shall not be liable to take registration and pay GST.

Section 22(2): Under old Law (existing law) registered persons:

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

Author's comments: As on today this provision is irrelevant.

Section 22(3): Transfer/Succession of business as going concern:

Where a business carried on by a taxable person registered under this Act is transferred,

- whether on account of succession/otherwise,
- to another person as a going concern,
- the transferee/the successor, as the case may be, shall be liable to be registered with effect from the date of such transfer or succession.

Section 22(4): Amalgamation/Demerger pursuant to a court/tribunal order:

In a case of transfer pursuant to sanction of a scheme/an arrangement for amalgamation or, as the case may be, demerger of two/more companies pursuant to an order of a High Court, Tribunal or otherwise,

- the transferee shall be liable to be registered,
- with effect from the date on which the Registrar of Companies (ROC) issues a certificate of incorporation (COI) giving effect to such order of the High Court or Tribunal.

Author's comment: If the tribunal order takes effect from a date earlier than the date of the order, now even though legally the companies stand merged from a back date, however it is not possible to issue back date GST registration, hence section 22(4) provides that such entity shall be liable to register only w.e.f. the date on which the ROC issues a COI.

Example: Ram ltd and Shyam ltd wanted to amalgamate into Radheshyam ltd.

- The board approved the amalgamation on 1st Jan and they approached NCLT for amalgamation
- NCLT approved amalgamation on 25th June.
- NCLT issued order on 25th June allowing merger from retrospective date i.e., 1st March.
- Now they approached ROC for issue of certificate of Incorporation of Radheshyam ltd.
- ROC issued certificate of Incorporation on 1st July by ROC.
- Hence, Radheshyam ltd will be liable to register from the date ROC issued COI i.e. 1st July.

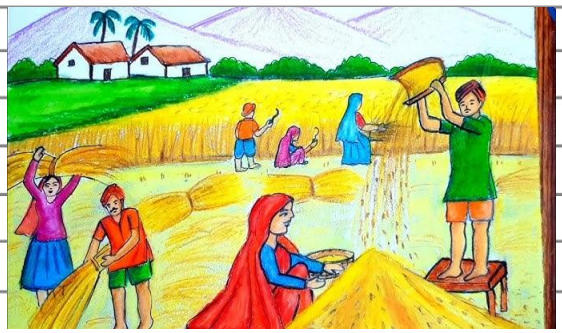
Section 23 – Persons not liable for registration

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 IGST Act;

(b) an agriculturist, to the extent of supply of produce out of cultivation of land

Agriculturist means an individual/HUF who undertakes cultivation of land—
- by own labour/labour of family, or
- by servants on wages payable in cash/kind or by hired labour
- under personal supervision/the personal supervision of any member of the family.



Examples:

SN	Particulars	Registration?
1	Petrol bunks selling only petrol & diesel	Not required
2	Petrol pumps selling Engine oil or food items along with petrol.	Required
3	Shops supplying Alcoholic liquor for human consumption	Not required
4	Shops supplying Alcoholic liquor for human consumption plus snacks	Required
5	Agriculturist owns land and does cultivation	Not required
6	Agriculturist takes land on rent and does cultivation	Not required
7	Agriculturist takes land on rent & cultivation done by servants on wages	Not required
8	Agriculturist does cultivation plus also runs a dairy.	Required

Note: In the above cases, Wherever registration is required, it is subject to aggregate turnover crossing the threshold.

Section 23(2): Notified category of persons exempted from obtaining registration:

Notwithstanding anything to the contrary contained in section 22(1) or section 24,
- the Government may, on the recommendations of the Council, by notification,
- subject to such conditions and restrictions as may be specified therein,
- specify the category of persons who may be exempted from obtaining registration under this Act.

Note: There are various notifications issued under this section which has been explained along with section 22 and Section 24.

Circular: Registration requirement of a commission agent selling agricultural produce on behalf of agriculturist.

Query: Registration requirement of a commission agent selling agricultural produce on behalf of agriculturist.

Clarification:

- Services by any APMC or board or services provided by the commission agents for sale or purchase of agricultural produce are exempted from GST.
- Thus, such commission agents are not liable to be registered according to section 23(1)(a), if the supply of the agricultural produce, and /or other goods or services supplied by them are not liable to tax or wholly exempt under GST.
- Further, a commission agent under APMC Act makes supplies on behalf of an agriculturist.
- As per section 23(1)(b) an agriculturist who supplies produce out of cultivation of land is not liable for registration & therefore does not fall within the ambit of the term "taxable person".
- Thus, a commission agent who is making supplies on behalf of such an agriculturist, who is not a taxable person, is not liable for compulsory registration under section 24(vii).

Section: 24 – Compulsory Registration in certain cases

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

(i) Persons making any inter-State taxable supply;

Notification u/s 23(2): Following categories of person exempted if ATO upto 20/10 lacs

1. Interstate supplier of notified handicraft goods & notified craftsmen products
   - when made by craftsmen predominantly by hand even though some machinery may also be used in the process:
   - However, such persons have obtained a PAN and have generated an e- way bill.
2. Interstate supplier of taxable services.

(ii) Casual taxable persons making taxable supply;

Casual taxable person means

- a person who occasionally undertakes transactions involving supply of g/s/b
- in the course or furtherance of business,
- whether as principal, agent or in any other capacity,
- in a State/UT where he has no fixed place of business.

Notification u/s 23(2):

- CTPs making inter-State taxable supplies of notified handicraft/craftsmen goods exempted up to Rs 20/10 lakhs.
- However, they should have obtained a PAN & have generated an e- way bill.

(iii) Persons who are required to pay tax under reverse charge;

Exemption: persons who are only engaged in making taxable supply of goods/services/both,

- the total tax on which is liable to be paid on RCM basis by the recipient u/s 9(3).

Notification: Above exemption from registration not applicable to supplier of Metal scrap

Analysis: As long as the value of supply of metal scrap by a person is below the threshold limit of Rs. 40 lakhs/20 lakhs, supplier is not required to obtain registration u/s 22(1) & recipient RP pays GST under RCM.

However, once value of supply of metal scrap exceeds the threshold limit, supplier shall obtain GST registration, now RCM would not apply and the suppliers of such metal scrap shall start paying GST under forward charge mechanism.

Thus, person exclusively engaged in supply of metal scrap will not be exempted from registration.

(iv) Persons who are required to pay tax u/s 9(5);

L – Local delivery services

T – Transportation of Passenger by radio taxi, motor cab, maxi cab/any other motor vehicle

T - Transportation of Passenger by omnibus (by person except company)

H – Housekeeping services

A – Accommodation services

R – Restaurant Services

(v) Non-resident taxable persons making taxable supply;

Non-resident taxable person means:

- any person who occasionally undertakes transactions involving supply of g/s/b,
- whether as principal or agent or any other capacity,
- but who has no fixed place of business or residence in India.

(vi) Persons who are required to deduct tax u/s 51, whether or not separately registered under this Act;

(vii) Persons who make taxable supply of g/s/b on behalf of other taxable persons whether as an agent or otherwise;

(viii) Input Service Distributor, whether or not separately registered under this Act;

Input service distributor means

- an office of the supplier of goods or services or both which
- receives tax invoices issued towards the receipt of input services, &
- issues a prescribed document for the purposes of distributing credit of services
- to a supplier of taxable g/s/b having the same PAN as that of the said office.

(ix) Persons supplying goods/services/both, except supplies u/s 9(5), through such ECO who is required to collect TCS u/s 52;

Notification u/s 23(2): Exemption from registration

- Applies to persons making supplies through an Electronic Commerce Operator (ECO) required to collect tax at source under section 52.
- Aggregate turnover in the preceding and current financial year must not exceed the registration threshold under section 22(1).

Conditions for Exemption:

(i) Shall not make any inter-State supply of goods;
(ii) Shall not make supply of goods through ECO in more than one State/UT;
(iii) Shall be required to have a PAN issued under the Income Tax Act, 1961;
(iv) Shall, before making any supply, declare on the common portal their PAN, address and the State/UT in which such persons seek to make such supply, which shall be validated;
(v) On successful validation of PAN, such persons have been granted an enrolment number;
(vi) Only one enrolment number shall be granted in a State/UT;
(vii) no supply of goods shall be made through ECO unless such persons have been granted an enrolment number on the common portal; and
(viii) Enrolment number ceases to be valid upon obtaining registration under section 25.

Notification u/s 23(2): Exemption from Registration:

- Applies to persons making supplies of services (excluding those under section 9(5)) through an ECO required to collect tax at source under section 52.
- Aggregate turnover (ATO) on an all-India basis must not exceed Rs 20 lakh in a financial year/10 lakhs in case of special category states.

(x) Every electronic commerce operator who is required to collect TCS at source u/s 52.

(xi) Every person supplying OIDAR services from outside India to an unregistered person in India [OIDAR: online information and data base access or retrieval]

(xia) Every person supplying online money gaming from a place outside India to a person in India;

(xii) Such other person/class of persons, notified by Government on recommendations of Council.

Section 25: Procedure for Registration

Section 25(1): Person liable to be registered shall apply within 30 days

Every person liable under sections 22/24 must apply for registration in each State/UT where they are liable, within thirty days of becoming liable.

Proviso: Casual/Non-Resident Taxable Person: must apply for registration at least five days before starting business.

Proviso: Persons with units in SEZs or SEZ developers must apply for separate registration distinct from their place of business outside the SEZ in the same State/UT.

Explanation: Supply from TWI: Must register in the coastal State/UT where the nearest point of the appropriate base line is located.

Rule 8: Application for registration

(1) Every person who is liable to be registered u/s 25 and every person seeking registration voluntarily u/s 25(3) except–, [Mnemonic – NTO – NRTP, TDS/TCS, OIDAR, OMG]

- a non-resident taxable person; (N)
- TDS deductor; (T)
- TCS collector; (T)
- a person supplying OIDAR services from a place outside India to a NTOR
- a person supplying online money gaming (OMG) from a place outside India to person in India

- shall, before applying for registration, declare his PAN, State/UT in Part A of GST REG-01 on the common portal or through a Facilitation Centre notified

Proviso: ISD shall make a separate application for registration as ISD.

(2) PAN shall be validated online by the common portal from the database maintained by CBDT & shall also be verified through separate OTPs sent to mobile no. & e-mail address linked to PAN.

(3) On successful verification of PAN, mobile no and Email - a temporary reference number (TRN) shall be generated and Communicated to the applicant on the said mobile no. & e-mail address.

(4) Using TRN, electronically submit an application in Part B of GST REG-01, along with documents specified in the Form.

(4A)Where an applicant, other than a person notified under section 25(6D),

- opts for Aadhaar authentication, he shall,
- undergo Aadhaar authentication and the date of submission of application shall be
  - the date of authentication of the Aadhaar number, or
  - 15 days from the submission of the application in Part B of GST REG-01,

whichever is earlier.

Proviso: every application by a person, other than a person notified u/s 25(6D), who has opted for aadhaar authentication and is identified on the common portal, based on data analysis and risk parameters, shall be

- followed by biometric-based Aadhaar authentication and
- taking photograph of the applicant where the applicant is an individual/of such individuals in relation to the applicant as notified u/s 25(6C) where the applicant is not an individual,
- along with the verification of the original copy of the documents uploaded with the application in GST REG-01 at one of the Facilitation Centres notified by Commissioner and
- the application shall be deemed to be complete only after completion of the process laid down under this proviso.

Proviso: every application by a person, other than a person notified u/s 25(6D), who has not opted for Aadhaar authentication, shall be

- followed by taking photograph of the applicant where the applicant is an individual or of such individuals in relation to the applicant as notified u/s 25(6C) where the applicant is not an individual,
- along with the verification of the original copy of the documents uploaded with the application in GST REG-01 at one of the Facilitation Centers notified by Commissioner and
- the application shall be deemed to be complete only after successful verification as laid down under this proviso.

(4B) The CG may, on the recommendations of the Council, by notification specify the States or Union territories wherein the proviso to sub-rule (4A) shall not apply.

Author: Bio metric based Aadhaar authentication can be done of a person from any state if the person is identified on the common portal, based on data analysis and risk parameters.

(5) On receipt of application, an acknowledgement shall be issued electronically in GST REG-02.

(6) Casual taxable person shall be given a temporary reference number for making advance deposit of tax and the acknowledgement shall be issued only after the said deposit.

Rule 9 - Verification of the application and approval

(1) The Application shall be forwarded to PO - PO to examine application & accompanying documents – if found to be in order, approve the grant of registration to the applicant within 7 WDs from submission.

Proviso:

(a) a person, except a person notified under section 25(6D), fails to undergo Aadhaar authentication/does not opt for Aadhaar authentication; or

(aa) a person, who has undergone Aadhaar authentication, is identified on the common portal, based on data analysis & risk parameters, for carrying out physical verification of POB; or

(b) the PO, 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 POB,

the registration shall be granted within 30 days of submission of application, after physical verification of the place of business and verification of such documents as the proper officer may deem fit.

(2) PO to issue notice to seek clarification in case of deficiency in application by issuing a notice in GST REG-03 within 7 working days (WDs) & applicant shall furnish clarification, information or documents (CID) electronically, in GST REG-04, within 7 working days (WDs).

Proviso: where-

(a) a person, except a person notified u/s 25(6D), fails to undergo Aadhaar authentication or does not opt for authentication of Aadhaar number; or

(aa) a person, who has undergone Aadhaar authentication, is identified on the common portal, based on data analysis and risk parameters, for carrying out physical verification of POB; or

(b) PO, 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 POB,

the notice in GST REG-03 may be issued not later than thirty days from the date of submission of the application.

(3) PO Satisfied, approve grant of registration within 7 WDs from date of receipt of such CID.

(4) No reply/PO not satisfied - he may record reasons & reject application & inform applicant in GST REG 05.

(5) If the proper officer fails to take any action, -

(a) within a period of 7 working days from the date of submission of the application in cases where the person is not covered under proviso to sub-rule (1); or

(b) within a period of 30 days from the date of submission of the application in cases where a person is covered under proviso to sub-rule (1); or

(c) within a period of 7 working days from the date of the receipt of the clarification, information or documents furnished by the applicant under sub-rule (2),

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

Rule 10 - Issue of registration certificate

(1) Application approved under rule 9, rule 9A and rule 14A – a certificate of registration in prescribed form showing Principal place of Business (PPOB) & additional place or places of Business (APOB) shall be made available to the applicant & a GSTIN shall be assigned (15 characters) namely:

2	9	C	C	B	P	S	7	7	0	0	R	1	Z (default)	1
State code		PAN/TAN										No. of Reg. in State (1-9 & then A-Z)	Code for regular reg.	checksum character (Can be letter/word)

(2) If application submitted within 30 days of becoming liable, it is effective from date person becomes liable.

(3) If registration applied after 30 days of becoming liable, it is effective from date of the grant.

(4) Every registration certificate to be duly signed/verified through EVC by PO

(5) In case of automatic approvals by portal, the applicant shall be communicated the registration no., and the certificate of registration within 3 days after expiry of period specified in rule 9(5).

Rule 25: Physical verification of business premises in certain cases

(1) Post-Registration Verification: If physical verification is needed after granting registration, verification report and other documents, including photographs, must be uploaded in GST REG-30 on the common portal within 15 working days after verification.

(2) Pre-Registration Verification: If physical verification is required before granting registration (as per the proviso to sub-rule (1) of rule 9), the PO must complete the verification and upload the report and documents in GST REG-30 at least five working days before the deadline specified in the proviso.

Rule 10A: Furnishing of Bank Account Details

After registration certificate has been made available and a GSTIN assigned,

the RP, except TDS deductors, TCS collectors & Suo motu RP, shall furnish details of a valid bank account

- within a period of 30 days from the date of grant of registration, or
- before furnishing GSTR-1 or using invoice furnishing facility, whichever is earlier.

Rule 10B: Aadhaar authentication for registered person

The registered person, other than a person notified under section 25(6D),

- who has been issued a registration certificate shall, undergo Aadhaar authentication
- of the proprietor, in the case of proprietorship firm, or
- of any partner, in the case of a partnership firm, or
- of the karta, in the case of a Hindu undivided family, or
- of the Managing Director or any whole time Director, in the case of a company, or
- of any of the Members of the Managing Committee of an Association of persons or body of individuals or a Society, or
- of the Trustee in the Board of Trustees, in the case of a Trust and
- of the authorized signatory, in order to be eligible for the purposes as follows:

	Purpose [Mnemonic – RRR]
R	For filing application for revocation of cancellation of registration in GST REG-21 under Rule 23
R	For filing of refund application in FORM RFD-01 under rule 89
R	For refund under rule 96 of the integrated tax paid on goods exported out of India

Proviso: if Aadhaar number has not been assigned to the person, 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:

Proviso: such person shall undergo Aadhaar authentication within 30 days of allotment of Aadhaar number.

Rule 18: Display of RC and GSTIN on the name board

(1) Every RP shall display his certificate of registration in a prominent location at his principal place of business (PPOB) & at every additional place of business (APOB)/APOBs.

(2) Every RP shall display his GSTIN on the name board exhibited at the entry of his PPOB & at every APOB/APOBs.

Rule 14A: Option for taxpayers having monthly output tax liability below threshold limit.

(1) Eligibility: Any person whose output tax liability does not exceed 2.5 lakhs

Any person who has made application for registration under rule 8 and who determines that his total output tax liability on supply of goods/services/ both made to registered persons on account of central tax and State tax or UT tax and integrated tax and compensation cess, does not exceed Rs 2.5 lakhs per month, shall have an option to get registration electronically, in accordance with the provisions of this rule.

(2) Aadhaar authentication mandatory for registration under this rule

Any person, other than a person notified under section 25(6D), who has not opted for authentication of Aadhaar number, shall not be eligible for grant of registration in terms of this rule.

(3) Single registration per State/UT against same PAN

Notwithstanding anything contained in rule 11, a person registered under this rule in a State/UT shall not be eligible to obtain another registration in the same State/UT under this rule against the same Permanent Account Number.

(4) Registration is granted electronically within 3 working days of Aadhaar authentication

Upon successful authentication of Aadhaar number, the applicant shall be granted registration electronically by the common portal, within 3 working days from the date of submission of application.

(5) Withdrawal from this option: File GST REG 32

The registered person who intends to withdraw from the option availed, shall file an application, in GST REG-32, duly signed/verified through electronic verification code on the common portal, either directly/through a Facilitation Centre notified by the Commissioner:

Lock-in Period: Provided that the registered person shall not be allowed to file such application unless he has furnished, -

(a) returns for a period of minimum 3 months, where such application is filed before 1st April, 2026;

(b) returns for a period of minimum one tax period, where such application is filed on or after 1st April, 2026; and

(c) all the returns due for the period from the effective date of registration till the date of application for withdrawal:

Provided further that the registered person shall be allowed to file such application where no proceedings under section 29 have been initiated against such registered person.

(6) Amendment before withdrawal:

Where there is any change in particulars furnished in GST REG-01 by the person who has been granted registration under this rule, the said registered person shall get the particulars amended under rule 19 before filing an application for withdrawal under sub-rule (5).

(7) Aadhaar/biometric authentication, photo capture, and document verification may be required for withdrawal

Based on data analysis and risk parameters on the common portal, the provisions of sub-rule (4A) of rule 8 relating to authentication of Aadhaar number or biometric-based Aadhaar authentication, taking photograph of the applicant along with verification of original copy of documents uploaded along with registration application in FORM GST REG-01, shall, so far as may be, apply to application for withdrawal filed under sub- rule (5).

(8) Acknowledgement & verification

The provisions of sub-rules (5) and (6) of rule 8 relating to issuance of acknowledgment, shall, mutatis mutandis, apply to the application filed under sub-rule (5).

(9) Order by proper officer

The application filed for withdrawal under sub-rule (5), shall be verified in accordance with the provisions of rule 9.

(10) PO shall issue order allowing or reject withdrawal and issue an order

Upon verification under sub-rule (9), the proper officer shall issue an order in GST REG-33 allowing the application for withdrawal from the option availed under sub-rule (1) or order for rejection of application in GST REG-05, within a period specified under rule 9, as the case may be, which shall be made available to the registered person on the common portal.

(11) Post receipt of withdrawal order: Taxpayer can report output tax liability exceeding ₹2.5 lakh from the 1st day of the succeeding month post

The registered person who has received an order issued under sub-rule (10) allowing withdrawal shall be able to furnish the details of output tax liability on supply of goods or services or both made to registered persons, exceeding the output tax liability as referred to in sub-rule (1), from the 1ST day of succeeding month in which the said order has been issued.

(12) Past period data cannot be amended to exceed the ₹2.5 lakh limit.

A registered person to whom an order under sub-rule (10) has been issued, shall not amend the details furnished in respect of output tax liability so as to exceed the limit of the output tax liability specified in sub-rule (1) for the period prior to the first day of succeeding month in which the said order has been issued.

(13) Where proceedings for cancellation of registration have been initiated by the PO after the filing of withdrawal application and the said proceedings are pending, the withdrawal application under sub-rule (5) shall be rejected by the PO & the provisions in relation to approval of application on deemed basis under sub-rule (5) of rule 9, shall not be applicable in such case.

Crux:

- Applicability: This rule provides a fast-track electronic GST registration for small taxpayers
- Eligibility: Taxpayers with output tax liability ≤ ₹2.5 lakh/month on B2B supplies can opt for Rule 14A.
- Aadhaar authentication is mandatory (subject to specified exceptions).
- Only 1 registration per State/UT per PAN under Rule 14A.
- Registration is granted electronically within 3 working days after Aadhaar authentication.
- To withdraw, file REG-32, subject to filing the required returns & no cancellation proceedings u/s 29.
- Any changes in registration particulars must be amended before withdrawal.
- Withdrawal may involve Aadhaar/biometric authentication, photograph & document verification based on risk parameters.
- PO allows/rejects withdrawal through REG-33 / REG-05.
- After withdrawal, >₹2.5 lakh output liability can be reported only from the 1st day of the succeeding month.
- Past-period liability cannot be increased above ₹2.5 lakh.

Rule 9A. Grant of registration electronically.

Notwithstanding anything contained in rule 9, any person who has applied for registration under rule 8(Normal Registration) or rule 12(TDS/TCS) or rule 17(UIN Holder), shall, upon identification on the common portal based on data analysis and risk parameters, be granted registration electronically by the common portal, within three working days from the date of submission of application.

Crux: Risk-based fast track registration: If identified through data analysis & risk parameters, registration is granted electronically within 3 working days of application.

Section 25(2):

A person seeking registration under this Act shall be granted a single registration in a State/UT:
Proviso: a person having multiple POB in a State/UT may be granted a separate registration for each such POB.

Rule 11: Separate registration for multiple POBs within a State/UT.

(1) Person having multiple POBs within ST/UT requiring separate registration may obtain separate registration & shall be granted separate registration subject to following conditions:
   (a) such person has more than one POBs (warehouse/godown/place where books are maintained etc.);
   (b) such person shall not pay tax under composition for any of his POB if he is paying tax under normal levy for any other POBs;
   (c) Pay tax on supply made between registered POBs & issue a tax invoice/ a bill of supply (BOS), for such supply.
(2) Separate application in GST REG-01 in respect of such place of business.
(3) Rule 9 & 10 relating to verification & the grant of registration shall apply mutatis mutandis.

Section 25(3): Voluntary registration (VR)

A person, though not liable to be registered u/s 22/24 may get himself registered voluntarily, and all provisions of this Act, as are applicable to a registered person, shall apply to such person.

Section 25(4): Distinct person

Person who has obtained/required to obtain multiple Registration, in one state/multiple states – Such person w.r.t each registration be treated as distinct person

Section 25(5): Distinct person

Person who has obtained/required to obtain registration in 1 state/UT in respect of an establishment, has establishment in another state/UT then such establishments shall be treated as establishments of distinct persons.

Section 25(6): PAN is mandatory for grant of Registration

Every person shall have PAN issued under IT Act in order to be eligible for grant of registration

Proviso: TDS deductor may have a Tax Deduction and Collection Account No. (TAN) in order to be eligible for grant of registration.

Rule 12: Grant of registration to TDS deductor/TCS collector

(1) Submit an application, in Form GST REG-07,

(1A) A person applying for registration to deduct/collect tax, in a State/UT where he does not have a physical presence, shall

- mention the name of the State/UT in PART A of the application in GST REG-07 and
- mention the name of the State/UT in PART B thereof in which the principal place of business is located which may be different from the State/UT mentioned in PART A.

(2) After due verification – PO may grant within 3 working days from the date of submission.

(3) Cancellation of registration

Where, on a request made in writing by a person to whom a registration has been granted or

- upon an enquiry or pursuant to any other proceeding under the Act,
- the PO is satisfied that a person is no longer liable to deduct or collect,
- PO may cancel registration & It shall be communicated to the said person electronically.

Aadhaar Authentication introduced with effect from 01.04.2020

Section 25(6A): For already registered person before 01.04.2020

Every RP shall undergo authentication, or furnish proof of possession of Aadhaar number, in such form and manner and within such time as may be prescribed:

Proviso: if an Aadhaar number is not assigned to the RP,

- such person shall be offered alternate and viable means of identification
- in such manner as Government may, on the recommendations of the Council, prescribe:

Proviso: in case of failure to undergo authentication/furnish proof of possession of Aadhaar no./ or furnish alternate and viable means of identification,

- registration allotted to such person shall be deemed to be invalid and
- the other provisions of this Act shall apply as if such person does not have a registration.

Section 25(6B):

On and from the date of notification,

- every individual shall, in order to be eligible for grant of registration,

- undergo authentication, or furnish proof of possession of Aadhaar number,
- in such manner as the Govt may, on recommendations of the Council, specify:

Notification: an individual shall undergo Aadhaar authentication, as specified in rule 8, in order to be eligible for registration:

Section 25(6C):

On and from the date of notification,

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

Proviso: where such person/class of persons have not been assigned Aadhaar No., such person/class of persons shall be offered alternate & viable means of identification. (rule 9)

Notification: CG, on the recommendations of the Council, hereby notifies the –

(a) authorised signatory of all types;

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

(c) Karta of a Hindu undivided family,

shall undergo authentication of possession of Aadhaar number, as specified in rule 8, in order to be eligible for registration under GST:

Section 25(6D):

Section 25(6A)/(6B)/(6C) shall not apply to such person/class of person/ State/UT, as notified.

Notified person to whom aadhaar authentication shall not apply - [Mnemonics – NDL PSU]

- N - Not a citizen of India; or
- D - a Department or establishment of the Central Government or State Government; or
- L - a local authority; or
- P - a Public Sector Undertaking; or
- S - a statutory body; or
- U - a person applying for registration u/s 25(9) i.e. Unique Identification No. [UIN] holder.

Section 25(7): NRTP

A NRTP may be granted registration on the basis of such other documents as may be prescribed.

Rule 13: Grant of registration to NRTP

(1) Application in GST REG 09, along with a self-attested copy of his valid passport, at least 5 days prior to the commencement of business

Proviso: If business entity incorporated outside India, the application shall be submitted along with its tax identification number/unique no. on the basis of which the entity is identified by Govt. of that country/its PAN, if available.

(2) He shall be given a temporary reference number for making an advance deposit of tax & after deposit of tax acknowledgement shall be issued.

(3) The provisions of rule 9 & 10 shall apply mutatis mutandis.

(4) The application for registration made by a NRTP shall be duly signed/verified through EVC by his authorized signatory who shall be a person resident in India having a valid PAN.

Section 25(8): If a person liable but fails, PO may proceed to register

Where a person who is liable to be registered under this Act fails to obtain registration,

- the PO may, without prejudice to any action which may be taken under this Act or under any other law for the time being in force,
- proceed to register such person in such manner as may be prescribed.

Rule 16: Suo motu registration (by PO)

(1) PO during survey/enquiry/inspection/search, finds that a person liable has failed to apply for registration, PO may register the said person on a temporary basis & issue an order in GST REG-12.

(2) The registration granted under sub rule (1) shall be effective from the date of such order granting registration.

(3) Every person to whom a temporary registration has been granted under sub rule (1) shall within 90 days of grant of such registration,

- Submit an application for registration in the form and manner provided in rule 8/12: or
- File an appeal against such temporary registration

In appeal case the application for registration shall be submitted within 30 days from the date of the issuance of the order upholding the liability to registration by the Appellate Authority.

(4) The provisions of rule 9 & 10 shall apply mutatis mutandis.

(5) GSTIN assigned shall be effective from the date of the order (Reg 12) granting registration.

Section 25(9): Specialised Agency of UNO, MFIO, Consulate and Embassy

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

(a) any specialised agency of the United Nations Organisation/any Multilateral Financial Institution (example: World bank, IMF, etc.) & Organisation notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate/Embassy of foreign countries; and

(b) any other person or class of persons, as may be notified by the Commissioner,

- shall be granted a Unique Identity Number (UIN) in such manner and for such purposes,
- including refund of taxes on the notified supplies of g/s/b received by them, as may be prescribed.

Rule 17: Assignment of Unique Identity Number to certain special entities

(1) Submit an application electronically in FORM GST REG- 13,

(1A) UIN granted to a person shall be applicable to the territory of India.

(2) The PO, upon submission of an application/receiving a recommendation from the Ministry of External Affairs, Government of India, assign a UIN & issue a RC within a period of 3 working days from the date of the submission of the application.

Rule 14. Grant of registration to a person supplying OIDAR services from a place outside India to a NTOR or to a person supplying online money gaming from a place outside India to a person in India

(1) Any person supplying

- OIDAR services from outside India to a NTOR or
- online money gaming from a place outside India to a person in India
- shall electronically submit an application for registration in GST REG-10

(2) Applicant shall be granted registration, in GST REG-06.

Section 26: Deemed Registration

(1) Grant of RC/UIN under SGST/UTGST act, deemed grant under CGST act

(2) Any Rejection of application under SGST/UTGST act, deemed rejection under CGST act.

Section 27: Special provisions relating to CTP and NRTP

(1) The certificate of registration issued to CTP/NRTP shall be valid for

- period specified in the application for registration/
- 90 days from the effective date of registration, whichever is earlier &
- such person shall make taxable supplies only after issuance of certificate of registration:

Proviso: The PO may extend the period of 90 days by a further period not exceeding 90 days.

(2) A CTP/a NRTP shall, at the time of application, deposit estimated tax liability in advance.

Proviso: In case of extension, additional estimated advance tax liability to be deposited.

(3) Amount of tax deposited, to be credited to E-cash ledger.

Rule 15: Extension in period of operation by CTP/NRTP

(1) Application in GST REG-11 before the end of the validity of registration granted to him.

(2) The application shall be acknowledged only on payment of additional estimated tax liability.

Clarifications of issues under GST related to CTP [Circular No. 71/45/18 GST dt. 26.10.18]

Issue: Whether the advance tax for CTP registration should be 100% of the estimated gross tax liability or after deducting eligible ITC.

Clarification: Advance tax for CTP registration should be calculated after considering the eligible ITC available to the taxable person i.e. the "estimated net tax liability"

Issue: Representations have been received for further extension of the said period beyond the period of 180 days.

Clarification: Long-Running Exhibitions: Taxable persons participating in exhibitions longer than 180 days cannot be treated as Casual Taxable Persons (CTP) and must obtain normal registration.

- Registration Process:
  - Upload a copy of the allotment letter granting permission to use the exhibition premises.
  - The allotment/consent letter is proof of place of business.
  - No advance tax payment required for registration.
  - Registration can be surrendered after the exhibition ends.

Section 28: Amendment of registration

(1) Every RP and UIN holder shall inform PO of any changes in form GST REG-14 and within 15 days of change.

(2) PO may, on the basis of information furnished approve/reject amendments in the registration particulars in such manner and within a period of 15 WDs.

Proviso:

1. Approval of PO shall not be required in respect of amendment of such particulars as may be prescribed.

2. PO shall not reject application for amendment without giving OBH

(3) Any rejection/approval of amendments under SGST/UTGST shall be deemed to be a rejection/approval under CGST Act.

Rule 19: Amendment of registration

(1) In case of any change in any of the registration particulars furnished in GST REG-01 or GST REG-07 or GST REG-09 or GST REG-10 or for UIN in GST REG-13, the RP shall,

- within 15 days of such change,
- submit an application in GST REG-14 along with the documents relating to such change.

Proviso:

(a) Where: Change relates to core fields

(i) Legal name of business;

(ii) Address of the PPOB/APOBs or

(iii) Addition/deletion/retirement of partners/directors, Karta, Managing Committee, Board of Trustees, CEO/equivalent, responsible for the day-to-day affairs of the business, which does not warrant cancellation of registration,

- the PO shall, approve amendment within 15 working days from date of receipt of application in GST REG-14 &
- Issue an order in GST REG-15 electronically &
- amendment shall take effect from the date of occurrence of event warranting such amendment;

(b) the change relating to sub-clause (i) and (iii) of clause (a) in any State/UT shall be applicable for all registrations of the RP obtained under the same PAN;

(c) where the change relates to any particulars except clause (a) i.e. non-core fields, the registration certificate shall stand amended upon submission of application in GST REG-14;

(d) Change in PAN, amendment not possible - fresh registration to be obtained in GST REG-01

Proviso: Any change in mobile no./e-mail address of the authorised signatory, shall be carried out only after online verification through OTP.

(1A) Amendment to be prospective unless specific orders from commissioner.

(2) PO is of the opinion that amendment is either not warranted/documents are incomplete/ incorrect

- he may, within 15 WDs serve a notice in FORM GST REG-03
- requiring the RP to show cause, within 7 WDs, why application shall not be rejected.

(3) The RP shall furnish a reply in GST REG-04 within 7 WDs.

(4) Where reply found to be not satisfactory/no reply, PO shall reject application & pass an order in GST REG-05.

(5) If the proper officer fails to take any action, -

(a) within 15 WDs from the date of submission of the application, or

(b) within 7 WDs from the date of the receipt of the reply to the SCN,

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

Section 29: Cancellation or Suspension of registration

Section 29(1): The PO may, either

- on his own motion (Suo-motu)/on an application by the RP/by his legal heirs (in case of death),
- cancel the registration, in such manner and within such period as may be prescribed, having regard to the circumstances

where, -

(a) the business has been discontinued, transferred fully for any reason including death/ amalgamation/demerger or otherwise disposed of; or

(b) there is any change in the constitution of the business; or

(c) the taxable person, is no longer liable to be registered under section 22 or section 24 or intends to opt out of the registration voluntarily made under section 25(3).

Proviso: during pendency of cancellation proceedings, the registration may be suspended for such period and in such manner as may be prescribed.

Rule 20 - Application for cancellation of registration – RP seeking

A RP, (other than TDS Deductor/TCS collector or a UIN holder) seeking cancellation of registration u/s 29(1) shall electronically, submit an application in GST REG-16, including therein

- the details of inputs held in stock / in SFGs/FGs held in stock and of capital goods held in stock
- on the date from which the cancellation of registration is sought,
- liability thereon, the details of the payment, if any, made against such liability &
- may furnish, along with the application, relevant documents in support thereof,
- within a period of 30 days of the occurrence of the event warranting the cancellation.

Section 29(2): The PO may cancel registration from such date, including any retrospective date, as he may deem fit, where, –

(a) a RP has contravened such (rule 21) provisions of the Act/the rules made thereunder; or

Rule 21-Registration to be cancelled in certain cases

The registration granted to a person is liable to be cancelled, if the said person, -

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

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

(c) violates the Anti profiteering provisions.

(d) violates the provision of rule 10A (furnishing of Bank account details on portal)

(e) avails input tax credit in violation of the provisions of section 16 of the Act or the rules made thereunder; or

(f) furnishes the details of outward supplies in FORM GSTR-1, as amended in FORM GSTR-1A if any, under section 37 for one or more tax periods which is in excess of the outward supplies declared by him in his valid return under section 39 for the said tax periods; or

(g) violates the provision of rule 86B.

(ga) violates the provisions of third or fourth proviso to sub-rule (1) of rule 23; or

(h) being a registered person required to file return under section 39(1) for each month or part thereof, has not furnished returns for a continuous period of six months;

(i) being a registered person required to file return under proviso to sub-section (1) of section 39 for each quarter or part thereof, has not furnished returns for a continuous period of two tax periods.

(b) a person paying tax under section 10 (Composition supplier) has not furnished the return for a financial year beyond 3 months from the due date of furnishing the said return; or

(c) any RP, other than a person specified in clause (b), has not furnished returns for such continuous tax period as may be prescribed (6 months/2 Quarters); or

(d) any person who has taken voluntary registration has not commenced business within 6 months from the date of registration; or

(e) Registration has been obtained by means of fraud, wilful misstatement or suppression of facts:

Proviso: During pendency of cancellation, the PO may suspend the registration.

Rule-22: Cancellation of registration – PO has reason to believe that registration is liable to be cancelled

(1) PO shall issue a notice in GST REG-17, to show cause, within 7 WDs of service of notice, as to why his registration shall not be cancelled.

(2) Reply to SCN shall be furnished in Form GST REG-18 within 7 WDs.

(3) Where a person who has submitted an application for cancellation of his registration is no longer liable to be registered or his registration is liable to be cancelled,

- the PO shall issue an order in GST REG-19, within a period of thirty days
- from the date of application submitted/the date of the reply to show cause issued under sub-rule (1), or under sub-rule (2A) of rule 21A
- cancel the registration, with effect from a date to be determined by him and notify the taxable person,
- directing him to pay arrears of any tax, interest or penalty including the amount liable u/s 29(5).

(4) Where the reply furnished under sub-rule (2), or in response to the notice issued under sub-rule (2A) of rule 21A is found to be satisfactory, PO shall drop the proceedings & pass an order Form REG – 20.

Proviso: the PO shall drop the proceedings & pass an order in REG 20

Provided that where the person instead of replying to notice served for contravention of section 29(2) (b)/(c), furnishes all pending returns and makes full payment of tax dues along with applicable interest & late fee, the PO shall drop the proceedings and pass an order in GST REG 20.

Section 29(3): Even if registration is cancelled, person shall be liable to pay dues relating to prior period to the date of cancellation whether or not such tax and other dues are determined before or after the date of cancellation.

Section 29(4): Cancellation of registration under SGST/UTGST act, deemed cancellation under CGST Act.

Section 29(5): Payment of liability upon cancellation of registration

Every RP whose registration is cancelled shall pay an amount, by way of debit in e-credit/e-cash ledger, Equivalent to

- the ITC in respect of inputs held in stock & inputs in SFs/FGs held in stock or capital goods or plant and machinery on the day immediately preceding the date of such cancellation or
- the output tax payable on such goods,

whichever is higher, calculated in such manner as may be prescribed.

Proviso: in case of capital goods or plant and machinery,

- the taxable person shall pay an amount equal to the ITC taken on the said CGs or p & m,
  - reduced by such percentage points as may be prescribed or
  - the tax on the transaction value

  whichever is higher.

Section 29(6): The amount payable under sub-section (5) shall be calculated as per rule 44.

Rule 44: Manner of reversal of credit under special circumstances (Read after ITC chapter)

(1) The amount of ITC relating to inputs held in stock, inputs contained in SFGs & FGs held in stock, & CGs held in stock shall, be determined in the following manner, namely, —

(a) for inputs held in stock & contained in SFGs & FGs held in stock, the ITC shall be calculated proportionately on the basis of the corresponding invoices on which credit had been availed by the registered taxable person on such inputs;

(b) for capital goods held in stock, the input tax credit involved in the remaining useful life in months shall be computed on pro rata basis, taking the useful life as five years (i.e. 60 months).

(2) The amount shall be determined separately for ITC of CT, ST, UT tax and IT.

(3) Where the tax invoices related to the inputs held in stock are not available, the RP shall

- Estimate the amount under sub-rule (1) based on the prevailing market price of the goods on the effective date of the occurrence of the events.

(4) The amount determined under (1) shall form part of the output tax liability of the RP and the details of the amount shall be furnished in FORM GSTR-10 (final return).

(5) The details furnished under sub-rule (3) shall be duly certified by a practicing-chartered accountant/ cost accountant.

Rule 21A: Suspension of registration

(1) Where a RP has applied for cancellation – Pending cancellation, the registration shall be deemed to be suspended:

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

whichever is later.

(2) Where the PO has reason to believe that registration is liable to be cancelled, he may, suspend the registration with effect from a date to be determined by him, pending the completion of the proceedings for cancellation.

(2A) Where,-

(a) a comparison of the returns furnished by a registered person under section 39 with

- the details of outward supplies furnished in FORM GSTR-1 as amended in FORM GSTR-1A if any; or

- the details of inward supplies derived based on the details of outward supplies furnished by his suppliers in their FORM GSTR-1 or in GSTR-1A of the previous tax period, if any,
- or such other analysis, as may be carried out on the recommendations of the Council, show that there are significant differences or anomalies indicating contravention of the provisions of the Act or the rules made thereunder, leading to cancellation of registration of the said person, or

(b) there is a contravention of the provisions of rule 10A by the registered person,

the registration shall be suspended and the said person shall be intimated in Form GST REG-31, electronically, on the common portal, or by sending a communication to his e-mail address provided at the time of registration or as amended from time to time, highlighting the said differences, anomalies or non-compliances and asking him to explain, within a period of 30 days, as to why his registration shall not be cancelled.

(3) A RP, whose registration has been suspended under sub-rule (1) or sub-rule (2), or sub-rule (2A) shall not make any taxable supply & shall not be required to furnish any return u/s 39.

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

(3A)A RP, whose registration has been suspended under sub-rule (2) or (2A), shall not be granted any refund u/s 54, during the period of suspension of his registration.

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

Provided that the suspension of registration under this rule may be revoked by the PO, anytime during the pendency of the proceedings for cancellation, if he deems fit.

Provided further that where the registration has been suspended under sub-rule (2A) for contravention of the provisions contained in clause (b) or clause (c) of sub-section (2) of section 29 and the registration has not already been cancelled by the proper officer under rule 22, the suspension of registration shall be deemed to be revoked upon furnishing of all the pending returns.

Provided also that where the registration has been suspended under sub-rule (2A) for contravention of provisions of rule 10A and the registration has not already been cancelled by the proper officer under rule 22, the suspension of registration shall be deemed to be revoked upon compliance with the provisions of rule 10A.

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

Section 30: Revocation of cancellation of registration

(1) Any RP, whose registration is cancelled by the PO on his own motion, may apply to such officer for revocation of cancellation of the registration in such manner, within such time and subject to such conditions and restrictions, as may be prescribed (Rule 23).

(2) The PO in such manner and within such period as may be prescribed, by order, either revoke cancellation of the registration or reject the application:

Proviso: the application for revocation of cancellation of registration shall not be rejected unless the applicant has been given an opportunity of being heard.

Proviso: such revocation of cancellation of registration shall be subject to such conditions and restrictions, as may be prescribed.

(3) The revocation of cancellation of registration under the SGST Act/UTGST Act, as the case may be, shall be deemed to be a revocation of cancellation of registration under this Act.

Rule 23: Revocation of cancellation of registration

(1) A RP, whose registration is cancelled by the PO on his own motion, subject to rule 10B,

- may submit an application in REG-21, to such PO, within a period of ninety days from service of the order of cancellation of registration at the common portal;

Proviso:

1. such period may, be extended by the Commissioner/an officer authorised by him, not below the rank of Additional Commissioner/Joint Commissioner, for a further period not exceeding 180 days:
2. 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 and dues has been paid.
3. all returns due for the period from the date of the order of cancellation of registration till the date of the order of revocation of cancellation of registration shall be furnished by the said person within a period of 30 days from the date of order of revocation of cancellation of registration:
4. where the registration has been cancelled with retrospective effect, the registered person shall furnish all returns relating to period from the effective date of cancellation

of registration till the date of order of revocation of cancellation of registration within a period of thirty days from the date of order of revocation of cancellation of registration

(2) (a) If PO is satisfied, that there are sufficient grounds for revocation, he shall revoke the cancellation by an order in REG-22 within a period of 30 days from the date of the receipt of the application.

(b) The PO may, for reason in writing, by an order in REG- 05, reject the application for revocation of cancellation.

(3) The PO shall, before passing rejection order, issue a notice in GST Reg 23 requiring the applicant to show cause as to why the application submitted for revocation should not be rejected and the applicant shall furnish the reply within a period of seven working days from the date of the service of the notice in FORM GST REG-24.

(4) Upon receipt of the information or clarification in FORM GST REG-24, the proper officer shall proceed to dispose of the application in the manner specified in sub-rule (2) within a period of thirty days from the date of the receipt of such information or clarification from the applicant.

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