



“WITH BLESSINGS OF MAA SARASWATI”

PREFACE

Dear student friends,

I feel pleasure in presenting before you the notes on **Indirect Taxes**. In this book as per suggestions received from many well- wishers, teachers, we have incorporated following exclusive features:

- ✓ To the point discussion of theory.
- ✓ Tabular presentation for better grip over the topic.
- ✓ Written in a very simple and lucid manner.
- ✓ Eye soothing font and presentation.
- ✓ Problems have been solved with detailed workings and explanations.
- ✓ Wherever required, 'Notes' has been used to explain the provisions.
- ✓ Better understanding of the topic through Chart.

Any error, omissions, suggestions for the improvement of this book brought to our notice will be thankfully acknowledged and incorporated in the next edition.

Your suggestions and Feedbacks are welcome at-

Email: adclasses886@gmail.com

(AS AMENDED BY FINANCE ACT, 2017)

**Yours as ever,
CA. ASHISH B. DEOLASI
(B.Com, Lic. CS, ACA)
Mob. 8007858173**

*All good in my life happened due to the
Blessings of my parents:*

***Shri. Bharatkumar Deolasi
Smt. Bharati B. Deolasi***

They are my living God.

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CHAPTER 11

REGISTRATION UNDER GST

RELEVANT DEFINITION

Aggregate Turnover [Sec. 2(6)]

Means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, exports of goods or services or both and inter-State supplies of persons having the same Permanent Account Number, to be computed on all India basis but excludes Central tax, State tax, Union territory tax, Integrated tax and Cess.

Business vertical [Sec. 2(18)]

Means a distinguishable component of an enterprise that is engaged in the supply of individual goods or services or a group of related goods or services which is subject to risks and returns that are different from those of the other business verticals.

Explanation.—For the purposes of this clause, factors that should be considered in determining whether goods or services are related include—

- a. the nature of the goods or services;
- b. the nature of the production processes;
- c. the type or class of customers for the goods or services;
- d. the methods used to distribute the goods or supply of services; and the nature of regulatory environment (wherever applicable), including banking, insurance, or public utilities.

Electronic Commerce [Sec. 2(44)]

Means the supply of goods or services or both, including digital products over digital or electronic network;

Electronic Commerce Operator [Sec. 2(45)]

Means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce;

Exempt Supply [Sec. 2(47)]

Means supply of any goods or services or both which attracts Nil rate of tax or which may be wholly exempt from tax under section 11, or under section 6 of the Integrated Goods and Services Tax Act, and includes non-taxable supply;

Non-taxable supply [Sec. 2(78)]

Means a supply of goods or services or both which is not leviable to tax under this Act or under the Integrated Goods and Services Tax Act;

Casual taxable person [Sec. 2(20)]

Means a person who occasionally undertakes transactions involving supply of goods or services or both in the course or furtherance of business, whether as principal, agent or in any other capacity, in a State or a Union territory where he has no fixed place of business;

Non-resident taxable person [Sec. 2(77)]

Means any person who occasionally undertakes transactions involving supply of goods or services or both, whether as principal or agent or in any other capacity, but who has no fixed place of business or residence in India;

Difference between Casual and Non-resident Taxable persons?

Casual Taxable Person	Non-resident Taxable Person
Occasional undertakes transactions involving supply of goods or services in a state or UT where he has no fixed place of business.	Occasional undertakes transactions involving supply of goods or services but has no fixed place of business residence in India.
Has a PAN Number	Do not have a PAN Number; A non-resident person, if having PAN number may take registration as a casual taxable person
Same application form for registration as for normal taxable persons viz GST REG-01	Separate application form for registration by non-resident taxable person viz GST REG-9
Has to undertake transactions in the course or furtherance of business	Business test absent in the definition

Casual Taxable Person	Non-resident Taxable Person
Has to file normal GSTR-1, GSTR-2 and GSTR-3 returns	Has to file a separate simplified return in the format GSTR-5
Can claim ITC of all inward supplies	Can get ITC only in respect of import of goods and/or services.

WHO IS LIABLE TO TAKE REGISTRATION [SEC. 22]

<p>Persons liable to take Registration [Sec. 22(1)]</p>	<p>Every supplier shall be liable to be registered under this Act in the State or Union territory, other than special category States, from where he makes a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds twenty lakh rupees:</p> <p>♦ Provided that where such person makes taxable supplies of goods or services or both from any of the special category States, he shall be liable to be registered if his aggregate turnover in a financial year exceeds ten lakh rupees.</p> <p>Explanation—For the purposes of this section,—</p> <p>(i) the expression "aggregate turnover" shall include all supplies made by the taxable person, whether on his own account or made on behalf of all his principals;</p> <p>(ii) the supply of goods, after completion of job work, by a registered job worker shall be treated as the supply of goods by the principal referred to in section 143 i.e procedure of job work, and the value of such goods shall not be included in the aggregate turnover of the registered job worker,</p> <p>(iii) the expression “special category States” shall mean the States as specified in sub-clause (g) of clause (4) of article 279A of the Constitution except the state of Jammu and Kashmir.</p> <p>Sub-clause (g) of clause (4) of article 279A of the Constitution.</p> <p>States of Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand.</p>
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Registered Under existing law is liable to be registered under this Act, [Sec. 22(2)]	<p>Every person who, on the day immediately preceding the appointed day, is registered or holds a licence under an existing law, shall be liable to be registered under this Act with effect from the appointed day.</p>
Transfer of business [Sec. 22(3)]	<p>Where a business carried on by a taxable person registered under this Act is transferred, whether on account of succession or otherwise, to another person as a going concern, the transferee or the successor, as the case may be, shall be liable to be registered with effect from the date of such transfer or succession.</p>
Amalgamation and demerger [Sec. 22(4)]	<p>Notwithstanding anything contained in sub-sections (1) and (3), in a case of transfer pursuant to sanction of a scheme or an arrangement for amalgamation or, as the case may be, demerger of two or more companies pursuant to an order of a High Court, Tribunal, or otherwise, the transferee shall be liable to be registered, with effect from the date on which the Registrar of Companies issues a Certificate of Incorporation giving effect to such order of the High Court or Tribunal.</p>

PERSONS NOT LIABLE FOR REGISTRATION [SEC. 23]

Supplying non taxable goods [Sec.23(1)]	<p>The following persons shall not be liable to registration, namely:-</p> <p>(d) any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax under this Act or under the Integrated Goods and Services Tax Act;</p>
Agriculturist	<p>(b) an agriculturist, to the extent of supply of produce out of cultivation of land.</p>
Notified by the Govt. [Sec.23(2)]	<p>The Government may, on the recommendations of the Council, by notification, specify the category of persons who may be exempted from obtaining registration under this Act.</p> <p>Notify by Govt.</p> <ol style="list-style-type: none"> 1. Individual advocates (including senior advocates) 2. Individual sponsorship service providers (including players)

COMPULSORY REGISTRATION IN CERTAIN CASES [SEC. 24]

<p>When threshold limit is not applicable (mandatory registration) [Sec.24]</p>	<p>Notwithstanding anything contained in sub-section (1) of section 22, the following categories of persons shall be required to be registered under this Act,—</p> <ul style="list-style-type: none"> (i) persons making any inter-State taxable supply; (ii) casual taxable persons making taxable supply; (iii) persons who are required to pay tax under reverse charge; (iv) person who are required to pay tax under sub-section (5) of section 9 i.e electronic commerce operator; (v) non-resident taxable persons making taxable supply; (vi) persons who are required to deduct tax under section 51, whether or not separately registered under this Act; <p>Section-51:-</p> <p>CG/SG or Govt, agency or notified person to deduct 1% from the payment made to supplier exceeds Rs.2,50,000.</p> <ul style="list-style-type: none"> (vii) persons who make taxable supply of goods or services or both on behalf of other taxable persons whether as an agent or otherwise; (viii) Input Service Distributor, whether or not separately registered under this Act; (ix) persons who supply goods or services or both, other than supplies specified under sub-section (5) of section 9, through such electronic commerce operator who is required to collect tax at source under section 52 (x) every electronic commerce operator (xi) every person supplying online information and database access or retrieval services from a place outside India to a person in India, other than a registered person; and (xii) such other person or class of persons as may be notified by the Government on the recommendations of the Council.
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PROCEDURE FOR REGISTRATION [SEC. 25]

Application [Sec. 25(1)]	<p>Every person who is liable to be registered under section 22 or section 24 shall apply for registration in every such State or Union territory in which he is so liable within thirty days from the date on which he becomes liable to registration, in such manner and subject to such conditions as may be prescribed:</p>
Casual Taxable person/ non-resident [Proviso to section 25(1)]	<p>Provided that a casual taxable person or a non-resident taxable person shall apply for registration at least five days prior to the commencement of business.</p>
Supply from territorial water [Explanation to section 25(1)]	<p>Explanation.—Every person who makes a supply from the territorial waters of India shall obtain registration in the coastal State or Union territory where the nearest point of the appropriate baseline is located.</p>
Single or multiple registration [Sec. 25(2)]	<p>A person seeking registration under this Act shall be granted a single registration in a State or Union territory:</p> <p>♦ Provided that a person having multiple business verticals in a State or Union territory may be granted a separate registration for each business vertical, subject to such conditions as may be prescribed.</p>
Voluntary registration [Sec. 25(3)]	<p>A person, though not liable to be registered under section 22 or section 24 may get himself registered voluntarily, and all provisions of this Act, as are applicable to a registered person, shall apply to such person.</p>
Person having more than one registration shall be treated as distinct person [Sec. 25(4)]	<p>A person who has obtained or is required to obtain more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as distinct persons for the purposes of this Act.</p>
Establishments of distinct persons [Sec, 25(5)]	<p>Where a person who has obtained or is required to obtain registration in a State or Union territory in respect of an establishment, has an establishment in another State or Union territory, then such establishments shall be treated as establishments of distinct persons for the purposes of this Act.</p>

<p>PAN is mandatory [Sec.25(6)]</p>	<p>Every person shall have a Permanent Account Number issued under the Income-tax Act, 1961 in order to be eligible for grant of registration:</p> <p>Provided that a person required to deduct tax under section 51 may have, in lieu of a Permanent Account Number, a Tax Deduction and Collection Account Number issued under the said Act in order to be eligible for grant of registration.</p> <p>Section 51</p> <p>CG/SG or Govt, agency or notified person to deduct 1% from the payment made to supplier exceeds Rs. 2,50,000.</p>
<p>Document for non- resident [Sec. 25(7)]</p>	<p>Notwithstanding anything contained in sub-section (6), a non-resident taxable person may be granted registration under sub-section (1) on the basis of such other documents as may be prescribed.</p>
<p>Person fails to obtain registration [Sec. 25(8)]</p>	<p>Where a person who is liable to be registered under this Act fails to obtain registration, the proper officer may, without prejudice to any action which may be taken under this Act or under any other law for the time being in force, proceed to register such person in such manner as may be prescribed.</p>
<p>UIN to Specified person [Sec. 25(9)]</p>	<p>Notwithstanding anything contained in sub-section (1),—</p> <p>(a) any specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries; and</p> <p>(b) any other person or class of persons, as may be notified by the Commissioner, shall be granted a Unique Identity Number in such manner and for such purposes, including refund of taxes on the notified supplies of goods or services or both received by them, as may be prescribed.</p>
<p>Grant or rejection of registration certificate [Sec. 25(10)]</p>	<p>The registration or the UIN shall be granted or rejected after due verification in such manner and within such period as may be prescribed.</p>

Issue registration certificate [Sec. 25(11)]	A certificate of registration shall be issued in such form and with effect from such date as may be prescribed.
registration deemed to have been granted [Sec. 25(12)]	A registration or a UIN shall be deemed to have been granted after the expiry of the period prescribed under sub-section (10), if no deficiency has been communicated to the applicant within that period.

DEEMED REGISTRATION [SEC. 26]

Deemed registration in SGST/ UTGST/UIN [Sec. 26 (1)]	The grant of registration or the Unique Identity Number under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act shall be deemed to be a grant of registration or the Unique Identity Number under this Act subject to the condition that the application for registration or the Unique Identity Number has not been rejected under this Act within the time specified in sub-section (10) of section 25.
Deemed rejection [Sec. 26 (1)]	Notwithstanding anything contained in sub-section (10) of section 25, any rejection of application for registration or the Unique Identity Number under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act shall be deemed to be a rejection of application for registration under this Act.

APPLICATION FOR REGISTRATION [RULE 8 OF CGST RULES, 2017]

Procedure for registration [Rule 8(1)]	Every person , other than a non-resident taxable person, a person required to deduct tax at source under section 51, a person required to collect tax at source under section 52 and a person supplying online information and database access or retrieval services from a place outside India to a non-taxable online recipient referred to in section 14 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017) who is liable to be registered under sub-section (1) of section 25 and every person seeking registration under sub-section (3) of section 25 (hereafter in this Chapter referred to as “the applicant”) shall, before applying for registration, declare his Permanent Account Number, mobile number, e-mail address, State or Union territory in Part A of FORM GST REG-01 on the common portal, either directly or through a Facilitation Centre notified by the Commissioner.
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	<p>♦ Provided that a person having a unit(s) in a Special Economic Zone or being a Special Economic Zone developer shall make a separate application for registration as a business vertical distinct from his other units located outside the Special Economic Zone.</p> <p>♦ Provided further that every person being an Input Service Distributor shall make a separate application for registration as such Input Service Distributor.</p>
Verification of PAN, mobile no. and Email ID [Rule 8(2)]	<p>(a) The Permanent Account Number shall be validated online by the common portal from the database maintained by the Central Board of Direct Taxes;</p> <p>(b) The mobile number declared under sub-rule (1) shall be verified through a one-time password sent to the said mobile number; and</p> <p>(c) The e-mail address declared under sub-rule (1) shall be verified through a separate one-time password sent to the said e-mail address.</p>
Temporary reference number [Rule 8(3)]	On successful verification of the Permanent Account Number, mobile number and e-mail address, a temporary reference number shall be generated and communicated to the applicant on the said mobile number and e-mail address.
Submission of Application in PART B [Rule 8(4)]	Using the reference number generated under sub-rule (3), the applicant shall electronically submit an application in Part B of FORM GST REG-01 , duly signed or verified through electronic verification code, along with the documents specified in the said Form at the common portal, either directly or through a Facilitation Centre notified by the Commissioner.
Acknowledgement No. [Rule 8(5)]	On receipt of an application under sub-rule (4), an acknowledgement shall be issued electronically to the applicant in FORM GST REG-02 .
Advance payment by Casual taxable person [Rule 8(6)]	A person applying for registration as a casual taxable person shall be given a temporary reference number by the common portal for making advance deposit of tax in accordance with the provisions of section 27 and the acknowledgement under sub-rule (5) shall be issued electronically only after the said deposit.

VERIFICATION OF THE APPLICATION AND APPROVAL

[RULE 9 OF CGST RULES, 2017]

Approval of Registration [Rule 9(1)]	<p>The application shall be forwarded to the proper officer who shall examine the application and the accompanying documents and if the same are found to be in order, approve the grant of registration to the applicant within a period of three working days from the date of submission of the application.</p>
Notice by proper officer in case of any deficiency etc. [Rule 9(2)]	<p>Where the application submitted under rule 8 is found to be deficient, either in terms of any information or any document required to be furnished under the said rule, or where the proper officer requires any clarification with regard to any information provided in the application or documents furnished therewith, he may issue a notice to the applicant electronically in FORM GST REG-03 within a period of three working days from the date of submission of the application and the applicant shall furnish such clarification, information or documents electronically, in FORM GST REG-04, within a period of seven working days from the date of the receipt of such notice .</p> <p><i>Explanation</i> -The clarification includes modification or correction of particulars declared in the application for registration, other than PAN, State, mobile number and e-mail address declared in Part A of FORM GST REG-01.</p>
Grant of registration after submission of above details [Rule 9(3)]	<p>Where the proper officer is satisfied with the clarification, information or documents furnished by the applicant, he may approve the grant of registration to the applicant within a period of seven working days from the date of the receipt of such clarification or information or documents.</p>
Rejection of application of registration [Rule 9(4)]	<p>Where no reply is furnished by the applicant in response to the notice issued under sub-rule (2) or where the proper officer is not satisfied with the clarification, information or documents furnished, he shall, for reasons to be recorded in writing, reject such application and inform the applicant electronically in FORM GST REG- 05.</p>

Deeming Approval [Rule 9(5)]	<p>If the proper officer fails to take any action -</p> <p>(a) within a period of three working days from the date of submission of the application, or</p> <p>(b) within a period of seven 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</p>
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ISSUE OF REGISTRATION CERTIFICATE [RULE 10 OF CGST RULE, 2017]

Issue of certificate of registration [Rule 10(1)]	<p>Subject to the provisions of sub-section (12) of section 25, where the application for grant of registration has been approved under rule 9, a certificate of registration in FORM GST REG-06 showing the principal place of business and additional place or places of business shall be made available to the applicant on the common portal and a Goods and Services Tax Identification Number shall be assigned subject to following characters, namely:</p> <p>(a) two characters for the State code;</p> <p>(b) ten characters for the Permanent Account Number or the Tax Deduction and Collection Account Number;</p> <p>(c) two characters for the entity code; and</p> <p>(d) one checksum character.</p>
Effective date of registration if application filed within 30 days [Rule 10(2)]	<p>The registration shall be effective from the date on which the person becomes liable to registration where the application for registration has been submitted within a period of thirty days from such date.</p>
Effective date of registration if application filed after 30 days [Rule 10(3)]	<p>Where an application for registration has been submitted by the applicant after the expiry of thirty days from the date of his becoming liable to registration, the effective date of registration shall be the date of the grant of registration under sub-rule (1) or sub-rule (3) or sub-rule (5) of rule 9.</p>

Digitally signed [Rule 10(4)]	Every certificate of registration shall be duly signed or verified through electronic verification code by the proper officer under the Act.
Registration number in case of deemed approval [Rule 10(5)]	Where the registration has been granted under sub-rule (5) of rule 9, the applicant shall be communicated the registration number, and the certificate of registration under sub-rule (1), duly signed or verified through electronic verification code, shall be made available to him on the common portal within a period of three days after the expiry of the period specified in sub-rule (5) of rule 9,

SEPARATE REGISTRATION FOR MULTIPLE BUSINESS VERTICALS WITHIN A STATE OR A UNION TERRITORY [RULE 11 OF CGST RULES, 2017]

Separate registration for Business verticals [Rule 11(1)]	<p>Any person having multiple business verticals within a State or a Union territory, requiring a separate registration for any of its business verticals under sub-section (2) of section 25 shall be granted separate registration in respect of each of the verticals subject to the following conditions, namely:</p> <p>(a) such person has more than one business vertical as defined in clause (18) of section 2;</p> <p>(b) the business vertical of a taxable person shall not be granted registration to pay tax under section 10 if any one of the other business verticals of the same person is paying tax under section 9;</p> <p>(c) all separately registered business verticals of such person shall pay tax under the Act on supply of goods or services or both made to another registered business vertical of such person and issue a tax invoice for such supply.</p> <p><i>Explanation.</i>—For the purposes of clause (b), it is hereby clarified that where any business vertical of a registered person that has been granted a separate registration becomes ineligible to pay tax under section 10, all other business verticals of the said person shall become ineligible to pay tax under the said section.</p>
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Separate Application [Rule 11(2)]	A registered person eligible to obtain separate registration for business verticals may submit a separate application in FORM GST REG-01 in respect of each such vertical .
Applicability of Rule 2 and Rule 3 [Rule 11(3)]	The provisions of rule 9 and rule 10 relating to the verification and the grant of registration shall, <i>mutatis mutandis</i> , apply to an application submitted under this rule.

GRANT OF REGISTRATION TO PERSONS REQUIRED TO DEDUCT TAX AT SOURCE OR TO COLLECT TAX AT SOURCE [RULE 12 OF CGST RULES, 2017]

Application by Person required to deduct TDS and collect TCS [Rule 12(1)]	Any person required to deduct tax in accordance with the provisions of section 51 or a person required to collect tax at source in accordance with the provisions of section 52 shall electronically submit an application, duly signed or verified through electronic verification code, in FORM GST REG-07 for the grant of registration through the common portal, either directly or through a Facilitation Centre notified by the Commissioner.
Issue of certificate of registration [Rule 12(2)]	The proper officer may grant registration after due verification and issue a certificate of registration in FORM GST REG-06 within a period of three working days from the date of submission of the application.
Cancellation of RC [Rule 12(3)]	<p>Where, upon an enquiry or pursuant to any other proceeding under the Act, the proper officer is satisfied that a person to whom a certificate of registration in FORM GST REG-06 has been issued is no longer liable to deduct tax at source under section 51 or collect tax at source under section 52, the said officer may cancel the registration issued under sub-rule (2) and such cancellation shall be communicated to the said person electronically in FORM GST REG-08:</p> <p>♦ Provided that the proper officer shall follow the procedure as provided in rule 22 for the cancellation of registration.</p>

SUO MOTO REGISTRATION [RULE 16 OF CGST RULES, 2017]

Registration by proper officer in case of survey, search etc. [Rule 16(1)]	Where, pursuant to any survey, enquiry, inspection, search or any other proceedings under the Act, the proper officer finds that a person liable to registration under the Act has failed to apply for such registration, such officer may register the said person on a temporary basis and issue an order in FORM GST REG-12.
Effective date of registration [Rule 16(2)]	The registration granted under sub-rule (1) shall be effective from the date of such order granting registration.
Application for registration/ Appeal against temporary registration [Rule 16(3)]	<p>Every person to whom a temporary registration has been granted under sub-rule (1) shall, within a period of ninety days from the date of the grant of such registration, submit an application for registration in the form and manner provided in rule 8 or rule 12</p> <p>♦ Provided that where the said person has filed an appeal against the grant of temporary registration, in such case the application for registration shall be submitted within a period of thirty days from the date of the issuance of the order upholding the liability to registration by the Appellate Authority.</p>
Other provision Apply mutatis mutandis. [Rule 16(4)]	The provisions of rule 9 and rule 10 relating to verification and the issue of the certificate of registration shall, <i>mutatis mutandis</i> , apply to an application submitted under sub-rule (3).
Effective date of registration pursuant to verification [Rule 16(5)]	The Goods and Services Tax Identification Number assigned pursuant to verification under sub-rule (4) shall be effective from the date of the order granting registration under sub-rule (1).

ASSIGNMENT OF UNIQUE IDENTITY NUMBER TO CERTAIN SPECIAL ENTITIES
[RULE 17 OF CGST RULES, 2017]

Application for UIN by certain special entities [Rule 17(1)]	<p>Every person required to be granted a Unique Identity Number in accordance with the provisions of sub-section (9) of section 25 may submit an application electronically in FORM GST REG-13, duly signed or verified through electronic verification code, in the manner specified in rule 8 at the common portal, either directly or through a Facilitation Centre notified by the Commissioner.</p>
Assign UIN & issue certificate of registration [Rule 17(2)]	<p>The proper officer may, upon submission of an application in FORM GST REG-13 or after filling up the said form, assign a Unique Identity Number to the said person and issue a certificate in FORM GST REG-06 within a period of three working days from the date of the submission of the application.</p>

DISPLAY OF REGISTRATION CERTIFICATE AND GOODS AND SERVICES TAX IDENTIFICATION NUMBER ON THE NAME BOARD [RULE 18 CGST RULES, 2017]

Display of Registration Certificate [Rule 18(1)]	<p>Every registered person shall display his certificate of registration in a prominent location at his principal place of business and at every additional place or places of business.</p>
Display of GSTIN [Rule 18(2)]	<p>Every registered person shall display his Goods and Services Tax Identification Number on the name board exhibited at the entry of his principal place of business and at every additional place or places of business.</p>

MIGRATION OF PERSONS REGISTERED UNDER THE EXISTING LAW

[RULE 24 OF CGST RULES, 2017]

Provisional Registration [Rule 24(1)]	<p>(a) Every person, other than a person deducting tax at source or an Input Service Distributor, registered under an existing law and having a Permanent Account Number issued under the provision of Income-tax Act, 1961 (Act 43 of 1961) shall enrol on the common portal by validating his e-mail address and mobile number, either directly or through a Facilitation Centre notified by the Commissioner.</p> <p>(b) Upon enrolment under clause (a), the said person shall be granted registration on a provisional basis and a certificate of registration in FORM GST REG-25, incorporating the Goods and Service Tax Identification Number therein, shall be made available to him on the common portal:</p> <p>Provided that a taxable person who has been granted multiple registrations under the existing law on the basis of a single Permanent Account Number shall be granted only one provisional registration under the Act:</p>
Certificate of Registration [Rule 24(2)]	<p>(a) Every person who has been granted a provisional registration under sub-rule (1) shall submit an application electronically in FORM GST REG- 26, duly signed or verified through electronic verification code, along with the information and documents specified in the said application, on the common portal either directly or through a Facilitation Centre notified by the Commissioner.</p> <p>(b) The information asked for in clause (a) shall be furnished within a period of three months or within such further period as may be extended by the commissioner in this behalf.</p> <p>(c) If the Information and the particulars furnished in the application are found, by the proper officer, to be correct and complete, a certificate of registration in FORM GST REG-06 shall be made available to the registered person electronically on the common portal.</p>

Issue of SCN [Rule 24(3)]	<p>Where the particulars or information specified in sub-rule (2) have either not been furnished or not found to be correct or complete, the proper officer shall, after serving a notice to show cause in FORM GST REG-27 and after affording the person concerned a reasonable opportunity of being heard, cancel the provisional registration granted under sub-rule(1) and issue an order in FORM GST REG-28:</p> <p>♦ Provided that the show cause notice issued in FORM GST REG-27 can be withdrawn by issuing an order in FORM GST REG-20, if it is found, after affording the person an opportunity of being heard, that no such cause exists for which the notice was issued.</p>
Deemed Registration [Rule 24(3A)]	<p>Where a certificate of registration has not been made available to the applicant on the common portal within a period of fifteen days from the date of the furnishing of information and particulars referred to in clause (c) of sub-rule (2) and no notice has been issued under sub-rule (3) within the said period, the registration shall be deemed to have been granted and the said certificate of registration, duly signed or verified through electronic verification code, shall be made available to the registered person on the common portal.</p>
Cancellation of RC if person not liable to be registered [Rule 24(4)]	<p>Every person registered under any of the existing laws, who is not liable to be registered under the Act may, on or before 31st October, 2017, at his option, submit an application electronically in FORM GST REG-29 at the common portal for the cancellation of registration granted to him and the proper officer shall, after conducting such enquiry as deemed fit, cancel the said registration.</p>

PHYSICAL VERIFICATION OF BUSINESS PREMISES IN CERTAIN CASES **[RULE 25 OF CGST RULES, 2017]**

Where the proper officer is satisfied that the physical verification of the place of business of a registered person is required **after the grant of registration**, he may get such verification done and the verification report along with the other documents, including photographs, shall be uploaded in FORM GST REG-30 on the common portal within a period of fifteen working days following the date of such verification.

METHOD OF AUTHENTICATION [RULE 26 OF CGST RULES, 2017]

<p>All Documents to be submitted electronic [Rule 26(1)]</p>	<p>All applications, including reply, if any, to the notices, returns including the details of outward and inward supplies, appeals or any other document required to be submitted under the provision of these rules shall be so submitted electronically with digital signature certificate or through signature as specified under the provision of the Information Technology Act, 2000 (21 of 2000) or verified by any other mode of signature or verification as notified by the Board in this behalf:</p> <p>Provided that a registered person registered under the provisions of the Companies Act, 2013(18 of 2013) shall furnish the documents or application verified through digital signature certificate.</p> <p>Notification No. 6/2017-Central Tax, dated 19-6-2017, (amended by Notification No. 11/2017, dated 28-6-2017) w.e.f 22-6-2017</p> <p>Board notifies the following modes of verification, for the purpose of the said rule, namely:—</p> <ul style="list-style-type: none"> (i) Aadhaar based Electronic Verification Code (EVC); (ii) Electronic verification code generated through net banking login on the common portal; (iii) Electronic verification code generated on the common portal: <p>Provided that where the mode of authentication of any document is through any of the aforesaid modes, such verification shall be done within two days of furnishing the documents.</p>
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<p>Signed or verified documents [Rule 26(2)]</p>	<p>Each document including the return furnished online shall be signed or verified through electronic verification code-</p> <p>(a) in the case of an individual, by the individual himself or where he is absent from India by some other person duly authorised by him in this behalf, and where the individual is mentally incapacitated from attending to his affairs, by his guardian or by any other person competent to act on his behalf;</p> <p>(b) in the case of a Hindu Undivided Family, by a Karta and where the Karta is absent from India or is mentally incapacitated from attending to his affairs, by any other adult member of such family or by the authorised signatory of such Karta;</p> <p>(c) in the case of a company, by the chief executive officer or authorised signatory thereof;</p> <p>(d) in the case of a Government or any Governmental agency or local authority, by an officer authorised in this behalf;</p> <p>(e) in the case of a firm, by any partner thereof, not being a minor or authorised signatory thereof;</p> <p>(f) in the case of any other association, by any member of the association or persons or authorised signatory thereof;</p> <p>(g) in the case of a trust, by the trustee or any trustee or authorised signatory thereof; or</p> <p>(h) in the case of any other person, by some person competent to act on his behalf, or by a person authorised in accordance with the provisions of section 48,</p>
<p>All notices, certificates Etc. to be issued Electronically [Rule 26(3)]</p>	<p>All notices, certificates and orders under the provision of this chapter shall be issued electronically by the proper officer or any other officer authorised to issue such notices or certificates or orders, through digital signature certificate or through e-signature as specified under the provisions of the Information Technology Act, 2000 (21 of 2000) or verified by any other mode of signature or verification as notified by the Board in this behalf.</p>

REGISTRATION OF CASUAL TAXABLE PERSON OR NON-RESIDENT PERSON [SEC. 27]

Validity of registration Certificate [Sec. 27 (1)]	<p>The certificate of registration issued to a casual taxable person or a non-resident taxable person shall be valid for the period specified in the application for registration or ninety days from the effective date of registration, whichever is earlier and such person shall make taxable supplies only after the issuance of the certificate of registration:</p> <p>♦ Provided that the proper officer may, on sufficient cause being shown by the said taxable person, extend the said period of ninety days by a further period not exceeding ninety days.</p>
Advance deposit of tax [Sec. 27 (2)]	<p>A casual taxable person or a non-resident taxable person shall, at the time of submission of application for registration under sub-section (1) of section 25, make an advance deposit of tax in an amount equivalent to the estimated tax liability of such person for the period for which the registration is sought:</p> <p>♦ Provided that where any extension of time is sought under sub-section (1), such taxable person shall deposit an additional amount of tax equivalent to the estimated tax liability of such person for the period for which the extension is sought.</p>
Amount credited to Electronic cash ledger [Sec. 27(3)]	<p>The amount deposited under sub-section (2) shall be credited to the electronic cash ledger of such person and shall be utilised in the manner provided under section 49.</p>

GRANT OF REGISTRATION TO NON-RESIDENT TAXABLE PERSON [RULE 13 OF CGST RULES, 2017]

Application by Non-resident taxable person [Rule 13(1)]	<p>A non-resident taxable person shall electronically submit an application, along with a self-attested copy of his valid passport, for registration, duly signed or verified through electronic verification code, in FORM GST REG-09, at least five days prior to the commencement of business at the common portal either directly or through a Facilitation Centre notified by the Commissioner:</p> <p>♦ Provided that in the case of a business entity incorporated or established outside India, the application for registration shall be submitted along with its tax identification number or unique number on the basis of which the entity is identified by the Government of that country or its Permanent Account Number, if available.</p>
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Temporary reference number for payment of advance tax [Rule 3(2)]	A person applying for registration as a non-resident taxable person shall be given a temporary reference number by the common portal for making an advance deposit of tax in accordance with the provisions of section 27 and the acknowledgement under sub-rule (5) of rule 1 shall be issued electronically only after the said deposit in his electronic cash ledger.
Applicability of Rule 2 and Rule 3 “mutatis mutandis” [Rule 13(3)]	The provisions of rule 9 and rule 10 relating to the verification and the grant of registration shall, <i>mutatis mutandis</i> , apply to an application submitted under this rule.
Signature by authorised person [Rule 13(4)]	The application for registration made by a non-resident taxable person shall be duly signed or verified through electronic verification code by his authorised signatory who shall be a person resident in India having a valid Permanent Account Number.

GRANT OF REGISTRATION TO A PERSON SUPPLYING ONLINE INFORMATION AND DATABASE ACCESS OR RETRIEVAL SERVICES FROM A PLACE OUTSIDE INDIA TO A NON-TAXABLE ONLINE RECIPIENT [RULE 14 OF CGST RULES, 2017]

Application by person supplying online information etc. [Rule 14(1)]	Any person supplying online information and database access or retrieval services from a place outside India to a non-taxable online recipient shall electronically submit an application for registration, duly signed or verified through electronic verification code, in FORM GST REG-10, at the common portal, either directly or through a Facilitation Centre notified by the Commissioner.
Grant of registration [Rule 14(2)]	The applicant referred to in sub-rule (1) shall be granted registration, in FORM GST REG-06, subject to such conditions and restrictions and by such officer as may be notified by the Central Government on the recommendations of the Council.

EXTENSION IN PERIOD OF OPERATION BY CASUAL TAXABLE PERSON AND NON-RESIDENT TAXABLE PERSON [RULE 15 OF CGST RULES, 2017]

Application for extension the period [Rule 15(1)]	Where a registered casual taxable person or a nonresident taxable person intends to extend the period of registration indicated in his application of registration, an application in FORM GST REG-11 shall be submitted electronically through the common portal, either directly or through a Facilitation Centre notified by the Commissioner, by such person before the end of the validity of registration granted to him.
Advance Payment [Rule 15(2)]	The application under sub-rule (1) shall be acknowledged only on payment of the amount specified in sub-section (2) of section 27.

AMENDMENT IN REGISTRATION CERTIFICATE [SEC. 28]

Inform about changes [Sec. 28 (1)]	Every registered person and a person to whom a Unique Identity Number has been assigned shall inform the proper officer of any changes in the information furnished at the time of registration or subsequent thereto, in such form and manner and within such period as may be prescribed.
Approved or reject [Sec. 28(2)]	<p>The proper officer may, on the basis of information furnished under sub-section (1) or as ascertained by him, approve or reject amendments in the registration particulars in such manner and within such period as may be prescribed:</p> <p>♦ Provided that approval of the proper officer shall not be required in respect of amendment of such particulars as may be prescribed:</p> <p>♦ Provided further that the proper officer shall not reject the application for amendment in the registration particulars without giving the person an opportunity of being heard.</p>
Rejection/ approval under SGST/UTGST [Sec. 28(3)]	Any rejection or approval of amendments under the State Goods and Services Tax or the Union Territory Goods and Services Tax Act, as the case may be, shall be deemed to be a rejection or approval under this Act.

AMENDMENT OF REGISTRATION [RULE 19 OF CGST RULES, 2017]

<p>Application for changes [Rule 19(1)]</p>	<p>Where there is any change in any of the particulars furnished in the application for registration in FORM GST REG-01 or FORM GST REG- 07 or FORM GST REG- 09 or FORM GST REG-10 or for Unique Identification Number in FORM GST-REG-13 either at the time of obtaining registration or Unique Identification Number or as amended from time to time, the registered person shall, within a period of fifteen days of such change, submit an application, duly signed or verified through electronic verification code, electronically in FORM GST REG-14, along with the documents relating to such change at the common portal either directly or through a Facilitation Centre notified by the Commissioner.</p> <p>Provided that—</p> <p>(a) where the change relates to,—</p> <p>(i) legal name of business;</p> <p>(ii) address of the principal place of business or any additional place(s) of business; or</p> <p>(iii) addition, deletion or retirement of partners or directors, Karta, Managing Committee, Board of Trustees, Chief Executive Officer or equivalent, responsible for the day to day affairs of the business,-</p> <p>which does not warrant cancellation of registration under section 29, the proper officer shall, after due verification, approve the amendment within a period of fifteen working days from the date of the receipt of the application in FORM GST REG-14 and issue an order in FORM GST REG-15 electronically and such amendment shall take effect from the date of the occurrence of the event warranting such amendment;</p> <p>(b) the change relating to sub-clause (i) and sub-clause (iii) of clause (a) in any State or Union territory shall be applicable for all registrations of the registered person obtained under the provisions of this Chapter on the same Permanent Account Number;</p>
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	<p>(c) where the change relates to any particulars other than those specified in clause (a), the certificate of registration shall stand amended upon submission of the application in FORM GST REG-14 on the common portal;</p> <p>(d) where a change in the constitution of any business results in the change of the Permanent Account Number of a registered person, the said person shall apply for fresh registration in FORM GST REG-01:</p> <p>Provided further that any change in the mobile number or e-mail address of the authorised signatory submitted under this rule, as amended from time to time, shall be carried out only after online verification through the common portal in the manner provided under the sub-rule (2) of rule 8,</p>
SCN for rejection [Rule 19(2)]	<p>Where the proper officer is of the opinion that the amendment sought under sub-rule (1) is either not warranted or the documents furnished therewith are incomplete or incorrect, he may, within a period of fifteen working days from the date of the receipt of the application in FORM GST REG-14, serve a notice in FORM GST REG-03, requiring the registered person to show cause, within a period of seven working days of the service of the said notice, as to why the application submitted under sub-rule (1) shall not be rejected.</p>
Reply of SCN [Rule 19(3)]	<p>The registered person shall furnish a reply to the notice to show cause, issued under sub-rule (2), in FORM GST REG-04, within a period of seven working days from the date of the service of the said notice.</p>
Passing of order if reply of SCN is not satisfactory [Rule 19(4)]	<p>Where the reply furnished under sub-rule (3) is found to be not satisfactory or where no reply is furnished in response to the notice issued under sub-rule (2) within the period prescribed in sub-rule (3), the proper officer shall reject the application submitted under sub-rule (1) and pass an order in FORM GST REG-05</p>

Deemed Amendment [Rule 19(5)]	<p>If the proper officer fails to take any action—</p> <p>(a) within a period of fifteen working days from the date of submission of the application, or</p> <p>(b) within a period of seven working days from the date of the receipt of the reply to the notice to show cause under sub-rule (3), the certificate of registration shall stand amended to the extent applied for and the amended certificate shall be made available to the registered person on the common portal.</p>
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CANCELLATION OF REGISTRATION CERTIFICATE [SEC. 29]

Cancellation of registration [Sec. 29(1)]	<p>The proper officer may, either on his own motion or on an application filed by the registered person or by his legal heirs, in case of death of such person, cancel the registration, in such manner and within such period as may be prescribed, having regard to the circumstances where,—</p> <p>(a) the business has been discontinued, transferred fully for any reason including death of the proprietor, amalgamated with other legal entity, demerged or otherwise disposed of; or</p> <p>(b) there is any change in the constitution of the business; or</p> <p>(c) the taxable person, other than the person registered under sub-section (3) of section 25, is no longer liable to be registered under section 22 or section 24.</p>
Cancel the Registration by proper officer in case of contravention of Act etc. [Sec. 29(2)]	<p>The proper officer may cancel the registration of a person from such date, including any retrospective date, as he may deem fit, where,-</p> <p>(a) a registered person has contravened such provisions of the Act or the rules made there under as may be prescribed; or</p> <p>(b) a person paying tax under section 10 has not furnished returns for three consecutive tax periods; or</p> <p>(c) any registered person, other than a person specified in clause (b), has not furnished returns for a continuous period of six months; or</p> <p>(d) any person who has taken voluntary registration under sub-section (3) of section 25 has not commenced business within six months from the date of registration; or</p>

	<p>(e) registration has been obtained by means of fraud, wilful misstatement or suppression of facts:</p> <p>Provided that the proper officer shall not cancel the registration without giving the person an opportunity of being heard.</p>
<p>Liable to pay tax [Sec. 29(3)]</p>	<p>The cancellation of registration under this section shall not affect the liability of the person to pay tax and other dues under this Act or to discharge any obligation under this Act or the rules made there under for any period prior to the date of cancellation whether or not such tax and other dues are determined before or after the date of cancellation.</p>
<p>Auto cancellation of SGST/ UTGST [Sec. 29(4)]</p>	<p>The cancellation of registration under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as the case may be, shall be deemed to be a cancellation of registration under this Act.</p>
<p>Payment of tax on input held in stock and capital goods [Sec. 29(5)]</p>	<p>Every registered person whose registration is cancelled shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock 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:</p> <p>♦ Provided that in case of capital goods or plant and machinery, the taxable person shall pay an amount equal to the input tax credit taken on the said capital goods or plant and machinery, reduced by such percentage points as may be prescribed or the tax on the transaction value of such capital goods or plant and machinery under section 15, whichever is higher</p>
<p>Rules prescribed for amount payable [Sec. 29(6)]</p>	<p>The amount payable under sub-section (5) shall be calculated in such manner as may be prescribed.</p>

APPLICATION FOR CANCELLATION OF REGISTRATION

[RULE 20 OF CGST RULES, 2017]

A registered person, **other than a person** to whom a registration has been granted under rule 12 or a person to whom a Unique Identity Number has been granted under rule 17, seeking cancellation of his registration under sub-section (1) of section 29 shall electronically submit an application in FORM GST REG-16, including therein the details of inputs held in stock or inputs contained in semi-finished or finished goods 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 and may furnish, along with the application, relevant documents in support thereof at the common portal within a period of **thirty days of the occurrence** of the event warranting the cancellation, either directly or through a Facilitation Centre notified by the Commissioner:

♦ **Provided** that no application for the cancellation of registration shall be considered in case of a taxable person, who has registered voluntarily, before the expiry of a **period of one year** from the effective date of registration.

REGISTRATION TO BE CANCELLED IN CERTAIN CASES

[RULE 21 OF CGST RULES, 2017]

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

- (a) **does not conduct any business** from the declared place of business; or
- (b) issues invoice or bill **without supply** of goods or services in violation of the provisions of this Act, or the rules made thereunder, or
- (c) violates the provisions of section 171 of the Act or the rules made thereunder.

CANCELLATION OF REGISTRATION [RULE 22 OF CGST RULES, 2017]

Issue SCN [Rule 22(1)]	Where the proper officer has reasons to believe that the registration of a person is liable to be cancelled under section 29, he shall issue a notice to such person in FORM GST REG-17, requiring him to show cause within a period of seven working days from the date of the service of such notice as to why his registration shall not be cancelled.
Reply of SCN [Rule 22(2)]	The reply to the show cause notice issued under sub-rule (1) shall be furnished in FORM REG-18 within the period specified in the said sub-rule.

Issue Order for cancellation of RC [Rule 22(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 proper officer shall issue an order in FORM GST REG-19, within a period of thirty days from the date of application submitted under rule 20 or, as the case may be, the date of the reply to the show cause issued under sub-rule (1), 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 to be paid under sub-section(5) of section 29.
Issue Order for dropping the proceeding [Rule 22(4)]	Where the reply furnished under sub-rule (2) is found to be satisfactory, the proper officer shall drop the proceedings and pass an order in FORM GST REG-20.
Legal heirs can also file an application [Rule 22(5)]	The provisions of sub-rule (3) shall, <i>mutatis mutandis</i> , apply to the legal heirs of a deceased proprietor, as if the application had been submitted by the proprietor himself.

REVOCATION OF CANCELLATION OF CERTIFICATE [SEC. 30]

Application of revocation of cancellation [Sec. 30 (1)]	Subject to such conditions as may be prescribed, any registered person, whose registration is cancelled by the proper officer on his own motion, may apply to such officer for revocation of cancellation of the registration in the prescribed manner within thirty days from the date of service of the cancellation order.
Order by proper officer [Sec. 30(2)]	The proper officer may, in such manner and within such period as may be prescribed, by order, either revoke cancellation of the registration or reject the application: ♦ Provided that the application for revocation of cancellation of registration shall not be rejected unless the applicant has been given an opportunity of being heard.
Revocation of cancellation of registration under SGST/ UTGST [Sec. 30(3)]	The revocation of cancellation of registration under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as the case may be, shall be deemed to be a revocation of cancellation of registration under this Act.

REVOCATION OF CANCELLATION OF REGISTRATION

[RULE 23 OF CGST RULES, 2017]

<p>Application for revocation of cancellation of RC order [Rule 23(1)]</p>	<p>A registered person, whose registration is cancelled by the proper officer on his own motion, may submit an application for revocation of cancellation of registration, in FORM GST REG-21, to such proper officer, within a period of thirty days from the date of the service of the order of cancellation of registration at the common portal, either directly or through a Facilitation Centre notified by the Commissioner:</p> <p>♦ Provided that no application for revocation shall be filed if the registration has been cancelled for the failure of the registered person to furnish returns, unless such returns are furnished and any amount due as tax, in terms of such returns has been paid along with any amount payable towards interest, penalty and late fee in respect of the said returns.</p>
<p>Rejection of Application/passing of order for revocation of cancellation order [Rule 23(2)]</p>	<p>(a) Where the proper officer is satisfied, for reasons to be recorded in writing, that there are sufficient grounds for revocation of cancellation of registration, he shall revoke the cancellation of registration by an order in FORM GST REG-22 within a period of thirty days from the date of the receipt of the application and communicate the same to the applicant.</p> <p>(b) The proper officer may, for reasons to be recorded in writing, under circumstances other than those specified in clause (a), by an order in FORM GST REG-05, reject the application for revocation of cancellation of registration and communicate the same to the applicant.</p>
<p>Opportunity of being heard [Rule 23(3)]</p>	<p>The proper officer shall, before passing the order referred to in clause (b) of sub-rule (2), issue a notice in FORM GST REG-23 requiring the applicant to show cause as to why the application submitted for revocation under sub-rule (1) 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.</p>
<p>Proceeding by proper officer [Rule 23(4)]</p>	<p>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.</p>

Illustration 1 - Registration Liability ; Mr. A of Rajasthan has effected following supplies within the State of Rajasthan. You are required to determine whether he is required to obtain registration under GST law.

Particulars	Rs.
(1) Intra-State supply of goods agricultural produce grown out of cultivation of land by family members	15,00,000
(2) Intra-State supply of goods which are wholly exempt from GST u/s 11 of CGST Act, 2017	6,00,000
(3) Intra-State supply of goods chargeable with GST @5%	8,50,000
Total Value of supplies	29,50,000

Solution: Computation of Aggregate value of taxable supplies :

	Particulars		Rs.
(1)	Intra-State supply of goods agricultural produce grown out of cultivation of land by family members	[WN-1]	Nil
(2)	Intra-State supply of goods which are wholly exempt from GST u/s of CGST Act, 2017	[WN-2]	6,00,000
(3)	Intra-State supply of goods chargeable with GST @5%	[WN-3]	8,50,000
	Total Value of supplies		14,50,000

Working Notes:

(1) An agriculturalist is not liable to obtain registration under the Act to the extent of supply of produce out of cultivation of land. In computing aggregate turnover, Intra-State supply of goods agricultural produce grown out of cultivation of land by family members shall not be included.

(2) Intra-State supply of goods which are wholly exempt from GST under Section 11 of CGST Act, 2017 is to be included since the same is specifically included in the definition of aggregate turnover.

(3) Intra-State supply of goods chargeable with GST @ 5% is specifically included for determination of aggregate turnover.

Since the aggregate turnover does not exceed Rs. 20,00,000, hence Mr. X is not required to obtain registration under GST law.

Illustration 2 - Registration requirement: From the following information you are required to determine whether XYZ Ltd incorporated in Rajasthan is liable to be registered under GST Law if the company has effected following supplies within the state of Rajasthan.

	Particulars	Rs.
(1)	Intra-State supply of goods chargeable with GST @5%	5,51,000
(2)	Intra-State supply of goods which are wholly exempt from GST u/ s 11 of CGST Act, 2017	6,00,000
(3)	Intra-State supply of goods chargeable with Nil rate	8,50,000
	Total Value of supplies	20,01,000

Solution: Every supplier shall be liable to be registered under this Act in the State or Union territory, other than special category States, from where he makes a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds Rs. 20 lakhs.

According to Section 2(6) of CGST Act, 2017, "Aggregate turnover" means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, exports of goods or services or both and inter-State supplies of persons having the same Permanent Account Number, to be computed on all India basis but excludes central tax, State tax, Union territory tax, integrated tax and cess.

Computation of Aggregate turnover :

	Particulars		Rs.
(1)	Intra-State supply of goods chargeable with GST @5%	[WN-1]	5,51,000
(2)	Intra-State supply of goods which are wholly exempt from GST u/s of CGST Act, 2017	[WN-2]	6,00,000
(3)	Intra-State supply of goods chargeable with Nil rate of GST	[WN-3]	8,50,000
	Total Value of supplies		20,01,000

Thus, in this case since aggregate turnover of the company exceeds Rs. 20 lakhs, it is liable to get itself registered under GST Law.

Working Note:

(1) Intra-State supply of goods chargeable with GST @ 5% is specifically included for determination of aggregate turnover.

(2) Intra-State supply of goods which are wholly exempt from GST under Section 11 of CGST Act, 2017 is to be included for determination of aggregate turnover.

(3) Intra-State supply of goods chargeable with Nil rate of GST is covered under exempt supplies, hence it is to be included in computation of aggregate turnover.

Illustration 3 - Registration provisions : ABC Ltd. of Jaipur, Rajasthan has effected intra-State supplies of taxable goods amounting Rs. 12,00,000 till 31-12-2017. On 01-01-2018 it has effected inter-State supply of taxable goods amounting Rs. 1,00,000. ABC Ltd. is of the opinion that it is not required to get registered under GST law since its aggregate turnover is not likely to exceed Rs. 20,00,000 during financial year 2017-18. As a consultant of the company you are required to advise the company relating to registration requirements.

Solution: The opinion of ABC Ltd is not correct. As per provisions of Section 24 of CGST Act, 2017, person making interstate taxable supply are compulsorily required to obtain registration. Thus, Section 24 is an overriding section that makes it mandatory to obtain registration by certain prescribed persons even though the conditions prescribed under section 22 are not met. Hence, ABC Ltd. is mandatorily required to obtain registration.

As per provisions of Section 25 of CGST Act, 2017, every person who is liable to be registered under section 22 or section 24 shall apply for registration in every such State or Union territory in which he is so liable within 30 days from the date on which he becomes liable to registration, in such manner and subject to such conditions as may be prescribed. Thus, ABC Ltd. is required to obtain registration upto 31-01-2018.

CHAPTER 12

TAX INVOICE, CREDIT AND DEBIT NOTES

TAX INVOICE IN RESPECT OF GOODS

Explain the provisions relating to tax invoice in respect of supplier of goods.

Ans: **Tax invoice [Section 31]:** The provisions relating to tax invoice are as under -

(1) Supplier of goods to issue a tax invoice [Section 31(1)] : A registered person supplying taxable goods shall issue a tax invoice showing -

- the description,
- quantity and value of goods,
- the tax charged thereon, and
- such other particulars as may be prescribed.

(2) Time limit for issuance of invoice in case of supplier of goods [Section 31(1)] : A registered person supplying taxable goods shall issue invoice **before or at the time of**, —

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

Tax invoice to be issued in prescribed time in respect of notified goods : The Government may, on the recommendations of the Council, by notification, specify the categories of goods or supplies in respect of which a tax invoice shall be issued, within such time and in such manner as may be prescribed.

Removal [Section 2(96)]: "Removal" in relation to goods, means —

- (a)** Dispatch of the goods for delivery by the supplier thereof or by any other person acting on behalf of such supplier; or
- (b)** Collection of the goods by the recipient thereof or by any other person acting on behalf of such recipient.

What do you mean by Continuous supply of goods. Explain the provisions relating to issuance of invoice in case of continuous supply of goods.

Ans: The relevant provisions are discussed as under —

(1) Continuous supply of goods [Section 2(32)]: "Continuous supply of goods" means a supply of goods —

- which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, whether or not by means of a wire, cable, pipeline or other conduit, and for which the supplier invoices the recipient on a regular or periodic basis, and
- includes supply of such goods as the Government may, subject to such conditions, as it may, by notification, specify.

(2) Issuance of invoice in case of continuous supply of goods [Section 31(4)] : In case of continuous supply of goods, where successive statements of accounts or successive payments are involved, the invoice shall be issued before or at the time each such statement is issued or, as the case may be, each such payment is received.

Explain the provisions relating to issuance of invoice in respect of goods being sent or taken on approval for sale or return basis.

Ans: Goods sent on approval - Invoice requirements [Section 31(7)] : Notwithstanding anything contained in Section 31(1), where the goods being sent or taken on approval for sale or return are removed before the supply takes place, the invoice shall be issued —

- before or at the time of supply, or
- 6 months from the date of removal, **whichever is earlier.**

TAX INVOICE IN RESPECT OF SERVICES

Explain the provisions relating to tax invoice in respect of supplier of services.

Ans: Tax invoice [Section 31]: The provisions relating to tax invoice are as under -

(1) Supplier of taxable services to issue tax invoice within prescribed time [Section 31(2)]:

- A registered person supplying taxable services shall, —
before, or

after the provision of service but within a prescribed period,

- issue a tax invoice, showing—

the description, value, tax charged thereon, and such other particulars as may be prescribed.

(2) Relaxation from issuance of tax invoice in respect of notified services : The Government may, on the recommendations of the Council, by notification and subject to such conditions as may be mentioned therein, specify the categories of services in respect of which —

- any other document issued in relation to the supply shall be deemed to be a tax invoice; or
- tax invoice may not be issued.

(3) Issuance of invoice at the time of cessation of supply [Section 31(6)] : In a case where the supply of services ceases under a contract before the completion of the supply, the invoice shall be issued at the time when the supply ceases and such invoice shall be issued to the extent of the supply made before such cessation.

What do you mean by Continuous supply of services. Explain the provisions relating to issuance of invoice in case of continuous supply of services.

Ans: The relevant provisions are discussed as under —

(1) Continuous supply of services [Section 2(33)]: "Continuous supply of services" means —

- a supply of services which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, for a period exceeding 3 months with periodic payment obligations, and
- includes supply of such services as the Government may, subject to such conditions, as it may, by notification, specify.

(2) Issuance of invoice in case of continuous supply of services [Section 31(5)] : Subject to the provisions of Section 31(3)

(d), in case of continuous supply of services, —

(a)	where the due date of payment is ascertainable from the contract	the invoice shall be issued on or before the due date of payment.
(b)	where the due date of payment is not ascertainable from the contract	the invoice shall be issued before or at the time when the supplier of service receives the payment.
(c)	where the payment is linked to the completion of an event	the invoice shall be issued on or before the date of completion of that event.

Explain the provisions relating to issuance of bill of supply instead of tax invoice.

Ans: **Bill of supply [Section 31(3)(c)]**: The provisions relating to issuance of bill of supply are as under —

(1) Bill of supply instead of tax invoice to be issued in case of exempted supply or composite levy : A registered person supplying—

(i) exempted goods or services or both, or

(ii) paying tax under the provisions of Section 10

shall issue, instead of a tax invoice, a bill of supply containing such particulars and in such manner as may be prescribed.

(2) No bill of supply if value is less than Rs. 200 : The registered person may not issue a bill of supply if the value of the goods or services or both supplied is less than Rs. 200 subject to such conditions and in such manner as may be prescribed.

TAX INVOICE - OTHER PROVISIONS

Explain the other provisions in respect of invoice of goods or services or both.

Ans: **Invoice - Other provisions [Section 31(3)]**: Notwithstanding anything contained in Section 31(1) and (2) —

(1) Revised invoice on issuance of Registration certificate [Section 31(3)(a)] : A registered person may, within one month from the date of issuance of certificate of registration and in such manner as may be prescribed, issue a revised invoice against the invoice already issued during the period beginning with the effective date of registration till the date of issuance of certificate of registration to him.

(2) No tax invoice if the value is less than Rs. 200 [Section 31(3)(b)]: A registered person may not issue a tax invoice if the value of the goods or services or both supplied is less than Rs. 200 subject to such conditions and in such manner as may be prescribed.

(3) For advances - Issuance of Receipt voucher [Section 31(3)(d)]: A registered person shall, on receipt of advance payment with respect to any supply of goods or services or both, issue a receipt voucher or any other document, containing such particulars as may be prescribed, evidencing receipt of such payment.

(4) Refund voucher if no supply is made and advance refunded [Section 31(3)(e)]: Where, on receipt of advance payment with respect to any supply of goods or services or both the registered person issues a receipt voucher, but subsequently no supply is made and no tax invoice is issued in pursuance thereof, the said registered person may issue to the person who had made the payment, a refund voucher against such payment.

(5) Purchases from unregistered supplier or under reverse charge - Buyer to prepare an invoice [Section 31 (3) (f)] : A

registered person who is liable to pay tax under section 9(3)/(4) shall issue an invoice in respect of goods or services or both received by him from the supplier who is not registered on the date of receipt of goods or services or both.

(6) Issuance of payment voucher [Section 31(3)(g)]: A registered person who is liable to pay tax under section 9(3)/(4) shall issue a payment voucher at the time of making payment to the supplier.

(7) Tax Invoice [Explanation]: "Tax invoice" shall include any revised invoice issued by the supplier in respect of a supply made earlier.

Notification No. 12/2017-CT dated 28-06-2017 w.e.f 01-07-2017	Digits of Harmonised System of Nomenclature (HSN) Code to be quoted in Invoice.		
	The CBEC has notified that a registered person having annual turnover in the preceding financial year as specified in column (2) of the Table below shall mention the digits of Harmonised System of Nomenclature (HSN) Codes, as specified in the corresponding entry in column (3) of the said Table, in a tax invoice issued by him under the said rules.		
	Sl. No.	Annual Turnover in the preceding Financial Year	Number of Digits of HSN Code
	(1)	(2)	(3)
	1	Upto Rs. 1.50 crores	Nil
	2	more than Rs. 1.50 crores and upto Rs. 5 crores	2
	3	more than Rs. 5 crores	4

PARTICULARS OF TAX INVOICE [RULE 46 OF CGST RULES, 2017]

Subject to rule 54, a tax invoice referred to in section 31 shall be issued by the registered person containing the following particulars, namely,—

- a) **name, address** and Goods and Services Tax Identification Number of the supplier;
- b) **a consecutive serial number** not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters hyphen or dash and slash symbolised as “-“ and “/” respectively, and any combination thereof, **unique for a financial year**;
- c) date of its issue;
- d) name, address and Goods and Services Tax Identification Number or Unique Identification Number, **if registered**, of the recipient;
- e) name and address of the recipient and the address of delivery, along with the name of the State and its code, if such **recipient is un-registered** and where the value of the taxable supply is **fifty thousand rupees or more**;
- f) name and address of the recipient and the address of delivery, along with the name of the State and its code, if such **recipient is un-registered** and where the value of the taxable supply is less than fifty thousand rupees and the **recipient requests** that such details be recorded in the tax invoice;
- g) Harmonised System of Nomenclature code for goods or services;
- h) description of goods or services;
- i) quantity in case of goods and unit or Unique Quantity Code thereof;
- j) total value of supply of goods or services or both;
- k) taxable value of the supply of goods or services or both taking into account discount or abatement, if any;
- l) rate of tax (Central tax, State tax, Integrated tax, Union territory tax or cess);
- m) amount of tax charged in respect of taxable goods or services (Central tax, State tax, Integrated tax, Union territory tax or cess);
- n) place of supply along with the name of the State, in the case of a supply in the course of **inter-State trade or commerce**;
- o) **address of delivery** where the same is different from the place of supply;
- p) whether the tax is payable on reverse charge basis; and
- q) signature or digital signature of the supplier or his authorised representative;

Provided that the Board may, on the recommendations of the Council, by notification, specify

- i. the number of digits of Harmonised System of Nomenclature code for goods or services, that a class of registered persons shall be required to mention, for such period as may be specified in the said notification, and
- ii. the class of registered persons that would not be required to mention the Harmonised System of Nomenclature code for goods or services, for such period as may be specified in the said notification.

TIME LIMIT FOR ISSUING TAX INVOICE [RULE 47 OF CGST RULES, 2017]

The invoice referred to in rule 46, in the case of the taxable supply of services, shall be issued within a period of **thirty days from the date of the supply** of service:

♦ **Provided** that where the supplier of services is an insurer or a **banking company** or a financial institution, including a non-banking financial company, the period within which the invoice or any document in lieu thereof is to be issued shall be **forty five days from the date of the supply** of service:

♦ **Provided further** that an insurer or a banking company or a financial institution, including a non-banking financial company, or a telecom operator, or any other class of supplier of services as may be notified by the Government on the recommendations of the Council, making taxable supplies of services between **distinct persons** as specified in section 25, **may issue the invoice before or at the time such supplier records the same in his books of account or before the expiry of the quarter during which the supply was made.**

MANNER OF ISSUING INVOICE [RULE 48 OF CGST RULES, 2017]

1. The invoice shall be prepared in triplicate, in the case of **supply of goods**, in the following manner, namely,—
 - a) the original copy being marked as ORIGINAL FOR RECIPIENT;
 - b) the duplicate copy being marked as DUPLICATE FOR TRANSPORTER; and
 - c) the triplicate copy being marked as TRIPLICATE FOR SUPPLIER.
2. The invoice shall be prepared in duplicate, in the case of the **supply of services**, in the following manner, namely,—
 - a) the original copy being marked as ORIGINAL FOR RECIPIENT; and
 - b) the duplicate copy being marked as DUPLICATE FOR SUPPLIER.
3. **The serial number of invoices issued during a tax period shall be furnished electronically through the common portal in FORM GSTR-1.**

BILL OF SUPPLY [RULE 49 OF CGST RULES, 2017]

A bill of supply referred to in clause (c) of sub-section (3) of section 31 shall be issued by the supplier containing the following details, namely,—

- a. name, address and Goods and Services Tax Identification Number of the supplier;
- b. a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters -hyphen or dash and slash symbolised as “-“ and “/” respectively, and any combination thereof, unique for a financial year;
- c. date of its issue;
- d. name, address and Goods and Services Tax Identification Number or Unique Identification Number, if registered, of the recipient;
- e. Harmonised System of Nomenclature Code for goods or services;
- f. description of goods or services or both;
- g. value of supply of goods or services or both taking into account discount or abatement, if any; and
- h. signature or digital signature of the supplier or his authorised representative:

♦ **Provided** that the provisos to rule 46 shall, *mutatis mutandis*, apply to the bill of supply issued under this rule:

♦ **Provided further** that any tax invoice or any other similar document issued under any other Act for the time being in force in respect of any non-taxable supply shall be treated as bill of supply for the purposes of the Act.

RECEIPT VOUCHER [RULE 50 OF CGST RULES, 2017]

A receipt voucher referred to in clause (d) of sub-section (3) of section 31 shall contain the following particulars, namely,—

- a. name, address and Goods and Services Tax Identification Number of the supplier;
- b. a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters -hyphen or dash and slash symbolised as “-“ and “/” respectively, and any combination thereof, unique for a financial year;
- c. date of its issue;
- d. name, address and Goods and Services Tax Identification Number or Unique Identification Number, if registered, of the recipient;
- e. description of goods or services;
- f. amount of advance taken;
- g. rate of tax (Central tax, State tax, Integrated tax, Union territory tax or cess);

- h. amount of tax charged in respect of taxable goods or services (Central tax, State tax, Integrated tax, Union territory tax or cess);
- i. place of supply along with the name of State and its code, in case of a supply in the course of inter-State trade or commerce;
- j. whether the tax is payable on reverse charge basis; and
- k. signature or digital signature of the supplier or his authorised representative:

Provided that where at the time of receipt of advance,

- (i) the rate of tax is not determinable, the tax shall be paid at the rate of eighteen per cent.;
- (ii) the nature of supply is not determinable, the same shall be treated as inter-State supply.

REFUND VOUCHER [RULE 51 OF CGST RULES, 2017]

A refund voucher referred to in clause (e) of sub-section (3) of section 31 shall contain the following particulars:

- a. name, address and Goods and Services Tax Identification Number of the supplier;
- b. a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters -hyphen or dash and slash symbolised as “-“ and “/” respectively, and any combination thereof, unique for a financial year;
- c. date of its issue;
- d. name, address and Goods and Services Tax Identification Number or Unique Identification Number, if registered, of the recipient;
- e. number and date of receipt voucher issued in accordance with provisions of sub-rule 50;
- f. description of goods or services in respect of which refund is made;
- g. amount of refund made;
- h. rate of tax (Central tax, State tax, Integrated tax, Union territory tax or cess);
- i. amount of tax paid in respect of such goods or services (Central tax, State tax, Integrated tax, Union territory tax or cess);
- j. whether the tax is payable on reverse charge basis; and
- k. signature or digital signature of the supplier or his authorised representative.

PAYMENT VOUCHER [RULE 52 OF CGST RULES, 2017]

A payment voucher referred to in clause (g) of sub-section (3) of section 31 shall contain the following particulars:

- a. name, address and Goods and Services Tax Identification Number of the supplier if registered;
- b. a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters -hyphen or dash and slash symbolised as “-“ and “/” respectively, and any combination thereof, unique for a financial year;
- c. date of its issue;
- d. name, address and Goods and Services Tax Identification Number of the recipient;
- e. description of goods or services;
- f. amount paid;
- g. rate of tax (Central tax, State tax, Integrated tax, Union territory tax or cess);
- h. amount of tax payable in respect of taxable goods or services (Central tax, State tax, Integrated tax, Union territory tax or cess);
- i. place of supply along with the name of State and its code, in case of a supply in the course of inter-State trade or commerce; and
- j. signature or digital signature of the supplier or his authorised representative.

REVISED TAX INVOICE AND CREDIT OR DEBIT NOTES

[RULE 53 OF CGST RULES, 2017]

(1) A revised tax invoice referred to in section 31 and credit or debit notes referred to in section 34 shall contain the following particulars, namely:—

- a. the word "Revised Invoice", wherever applicable, indicated prominently;
- b. name, address and Goods and Services Tax Identification Number of the supplier;
- c. nature of the document;
- d. a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters -hyphen or dash and slash symbolised as “-” and “/” respectively, and any combination thereof, unique for a financial year;
- e. date of issue of the document;
- f. name, address and Goods and Services Tax Identification Number or Unique Identification Number, if registered, of the recipient;
- g. name and address of the recipient and the address of delivery, along with the name of State and its code, if such recipient is un-registered;

- h. serial number and date of the corresponding tax invoice or, as the case may be, bill of supply;
- i. value of taxable supply of goods or services, rate of tax and the amount of the tax credited or, as the case may be, debited to the recipient; and
- j. signature or digital signature of the supplier or his authorised representative:

(2) Every registered person who has been granted registration with effect from a date earlier than the date of issuance of certificate of registration to him, may issue revised tax invoices in respect of taxable supplies effected during the period starting from the effective date of registration till the date of the issuance of the certificate of registration:

♦ **Provided** that the registered person may issue a consolidated revised tax invoice in respect of all taxable supplies made to a recipient who is not registered under the Act during such period:

♦ **Provided further** that in the case of **inter-State supplies**, where the value of a supply does not exceed two lakh and fifty thousand rupees, a consolidated revised invoice may be issued separately in respect of all the recipients located in a State, who are not registered under the Act.

(3) Any invoice or debit note issued in pursuance of any tax payable in accordance with the provisions of section 74 or section 129 or section 130 shall prominently contain the words “INPUT TAX CREDIT NOT ADMISSIBLE”.

TAX INVOICE IN SPECIAL CASES [RULE 54 OF CGST RULES, 2017]

ISD Invoice [Rule 54(1)]	<p>An Input Service Distributor invoice or, as the case may be, an Input Service Distributor credit note issued by an Input Service Distributor shall contain the following details:—</p> <p>(a) name, address and Goods and Services Tax Identification Number of the Input Service Distributor;</p> <p>(b) a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters hyphen or dash and slash symbolised as “-” and “/” respectively, and any combination thereof, unique for a financial year;</p> <p>(c) date of its issue;</p> <p>(d) name, address and Goods and Services Tax Identification Number of the recipient to whom the credit is distributed;</p> <p>(e) amount of the credit distributed; and</p>
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	<p>(f) signature or digital signature of the Input Service Distributor or his authorised representative:</p> <p>♦ Provided that where the Input Service Distributor is an office of a banking company or a financial institution, including a non-banking financial company, a tax invoice shall include any document in lieu thereof, by whatever name called, whether or not serially numbered but containing the information as mentioned above.</p>
Insurer or banking or Financial institution [Rule 54(2)]	<p>Where the supplier of taxable service is an insurer or a banking company or a financial institution, including a non-banking financial company, the said supplier shall issue a tax invoice or any other document in lieu thereof, by whatever name called, whether issued or made available, physically or electronically whether or not serially numbered, and whether or not containing the address of the recipient of taxable service but containing other information as mentioned under rule 46.</p>
Goods Transport Agency [Rule 54(3)]	<p>Where the supplier of taxable service is a goods transport agency supplying services in relation to transportation of goods by road in a goods carriage, the said supplier shall issue a tax invoice or any other document in lieu thereof, by whatever name called, containing the gross weight of the consignment, name of the consigner and the consignee, registration number of goods carriage in which the goods are transported, details of goods transported, details of place of origin and destination, Goods and Services Tax Identification Number of the person liable for paying tax whether as consigner, consignee or goods transport agency, and also containing other information as mentioned under rule 46.</p>
Passenger Transport service [Rule 54(4)]	<p>Where the supplier of taxable service is supplying passenger transportation service, a tax invoice shall include ticket in any form, by whatever name called, whether or not serially numbered, and whether or not containing the address of the recipient of service but containing other information as mentioned under rule 46.</p>
Rule apply “mutatis mutandis” [Rule 54(5)]	<p>The provisions of sub-rule (2) or sub-rule (4) shall apply, <i>mutatis mutandis</i>, to the documents issued under rule 49 or rule 50 or rule 51 or rule 52 or rule 53.</p>

PROHIBITION OF UNAUTHORISED COLLECTION OF TAX

Write notes on the following:

(a) Prohibition of unauthorised collection of tax.

(b) Amount of tax to be indicated in tax invoice and other documents.

Ans: The relevant provisions are discussed as under—

(a) Prohibition of unauthorised collection of tax [Section 32]:

(i) Unregistered person not to collect tax [Section 32(1)]: A person who is not a registered person shall not collect in respect of any supply of goods or services or both any amount by way of tax under this Act.

(ii) Registered person to collect tax as per Act [Section 32(2)] : No registered person shall collect tax except in accordance with the provisions of this Act or the rules made there-under.

(b) Amount of tax to be indicated in tax invoice and other documents [Section 33] : Notwithstanding anything contained in this Act or any other law for the time being in force, where any supply is made for a consideration, every person who is liable to pay tax for such supply shall prominently indicate in all documents relating to assessment, tax invoice and other like documents, the amount of tax which shall form part of the price at which such supply is made.

CREDIT AND DEBIT NOTES

Explain the provisions relating to issuance of Credit and debit notes.

Ans: **Credit and debit notes [Section 34]:** The relevant provisions are discussed as under —

(1) Issuance of Credit Note [Section 34(1)]: Where a tax invoice has been issued for supply of any goods or services or both and

- the taxable value or tax charged in that tax invoice is found to exceed the taxable value or tax payable in respect of such supply, or
- where the goods supplied are returned by the recipient, or
- where goods or services or both supplied are found to be deficient,

the registered person, who has supplied such goods or services or both, may issue to the recipient a credit note containing such particulars as may be prescribed.

(2) Details of credit note to be given in return [Section 34(2)]: Any registered person who issues a credit note in relation to a supply of goods or services or both shall declare the details of such credit note —

- in the return for the month during which such credit note has been issued but not later than September following the end of the financial year in which such supply was made, or
- the date of furnishing of the relevant annual return,

whichever is earlier, and the tax liability shall be adjusted in such manner as may be prescribed.

Output tax liability of the supplier not to be reduced - If tax incidence passed on : No reduction in output tax liability of the supplier shall be permitted, if the incidence of tax and interest on such supply has been passed on to any other person.

(3) Issuance of Debit note [Section 34(3)]: Where a tax invoice has been issued for supply of any goods or services or both and

- the taxable value or tax charged in that tax invoice is found to be less than the taxable value or tax payable in respect of such supply,
- the registered person, who has supplied such goods or services or both,
- shall issue to the recipient a debit note containing such particulars as may be prescribed.

(4) Details of debit note to be given in return [Section 34(4)]: Any registered person who issues a debit note in relation to a supply of goods or services or both shall declare the details of such debit note in the return for the month during which such debit note has been issued and the tax liability shall be adjusted in such manner as may be prescribed.

Explanation : The expression "debit note" shall include a supplementary invoice.

TRANSPORTATION OF GOODS WITHOUT ISSUE OF INVOICE

[RULE 55 OF CGST RULES, 2017]

Transportation of goods by delivery challan [Rule 55(1)]	<p>For the purposes of:</p> <p>(a) supply of liquid gas where the quantity at the time of removal from the place of business of the supplier is not known,</p> <p>(b) transportation of goods for job work,</p> <p>(c) transportation of goods for reasons other than by way of supply, or</p> <p>(d) such other supplies as may be notified by the Board, the consigner may issue a delivery challan, serially numbered not exceeding sixteen characters, in one or multiple series, in lieu of invoice at the time of removal of goods for transportation, containing the following details, namely:—</p> <p>(i) date and number of the delivery challan,</p> <p>(ii) name, address and Goods and Services Tax Identification Number of</p>
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	<p>the consigner, if registered,</p> <p>(iii) name, address and Goods and Services Tax Identification Number or Unique Identification Number of the consignee, if registered,</p> <p>(iv) Harmonised System of Nomenclature code and description of goods,</p> <p>(v) quantity (provisional, where the exact quantity being supplied is not known),</p> <p>(vi) taxable value,</p> <p>(vii) tax rate and tax amount - Central tax, State tax, Integrated tax, Union territory tax or cess, where the transportation is for supply to the consignee,</p> <p>(viii) place of supply, in case of inter-State movement, and</p> <p>(ix) signature.</p>
Triplicate Copy of delivery challan [Rule 55(2)]	<p>The delivery challan shall be prepared in triplicate, in case of supply of goods, in the following manner, namely.</p> <p>(a) the original copy being marked as ORIGINAL FOR CONSIGNEE;</p> <p>(b) the duplicate copy being marked as DUPLICATE FOR TRANSPORTER; and</p> <p>(c) the triplicate copy being marked as TRIPLICATE FOR CONSIGNER.</p>
Declaration in E-way bill [Rule 55(3)]	<p>Where goods are being transported on a delivery challan in lieu of invoice, the same shall be declared as specified in rule 138.</p>
Issue of tax invoice after delivery [Rule 55(4)]	<p>Where the goods being transported are for the purpose of supply to the recipient but the tax invoice could not be issued at the time of removal of goods for the purpose of supply, the supplier shall issue a tax invoice after delivery of goods.</p>

<p>Goods are transported in semi/completely knocked down condition</p> <p>[Rule 55(5)]</p>	<p>Where the goods are being transported in a semi knocked down or completely knocked down condition,</p> <p>(a) the supplier shall issue the complete invoice before dispatch of the first consignment;</p> <p>(b) the supplier shall issue a delivery challan for each of the subsequent consignments, giving reference of the invoice;</p> <p>(c) each consignment shall be accompanied by copies of the corresponding delivery challan along with a duly certified copy of the invoice; and</p> <p>(d) the original copy of the invoice shall be sent along with the last consignment.</p>
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CHAPTER 13

ACCOUNTS AND RECORDS

ACCOUNTS AND OTHER RECORDS

Explain the provisions relating to maintenance of accounts and other records.

Ans: Accounts and other records [Section 35]:

(1) List of records to be maintained [Section 35(1)] : Every registered person shall keep and maintain, at his **principal place of business**, as mentioned in the certificate of registration, a true and correct account of—

- (a) production or manufacture of goods;
- (b) inward supply of goods or services or both;
- (c) outward supply of goods or services or both;
- (d) stock of goods;
- (e) input tax credit availed;
- (f) output tax payable and paid; and
- (g) such other particulars as may be prescribed.

Records to be maintained at each place of business : Where more than one place of business is specified in the certificate of registration, the accounts relating to each place of business shall be kept at such places of business.

E-Records : The registered person may keep and maintain such accounts and other particulars in electronic form in such manner as may be prescribed.

Place of business [Section 2(85)]: "Place of business" **includes** —

- (a) a place from where the business is ordinarily carried on, and includes a warehouse, a godown or any other place where a taxable person stores his goods, supplies or receives goods or services or both; or
- (b) a place where a taxable person maintains his books of account; or
- (c) a place where a taxable person is engaged in business through an agent, by whatever name called.

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

(2) Obligation of owner / operator of warehouse and transporter [Section 35(2)]: Every owner or operator of warehouse or godown or any other place used for storage of goods and every transporter, irrespective of whether he is a registered person or not, shall maintain records of the consigner, consignee and other relevant details of the goods in such manner as may be prescribed.

(3) Additional accounts or documents by notified persons [Section 35(3)]: The Commissioner may notify a class of taxable persons to maintain additional accounts or documents for such purpose as may be specified therein.

Document [Section 2(41)] : "Document" includes written or printed record of any sort and electronic record as defined in Section 2(t) of the Information Technology Act, 2000.

(4) Relaxation in manner of maintenance of records [Section 35(4)] : Where the Commissioner considers that any class of taxable persons is not in a position to keep and maintain accounts in accordance with the provisions of this section, he may, for reasons to be recorded in writing, permit such class of taxable persons to maintain accounts in such manner as may be prescribed.

(5) Audit of accounts if turnover exceeds specified limits [Section 35(5)]: Every registered person whose turnover during a financial year exceeds the prescribed limit shall get his accounts audited by a chartered accountant or a cost accountant and shall submit a copy of the audited annual accounts, the reconciliation statement under section 44(2) and such other documents in such form and manner as may be prescribed.

(6) Non accountal of goods or services - Deemed supply - liable for tax [Section 35(6)]: Subject to the provisions of Section 17(5)(h), where the registered person fails to account for the goods or services or both in accordance with the provisions of Section 35(1), the proper officer shall determine the amount of tax payable on the goods or services or both that are not accounted for, as if such goods or services or both had been supplied by such person and the provisions of Section 73 or Section 74, as the case may be, shall, *mutatis mutandis*, apply for determination of such tax.

MAINTENANCE OF ACCOUNTS BY REGISTERED PERSONS

[RULE 56 OF CGST RULES, 2017]

Rules and Analysis

1. Every registered person shall keep and maintain, in addition to the particulars mentioned in sub-section (1) of section 35, a true and correct account of the goods or services imported or exported or of supplies attracting **payment of tax on reverse charge** along with relevant documents, including
 - invoices,
 - bills of supply,
 - delivery challans,
 - credit notes,
 - debit notes,
 - receipt vouchers,
 - payment vouchers,
 - refund vouchers
2. Every registered person, other than a person paying tax under section 10, shall maintain the accounts of stock in respect of goods received and supplied by him, and such accounts shall contain particulars of the
 - opening balance,
 - receipt,
 - supply,
 - goods lost,
 - stolen,
 - destroyed,
 - written off or disposed of by way of gift or free sample and
 - balance of stock including raw materials, finished goods, scrap and wastage thereof.
3. Every registered person shall keep and maintain a separate account of **advances received, paid and adjustments** made thereto.
4. Every registered person, other than a person paying tax under section 10, shall keep and maintain an account, containing the details of
 - tax payable (including tax payable in accordance with the provisions of sub-section (3) and sub-section (4) of section 9), i.e. tax paid on reverse charge,
 - tax collected and paid,
 - input tax,
 - input tax credit claimed, together with a register of tax invoice,

- credit note,
 - debit notes,
 - delivery challan issued or received during any tax period.
5. Every **registered** person shall keep the particulars of—
- a. names and complete addresses of suppliers from whom he has received the goods or services chargeable to tax under the Act;
 - b. names and complete addresses of the persons to whom he has supplied goods or services, where required under the provision of this chapter;
 - c. the complete address of the premises where goods are stored by him, including goods stored during transit along with the particulars of the stock stored therein.
6. If any taxable goods are found to be stored at any place(s) other than those declared under sub-rule (5) without the cover of any valid documents, the proper officer shall determine the amount of tax payable on such goods as if such goods have been supplied by the registered person.
7. Every registered person shall keep the books of account at the **principal place of business** and books of account related to additional place of business mentioned in his certificate of registration and such books of account shall include any electronic form of data stored on any electronic device.
8. Any entry in registers, accounts and documents shall not be erased, effaced or overwritten, and all incorrect entries, otherwise than those of clerical nature, shall be scored out under attestation and thereafter, the correct entry shall be recorded, and where the registers and other documents are maintained electronically, a log of every entry edited or deleted shall be maintained.
9. Each volume of books of account maintained manually by the registered person shall be **serially numbered**.
10. Unless proved otherwise, if any documents, registers, or any books of account belonging to a registered person are found at any premises other than those mentioned in the certificate of registration, they shall be presumed to be maintained by the said registered person.
11. **Every agent** referred to in clause (5) of section 2 shall maintain accounts depicting the—
- a. particulars of authorisation received by him from each principal to receive or supply goods or services on behalf of such principal separately;
 - b. particulars including description, value and quantity (wherever applicable) of goods or services received on behalf of every principal;
 - c. particulars including description, value and quantity (wherever applicable) of goods or services supplied on behalf of every principal;
 - d. details of accounts furnished to every principal; and
 - e. tax paid on receipts or on supply of goods or services effected on behalf of every principal.

12. Every registered **person manufacturing goods** shall maintain monthly **production accounts**, showing **quantitative details of raw materials** or **services** used in the manufacture and **quantitative details of the goods so manufactured including** the waste and by products thereof.
13. Every registered person supplying services shall maintain the accounts showing quantitative details of goods used in the provision of services, details of input services utilised and the services supplied.
14. Every registered person executing works contract shall keep separate accounts for works contract showing—
 - a. the names and addresses of the persons on whose behalf the works contract is executed;
 - b. description, value and quantity (wherever applicable) of goods or services received for the execution of works contract;
 - c. description, value and quantity (wherever applicable) of goods or services utilized in the execution of works contract;
 - d. the details of payment received in respect of each works contract; and
 - e. the names and addresses of suppliers from whom he received goods or services.
15. The records under the provision of this chapter may be maintained in **electronic form** and the record so maintained shall be authenticated by means of a digital signature.
16. Accounts maintained by the registered person together with all the invoices, bills of supply, credit and debit notes, and delivery challans relating to stocks, deliveries, inward supply and outward supply shall be preserved for the period as provided in section 36 and shall, where such accounts and documents are maintained manually, be kept at every related place of business mentioned in the certificate of registration and shall be accessible at every related place of business where such accounts and documents are maintained digitally.
17. Any person having custody over the goods in the capacity of a carrier or a clearing and forwarding agent for delivery or dispatch thereof to a recipient on behalf of any registered person shall maintain true and correct records in respect of such goods handled by him on behalf of such registered person and shall produce the details thereof as and when required by the proper officer.
18. Every registered person shall, on demand, produce the books of account which he is required to maintain under any law for the time being in force.

GENERATION AND MAINTENANCE OF ELECTRONIC RECORDS

[RULE 57 OF ACCOUNTS & RECORDS]

1. Proper electronic back-up of records shall be maintained and preserved in such manner that, in the event of destruction of such records due to accidents or natural causes, the information can be **restored within a reasonable period of time.**
2. The registered person maintaining electronic records shall produce, **on demand**, the relevant records or documents, duly authenticated by him, in hard copy or in any electronically readable format.
3. Where the accounts and records are stored electronically by any registered person, he shall, on demand, provide the details of such files, passwords of such files and explanation where necessary for access and any other information which is required for such access along with a sample copy in print form of the information stored in such files.

RECORDS TO BE MAINTAINED BY OWNER OR OPERATOR OF GODOWN OR WAREHOUSE AND TRANSPORTERS [RULE 58 OF CGST RULES, 2017]

1. **Every person** required to maintain records and accounts in accordance with the provisions of sub-section (2) of section 35 i.e Godown owner, transporter, if not already registered under the Act, shall submit the details regarding his business electronically on the common portal in FORM GST ENR-01, either directly or through a Facilitation Centre notified by the Commissioner and, upon validation of the details furnished, a unique enrolment number shall be generated and communicated to the said person.
2. The person enrolled under sub-rule (1) as aforesaid in any other State or Union territory shall be deemed to be enrolled in the State or Union territory.
3. Every person who is enrolled under sub-rule (1) shall, where required, amend the details furnished in FORM GST ENR-01 electronically on the common portal either directly or through a Facilitation Centre notified by the Commissioner.
4. Subject to the provisions of rule 56,
 - a. any person engaged in the business of transporting goods shall maintain records of goods transported, delivered and goods stored in transit by him along with Goods and Services Tax Identification Number of the registered consigner and consignee for each of his branches.
 - b. every owner or operator of a warehouse or godown shall maintain books of account, with respect to the period for which particular goods remain in the warehouse, including the particulars relating to dispatch, movement, receipt, and disposal of such goods.
5. The owner or the operator of the godown shall store the goods in such manner that they can be identified item wise and owner wise and shall facilitate any physical verification or inspection by the proper officer on demand.

PERIOD OF RETENTION OF ACCOUNTS

Explain the provisions relating to period of retention of accounts.

Ans: Period of retention of accounts [Section 36]:

(1) Accounts to be kept for 72 months from the due date of furnishing of annual return :

Every registered person required to keep and maintain books of account or other records in accordance with the provisions of Section 35(1) shall retain them until the expiry of 72 months from the due date of furnishing of annual return for the year pertaining to such accounts and records.

For example : If the annual returns for the FY 2017-18 are filed on say 15-12-2018, then the books of account and other records are to be maintained till 31-12-2024.

(2) Accounts pertaining to subject matter of appeal etc. - to be kept for a period of ONE year after final disposal of such appeal etc. or for 72 months from the due date of furnishing of annual return whichever period expires later :

A registered person, —

- who is a party to an appeal or revision or any other proceedings before any Appellate Authority or Revisional Authority or Appellate Tribunal or court, whether filed by him or by the Commissioner, or is under investigation for an offence under Chapter XIX,
- shall retain the books of account and other records pertaining to the subject-matter of such appeal or revision or proceedings or investigation for a period of 1 year after final disposal of such appeal or revision or proceedings or investigation, or - for the period specified above i.e. until the expiry of 72 months from the due date of furnishing of annual return for the year pertaining to such accounts and records, whichever is later.

CHAPTER 14

RETURN PROCESS

FURNISHING DETAILS OF OUTWARD SUPPLIES [SEC. 37]

<p>Furnishing details of outward supplies.</p> <p>[Sec. 37(1)]</p>	<ul style="list-style-type: none"> ◆ Every registered person, ◆ other than an Input Service Distributor, a non-resident taxable person and a person paying tax under the provisions of section 10 or section 51 or section 52, ◆ shall furnish, electronically, in such form and manner as may be prescribed, ◆ the details of outward supplies of goods or services or both effected during a tax period ◆ on or before the tenth day of the month succeeding the said tax period and ◆ such details shall be communicated to the recipient <p>of the said supplies within such time and in such manner as may be prescribed:</p> <p>Provided that the registered person shall not be allowed to furnish the details of outward supplies during the period from the eleventh day to the fifteenth day of the month succeeding the tax period:</p> <p>Provided further that the Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing such details for such class of taxable persons as may be specified therein:</p> <p>Provided also that any extension of time limit notified by the Commissioner of State tax or Commissioner of Union territory tax shall be deemed to be notified by the Commissioner.</p>
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<p>Accept or reject the details [Sec. 37(2)]</p>	<ul style="list-style-type: none"> ◆ Every registered person ◆ who has been communicated the details under sub-section (3) of section 38 or the details pertaining to inward supplies of Input Service Distributor under sub-section (4) of section 38, ◆ shall either accept or reject the details so communicated, on or before the seventeenth day, but not before the fifteenth day, of the month succeeding the tax period and ◆ the details furnished by him under sub-section (1) shall stand amended accordingly.
<p>Rectification of error [Sec. 37(3)]</p>	<ul style="list-style-type: none"> ◆ Any registered person, ◆ who has furnished the details under sub-section (1) for any tax period and ◆ which have remained unmatched under section 42 or section 43, ◆ shall, upon discovery of any error or omission therein, ◆ rectify such error or omission in such manner as may be prescribed, and ◆ shall pay the tax and interest, if any, in case there is a short payment of tax on account of such error or omission, in the return to be furnished for such tax period: <p>Provided that no rectification of error or omission in respect of the details furnished under sub-section (1) shall be allowed after furnishing of the return under section 39 for the month of September following the end of the financial year to which such details pertain, or furnishing of the relevant annual return, whichever is earlier.</p> <p>Explanation.—For the purposes of this Chapter, the expression “details of outward supplies” shall include details of invoices, debit notes, credit notes and revised invoices issued in relation to outward supplies made during any tax period.</p>

FORM AND MANNER OF FURNISHING DETAILS OF OUTWARD SUPPLIES
[RULE 59 OF CGST RULES, 2017]

Furnishing of return [Rule 59(1)]	<ul style="list-style-type: none"> ◆ Every registered person (other than a person referred to in section 14 of the Integrated Goods and Services Tax Act, 2017). ◆ required to furnish the details of outward supplies of goods or services or both under section 37. ◆ shall furnish such details in FORM GSTR-1 electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner.
Details for Outward Supply Return [Rule 59(2)]	<p>The details of outward supplies of goods or services or both furnished in FORM GSTR-1 shall include the—</p> <ul style="list-style-type: none"> (a) invoice wise details of all— <ul style="list-style-type: none"> (i) inter-State and intra-State supplies made to the registered persons; and (ii) inter-State supplies with invoice value more than two and a half lakh rupees made to the unregistered persons; (b) consolidated details of all— <ul style="list-style-type: none"> (z) intra-State supplies made to unregistered persons for each rate of tax; and (ii) State wise inter-State supplies with invoice value upto two and a half lakh rupees made to unregistered persons for each rate of tax; (c) debit and credit notes, if any issued during the month for invoices issued previously.

FURNISHING DETAILS OF INWARD SUPPLIES [SEC. 38]

<p>Furnishing details of inward supplies [Sec. 38(1)]</p>	<ul style="list-style-type: none"> ◆ Every registered person, ◆ other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52, ◆ shall verify, validate, modify or delete, if required, ◆ the details relating to outward supplies and credit or debit notes communicated under sub-section (1) of section 37 ◆ to prepare the details of his inward supplies and credit or debit notes and may include therein, ◆ the details of inward supplies and credit or debit notes received by him in respect of such supplies that have not been declared by the supplier under sub-section (7) of section 37.
<p>Time of filing Inward return [Sec. 38(2)]</p>	<p>Every registered person,</p> <ul style="list-style-type: none"> ◆ other than an Input Service Distributor or a non -resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52, ◆ shall furnish, electronically, the details of inward supplies of taxable goods or services or both, ◆ including inward supplies of goods or services or both on which the tax is payable on reverse charge basis under this Act and ◆ inward supplies of goods or services or both taxable under the Integrated Goods and Services Tax Act or ◆ on which integrated goods and services tax is payable under section 3 of the Customs Tariff Act, 1975, and ◆ credit or debit notes received in respect of such supplies during a tax period ◆ after the tenth day but on or before the fifteenth day of the month succeeding the tax period in such form and manner as may be prescribed: <p>Provided that the Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing such details for such class of taxable persons as may be specified therein:</p>

	<p>Provided further that any extension of time limit notified by the Commissioner of State tax or Commissioner of Union territory tax shall be deemed to be notified by the Commissioner.</p>
<p>Communication of Modification etc. in section 38(2) i.e. inward return [Sec. 38(3)]</p>	<ul style="list-style-type: none"> ◆ The details of supplies ◆ modified, deleted or included by the recipient and ◆ furnished under sub-section (2) shall be ◆ communicated to the supplier concerned ◆ in such manner and within such time as may be prescribed.
<p>Communication of Modification etc. in Sec. 39(2) & 39(4) i.e. composition scheme and ISD [Sec. 38(4)]</p>	<ul style="list-style-type: none"> ◆ The details of supplies ◆ modified, deleted or included by the recipient ◆ in the return furnished under sub-section (2) or sub-section (4) of section 39 ◆ shall be communicated to the supplier concerned in such manner and within such time as may be prescribed.
<p>Rectification of return [Sec. 38(5)]</p>	<ul style="list-style-type: none"> ◆ Any registered person, ◆ who has furnished the details under sub-section (2) for any tax period and ◆ which have remained unmatched under section 42 or section 43, ◆ shall, upon discovery of any error or omission therein, ◆ rectify such error or omission in the tax period ◆ during which such error or omission is noticed in such manner as may be prescribed, and ◆ shall pay the tax and interest, if any, in case there is a short payment of tax on account of such error or omission, ◆ in the return to be furnished for such tax period: <p>Provided that no rectification of error or omission in respect of the details furnished under sub-section (2) shall be allowed after furnishing of the return under section 39 for the month of September following the end of the financial year to which such details pertain, or furnishing of the relevant annual return, whichever is earlier.</p>

FURNISHING OF RETURNS [SEC. 39(1)]

<p>Monthly Returns submission [Sec. 39(1)]</p>	<ul style="list-style-type: none"> ◆ Every registered person, ◆ other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52 ◆ shall, for every calendar month or part thereof, furnish, in such form and manner as may be prescribed, ◆ a return, electronically, of inward and outward supplies of goods or services or both, input tax credit availed, tax payable, tax paid and such other particulars as may be prescribed, ◆ on or before the 20th day of the month succeeding such calendar month or part thereof.
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COMPOSITE SCHEME [SEC. 39(2)]

<p>Quarterly Return for Composite Scheme person [Sec. 39(2)]</p>	<ul style="list-style-type: none"> ◆ A registered person paying tax under the provisions of section 10 shall, ◆ for each quarter or part thereof, ◆ furnish, in such form and manner as may be prescribed, ◆ a return, electronically, of turnover in the State or Union territory, inward supplies of goods or services or both, tax payable and tax paid ◆ within eighteen days after the end of such quarter.
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MONTHLY RETURNS SUBMISSION WHO DEDUCT TDS [SEC. 39(3)]

<p>Monthly Returns submission who deduct TDS [Sec. 39(3)]</p>	<ul style="list-style-type: none"> ◆ Every registered person ◆ required to deduct tax at source under the provisions of section 51 ◆ shall furnish, in such form and manner as may be prescribed, ◆ a return, electronically, for the month in which such deductions have been made ◆ within ten days after the end of such month.
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INPUT SERVICE DISTRIBUTOR [SEC. 39(4)]

Monthly Returns for ISD [Sec. 39(4)]	<ul style="list-style-type: none"> ◆ Every taxable person ◆ registered as an Input Service Distributor shall, ◆ for every calendar month or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, ◆ within thirteen days after the end of such month.
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NON-RESIDENT TAXABLE PERSON [SEC. 39(5)]

Monthly Returns for NRI [Sec. 39(5)]	<ul style="list-style-type: none"> ◆ Every registered non-resident taxable person ◆ shall, for every calendar month or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, ◆ within twenty days after the end of a calendar month or within seven days after the last day of the period of registration specified under sub-section (?) of section 27, whichever is earlier.
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OTHERS PROVISION [SEC. 39(6)]

Extension of time limit to furnish return [Sec. 39(6)]	<p>The Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing the returns under this section for such class of registered persons as may be specified therein:</p> <ul style="list-style-type: none"> ◆ Provided that any extension of time limit notified by the Commissioner of State tax or Union territory tax shall be deemed to be notified by the Commissioner.
Deposit of Tax [Sec. 39(7)]	<ul style="list-style-type: none"> ◆ Every registered person, ◆ who is required to furnish a return ◆ under sub-section (1) or sub-section (2) or sub-section (3) or sub-section (5), ◆ shall pay to the Government the tax due as per such return not later than the last date on which he is required to furnish such return.

<p>Nil return [Sec. 39(8)]</p>	<p>Every registered person who is required to furnish a return under sub-section (1) or sub-section (2) shall furnish a return for every tax period whether or not any supplies of goods or services or both have been made during such tax period.</p>
<p>Rectification of error [Sec. 39(9)]</p>	<ul style="list-style-type: none"> ◆ Subject to the provisions of sections 37 and 38, ◆ if any registered person after furnishing a return under sub-section (1) or sub-section (2) or sub-section (3) or sub-section (4) or sub-section (5) ◆ discovers any omission or incorrect particulars therein, ◆ other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, ◆ he shall rectify such omission or incorrect particulars in the return to be furnished for the month or quarter during which such omission or incorrect particulars are noticed, ◆ subject to payment of interest under this Act: <p>Provided that no such rectification of any omission or incorrect particulars shall be allowed after the</p> <ul style="list-style-type: none"> ◆ due date for furnishing of return for the month of September or second quarter following the end of the financial year, <p>or</p> <ul style="list-style-type: none"> ◆ the actual date of furnishing of relevant annual return, <p>whichever is earlier.</p> <p>Example :</p> <p>Mr. Bean is receiving supplies from Mr. Bheem, He has filed his return for the month of August 2017 on 20th September 2017. There is mismatch in the returns furnished by both & not rectified by Bean & Bheem shall be communicated to both on 30-9-2017.</p> <p>Mr. Bheem should rectify his return for outward supply in the month of September 2017. Similarly the recipient,</p> <p>Mr. Bean should make rectification in the inward supply statement in the</p>

	<p>month of September 2017. The tax on unrectify or partially unrectify amount shall be added to the output tax liability of the recipient of supply in his return in FORM GSTR-3 for the month of October 2017. Interest shall also be paid on such additional amount.</p> <p>If Mr. Bheem maintains the invoice or debit note in subsequent months but before the time limit prescribed, let in Jan. 2018, Mr. Bean can reduce the tax amount from the tax liability for the month of January 2018. He can also take refund of interest paid earlier.</p>
Submission of return not allowed if previous tax period return not filed [Sec. 39(10)]	<p>A registered person shall not be allowed to furnish a return for a tax period if the return for any of the previous tax periods has not been furnished by him.</p>

FORM AND MANNER OF SUBMISSION OF MONTHLY RETURN

[RULE 61 OF CGST RULES, 2017]

Return by registered person [Rule 61(1)]	<ul style="list-style-type: none"> ◆ Every registered person, other than a person referred to in section 14 of the Integrated Goods and Services Tax Act, 2017) ◆ an Input Service Distributor or anon-resident taxable person or a person paying tax under section 10 or section 51 or, as the case may be, under section 52 or ◆ shall furnish a return specified under sub-section (1) of section 39 in FORM GSTR-3 electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner.
Automatic filling of Part-A of return [Rule 61(2)]	<p>Part A of the return under sub-rule (1) shall be electronically generated on the basis of information furnished through FORM GSTR-1, FORM GSTR-2 and based on other liabilities of preceding tax periods.</p>
Discharge the liability [Rule 61(3)]	<p>Every registered person furnishing the return under sub-rule (1) shall, subject to the provisions of section 49, discharge his liability towards tax, interest, penalty, fees or any other amount payable under the Act or the provision of this chapter by debiting the electronic cash ledger or electronic credit ledger and include the details in Part B of the return in FORM GSTR-3.</p>

Refund of claim [Rule 61(4)]	A registered person, claiming refund of any balance in the electronic cash ledger in accordance with the provisions of sub-section (6) of section 49, may claim such refund in Part B of the return in FORM GSTR-3 and such return shall be deemed to be an application filed under section 54.
File GSTR-3B in case of extension of time limit in GSTR-1 & GSTR-2 [Rule 61(5)]	Where the time limit for furnishing of details in FORM GSTR-1 under section 37 and in FORM GSTR-2 under section 38 has been extended and the circumstances so warrant, return in FORM GSTR-3B, in lieu of FORM GSTR-3, may be furnished in such manner and subject to such condition as may be notified by the Commissioner,

FORM AND MANNER OF SUBMISSION OF QUARTERLY RETURN BY THE COMPOSITION SUPPLIER [RULE 62 OF CGST RULES, 2017]

Quarterly return by Composition dealer [Rule 62(1)]	<ul style="list-style-type: none"> ◆ Every registered person paying tax under section 10 ◆ shall, on the basis of details contained in FORM GSTR-4A, and where required, after adding, correcting or deleting the details, ◆ furnish the quarterly return in FORM GSTR-4 electronically through the common portal, ◆ either directly or through a Facilitation Centre notified by the Commissioner.
Discharge the liability [Rule 62(2)]	Every registered person furnishing the return under sub-rule (1) shall discharge his liability towards tax, interest, penalty, fees or any other amount payable under the Act or the provision of this chapter by debiting the electronic cash ledger .
Details in return [Rule 62(3)]	<p>The return furnished under sub-rule (1) shall include the—</p> <p>(a) invoice wise inter-State and intra-State inward supplies received from registered and un-registered persons; and</p> <p>(b) consolidated details of outward supplies made.</p>

<p>Requirements in case person opt to pay tax in composition scheme from normal scheme [Rule 62(4)]</p>	<ul style="list-style-type: none"> ♦ A registered person who has opted to pay tax under section 10 from the beginning of a financial year, ♦ Shall, where required, furnish the details of outward and inward supplies, ♦ and return under rule 59, rule 60 and rule 61 relating to the period, ♦ during which the person was liable to furnish such details, ♦ and returns till the due date of furnishing the return for the month of September of the succeeding financial year or furnishing of annual return of the preceding financial year, whichever is earlier. <p><i>Explanation.</i>—For the purposes of this sub-rule, it is hereby declared that the person shall not be eligible to avail of input tax credit on receipt of invoices or debit notes from the supplier for the period prior to his opting for the composition scheme.</p>
<p>Withdrawal from composition scheme [Rule 62(5)]</p>	<p>A registered person opting to withdraw from the composition scheme at his own motion or where option is withdrawn at the instance of the proper officer shall, where required, furnish the details relating to the period prior to his opting for payment of tax under section 9 in FORM GSTR- 4 till the due date of furnishing the return for the quarter ending September of the succeeding financial year or furnishing of annual return of the preceding financial year, whichever is earlier.</p>

FORM AND MANNER OF SUBMISSION OF RETURN BY NONRESIDENT TAXABLE PERSON [RULE 63 OF CGST RULES, 2017]

- ◆ Every registered non-resident taxable person,
- ◆ shall furnish a return in **FORM GSTR-5** electronically through the common portal, either directly or through a Facilitation Centre notified by the Commissioner,
- ◆ including therein the details of outward supplies and inward supplies
- ◆ shall pay the tax, interest, penalty, fees or any other amount payable under the Act or the provision of this chapter and
- ◆ **within twenty days** after the end of a tax period or **within seven days after the last day** of the validity period of registration, whichever is **earlier**.

FORM AND MANNER OF SUBMISSION OF RETURN BY PERSONS PROVIDING ONLINE INFORMATION AND DATABASE ACCESS OR RETRIEVAL SERVICES [RULE 64 OF CGST RULES, 2017]

- ◆ Every registered person
- ◆ providing online information and data base access or retrieval services from a place outside India to a person in India other than a registered person
- ◆ shall file return in FORM GSTR-5A on or before the twentieth day of the month succeeding the calendar month or part thereof.

FORM AND MANNER OF SUBMISSION OF RETURN BY AN INPUT SERVICE DISTRIBUTOR [RULE 65 OF CGST RULES, 2017]

Every Input Service Distributor shall, on the basis of details contained in FORM GSTR-6A, and where required, after adding, correcting or deleting the details, furnish electronically the return in FORM GSTR-6, containing the details of tax invoices on which credit has been received and those issued under section 20, through the common portal either directly or from a Facilitation Centre notified by the Commissioner.

FORM AND MANNER OF SUBMISSION OF RETURN BY A PERSON REQUIRED TO DEDUCT TAX AT SOURCE [RULE 66 OF CGST RULES, 2017]

Return by the person who is liable to deduct TDS [Rule 66(1)]	<ul style="list-style-type: none"> ◆ Every registered person ◆ required to deduct tax at source under section 51 (hereafter in this rule referred to as deductor) ◆ shall furnish a return in FORM GSTR-7 electronically through the common portal either directly or from a Facilitation Centre notified by the Commissioner.
Details available to the recipients [Rule 66(2)]	<p>The details furnished by the deductor under sub-rule (1) shall be made available electronically to each of the suppliers in Part C of FORM GSTR-2A and FORM-GSTR- 4A on the common portal after the due date of filing of FORM GSTR-7.</p>
TDS certificate [Rule 66(3)]	<p>The certificate referred to in sub-section (3) of section 51 shall be made available electronically to the deductee on the common portal in FORM GSTR-7A on the basis of the return furnished under sub-rule (1).</p>

FORM AND MANNER OF SUBMISSION OF STATEMENT OF SUPPLIES THROUGH AN E-COMMERCE OPERATOR [RULE 67 OF CGST RULES, 2017]

Return by E-Commerce Operator [Rule 67(1)]	<ul style="list-style-type: none"> ◆ Every electronic commerce operator required to collect tax at source under section 52 ◆ shall furnish a statement in FORM GSTR-8 electronically on the common portal, either directly or from a Facilitation Centre notified by the Commissioner, ◆ containing details of supplies effected through such operator and the amount of tax collected as required under sub-section (1) of section 52.
Details available to the recipients [Rule 67(2)]	<p>The details furnished by the operator under sub-rule (1) shall be made available electronically to each of the suppliers in Part C of FORM GSTR-2A on the common portal after the due date of filing of FORM GSTR-8.</p>

FIRST RETURN [SEC. 40]

- Every registered person
- who has made **outward supplies**
- in the period between the date on which he became liable to registration till the date on which registration has been granted
- shall declare the same in the first return furnished by him after grant of registration.

CLAIM OF INPUT TAX CREDIT AND PROVISIONAL ACCEPTANCE THEREOF [SEC. 41]

ITC credited on provisional basis [Sec. 41(1)]	<ul style="list-style-type: none"> ◆ Every registered person shall, ◆ subject to such conditions and restrictions as may be prescribed, ◆ be entitled to take the credit of eligible input tax, ◆ as self-assessed, in his return and ◆ such amount shall be credited on a provisional basis to his electronic credit ledger.
ITC utilised for output tax [Sec. 41(2)]	<p>The credit referred to in sub-section (1) shall be utilised only for payment of self-assessed output tax as per the return referred to in the said sub-section.</p>

MATCHING, REVERSAL AND RECLAIM OF INPUT TAX CREDIT [SEC. 42]

Matching of Inward supply [Sec. 42(1)]	<p>The details of every inward supply furnished by a registered person (hereafter in this section referred to as the “recipient”) for a tax period shall, in such manner and within such time as may be prescribed, be matched—</p> <ul style="list-style-type: none"> a. with the corresponding details of outward supply furnished by the corresponding registered person (hereafter in this section referred to as the “supplier”) in his valid return for the same tax period or any preceding tax period; b. with the integrated goods and services tax paid under section 3 of the Customs Tariff Act, 1975 in respect of goods imported by him; and b. for duplication of claims of input tax credit.
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Matching of Input tax credit & Final acceptance [Sec. 42(2)]	<p>The claim of input tax credit in respect of invoices or debit notes relating to inward supply that match with the details of corresponding outward supply or with the integrated goods and services tax paid under section 3 of the Customs Tariff Act, 1975 in respect of goods imported by him shall be finally accepted and such acceptance shall be communicated, in such manner as may be prescribed, to the recipient.</p>
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COMMUNICATION OF DISCREPANCY [SEC. 42(3)]

Credit taken excess or supply not declared [Sec. 42(3)]	<ul style="list-style-type: none"> ▪ Where the input tax credit claimed by a recipient in respect of an inward supply is ▪ in excess of the tax declared by the supplier for the same supply or ▪ the outward supply is not declared by the supplier in his valid returns, ▪ the discrepancy shall be communicated to both such persons in such manner as may be prescribed.
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DUPLICATION OF CLAIM [SEC. 42(4)]

Duplication of claim [Sec. 42(4)]	<p>The duplication of claims of input tax credit shall be communicated to the recipient in such manner as may be prescribed.</p> <p>Claim of input tax credit on the same invoice more than once. (Rule 72 of CGST Rules, 2017)</p> <p>A Duplication of claims of input tax credit in the details of inward supplies shall be communicated to the registered person in FORM GST MIS-1 electronically through the common portal.</p>
Implication if discrepancy not rectify [Sec. 42(5)]	<p>The amount in respect of which any discrepancy is communicated under sub-section (3) and which is not rectified by the supplier in his valid return for the month in which discrepancy is communicated shall be added to the output tax liability of the recipient, in such manner as may be prescribed, in his return for the month succeeding the month in which the discrepancy is communicated.</p>

Duplication in input tax credit is liability of recipients [Sec. 42(6)]	The amount claimed as input tax credit that is found to be in excess on account of duplication of claims shall be added to the output tax liability of the recipient in his return for the month in which the duplication is communicated.
Reduction of liability [Sec. 42(7)]	The recipient shall be eligible to reduce , from his output tax liability, the amount added under sub-section (5), if the supplier declares the details of the invoice or debit note in his valid return within the time specified in sub-section (9) of section 39.
Interest Liability [Sec. 42(8)]	A recipient in whose output tax liability any amount has been added under sub-section (5) or sub-section (6), shall be liable to pay interest at the rate specified under subsection (1) of section 50 on the amount so added from the date of availing of credit till the corresponding additions are made under the said sub-sections.
Refund of Interest [Sec. 42(9)]	Where any reduction in output tax liability is accepted under sub-section (7), the interest paid under sub-section (8) shall be refunded to the recipient by crediting the amount in the corresponding head of his electronic cash ledger in such manner as may be prescribed: ♦ Provided that the amount of interest to be credited in any case shall not exceed the amount of interest paid by the supplier.
Contravention in reduction of liability [Sec. 42(10)]	The amount reduced from the output tax liability in contravention of the provisions of sub-section (7) shall be added to the output tax liability of the recipient in his return for the month in which such contravention takes place and such recipient shall be liable to pay interest on the amount so added at the rate specified in sub-section (3) of section 50.

MATCHING OF CLAIM OF INPUT TAX CREDIT [RULE 69 OF CGST RULES, 2017]

The following details relating to the claim of input tax credit on inward supplies including imports, provisionally allowed under section 41, shall be matched under section 42 after the due date for furnishing the return in FORM GSTR-3—

- (a) Goods and Services Tax Identification Number of the supplier;
- (b) Goods and Services Tax Identification Number of the recipient;
- (c) invoice/or debit note number;
- (d) invoice/or debit note date; and
- (e) tax amount:

♦ **Provided** that where the time limit for furnishing FORM GSTR-1 specified under section 37 and FORM GSTR-2 specified under section 38 has been extended, the date of matching relating to claim of input tax credit shall also be extended accordingly:

♦ **Provided further** that the Commissioner may, on the recommendations of the Council, by order, **extend the date** of matching relating to claim of input tax credit to such date as may be specified therein.

Explanation - For the purposes of this rule, it is hereby declared that—

- (i) The claim of input tax credit in respect of invoices and debit notes in FORM GSTR-2 that were accepted by the recipient on the basis of FORM GSTR-2A without amendment shall be treated as matched if the corresponding supplier has furnished a valid return.
- (ii) The claim of input tax credit shall be considered as matched, where the amount of input tax credit claimed is **equal to or less than** the output tax paid on such tax invoice or debit note by the corresponding supplier.

FINAL ACCEPTANCE OF REDUCTION IN INPUT TAX CREDIT AND COMMUNICATION THEREOF [RULE 70 OF CGST RULES, 2017]

Final Acceptance of reduction [Rule 70(1)]	<p>The Final acceptance of claim of input tax credit in respect of any tax period, specified in sub-section (2) of section 42, shall be made available electronically to the person making such claim in FORM GST MIS-1 through the common portal.</p>
Final Acceptance of reduction in input tax credit after rectification [Rule 70(2)]	<p>The claim of reduction in input tax credit in respect of any tax period which had been communicated as mismatched but is found to be matched after rectification by the supplier or recipient shall be finally accepted and made available electronically to the person making such claim in FORM GST MIS-1 through the common portal.</p>

COMMUNICATION AND RECTIFICATION OF DISCREPANCY IN CLAIM OF INPUT TAX CREDIT AND REVERSAL OF CLAIM OF INPUT TAX CREDIT

[RULE 71 OF CGST RULES, 2017]

Discrepancy to be available to supplier & person who is taking credit [Rule 71(1)]	<ul style="list-style-type: none"> ◆ Any discrepancy in the claim of input tax credit, specified in sub-section (3) of section 42, ◆ and the details of output tax liability to be added under sub-section (5) of the said section, ◆ on account of continuation of such discrepancy, ◆ shall be made available to the recipient making such claim electronically in FORM GST MIS-1, ◆ the supplier electronically in FORM GST MIS-2 through the common portal and ◆ on or before the last date of the month in which the matching has been carried out.
Rectification of discrepancy by supplier [Rule 71(2)]	<p>A supplier to whom any discrepancy is made available under sub-rule (1) may make suitable rectifications in the statement of outward supplies to be furnished for the month in which the discrepancy is made available.</p>
Rectification of discrepancy by recipients [Rule 71(3)]	<p>A recipient to whom any discrepancy is made available under sub-rule (1) may make suitable rectifications in the statement of inward supplies to be furnished for the month in which the discrepancy is made available.</p>

Effect if no discrepancy is rectified [Rule 71(4)]	Where the discrepancy is not rectified under sub-rule (2) or sub-rule (3), an amount to the extent of discrepancy shall be added to the output tax liability of the recipient and in his return to be furnished in FORM GSTR-3 for the month succeeding the month in which the discrepancy is made available.
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Explanation - For the purposes of this rule, it is hereby declared that—

- (i) Rectification by a supplier means deleting or correcting the details of an outward supply in his valid return so as to match the details of corresponding inward supply declared by the recipient.
- (ii) Rectification by the recipient means adding or correcting the details of an inward supply so as to match the details of corresponding outward supply declared by the supplier.

CLAIM OF INPUT TAX CREDIT ON THE SAME INVOICE MORE THAN ONCE [RULE 72 OF CGST RULES, 2017]

A **Duplication of claims** of input tax credit in the details of inward supplies shall be communicated to the registered person in FORM GST MIS-1 electronically through the common portal.

MATCHING, REVERSAL AND RECLAIM OF REDUCTION IN OUTPUT TAX LIABILITY [SEC. 43(1)]

Matching of Credit Note [Sec. 43(1)]	The details of every credit note relating to outward supply furnished by a registered taxable person (hereafter in this section referred to as the “supplier”) for a tax period shall, in such manner and within such time as may be prescribed, be matched— (a) with the corresponding reduction in the claim for input tax credit by the corresponding registered person (hereafter in this section referred to as the “recipient”) in his valid return for the same tax period or any subsequent tax period; and (b) for duplication of claims for reduction in output tax liability.
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FINAL ACCEPTANCE [SEC. 43(2)]

Final Acceptance [Sec. 43(2)]	The claim for reduction in output tax liability by the supplier that matches with the corresponding reduction in the claim for input tax credit by the recipient shall be finally accepted and communicated, in such manner as may be prescribed, to the supplier.
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REDUCTION OF OUTPUT LIABILITY [SEC. 43(3)]

Credit Note shown excess or not declared by supplier [Sec. 43(3)]	<ul style="list-style-type: none"> ◆ Where the reduction of output tax liability in respect of outward supplies ◆ exceeds the corresponding reduction in the claim for input tax credit or ◆ the corresponding credit note is not declared by the recipient in his valid returns, ◆ the discrepancy shall be communicated to both such persons in such manner as may be prescribed.
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OTHER PROVISION [SEC. 43]

Duplication of claim [Sec. 43(4)]	<p>The duplication of claims for reduction in output tax liability shall be communicated to the supplier in such manner as may be prescribed.</p> <p>Claim of reduction in output tax liability more than once. (Rule 76 of CGST Rules, 2017)</p> <p>The duplication of claims for reduction in output tax liability in the details of outward supplies shall be communicated to the registered person in FORM GST MIS-1 electronically through the common portal.</p>
Implication if discrepancy not rectify [Sec. 43(5)]	The amount in respect of which any discrepancy is communicated under sub-section (3) and which is not rectified by the recipient in his valid return for the month in which discrepancy is communicated shall be added to the output tax liability of the supplier , in such manner as may be prescribed, in his return for the month succeeding the month in which the discrepancy is communicated.

Duplication of claim is liability of supplier [Sec. 43(6)]	<p>The amount in respect of any reduction in output tax liability that is found to be on account of duplication of claims shall be added to the output tax liability of the supplier in his return for the month in which such duplication is communicated.</p>
Reduction of liability of supplier [Sec. 43(7)]	<p>The supplier shall be eligible to reduce, from his output tax liability, the amount added under sub-section (5) if the recipient declares the details of the credit note in his valid return within the time specified in sub-section (9) of section 39.</p>
Interest Liability [Sec. 43(8)]	<p>A supplier in whose output tax liability any amount has been added under sub-section (5) or sub-section (6), shall be liable to pay interest at the rate specified under subsection (1) of section 50 in respect of the amount so added from the date of such claim for reduction in the output tax liability till the corresponding additions are made under the said sub-sections.</p>
Refund of Interest [Sec. 43(9)]	<p>Where any reduction in output tax liability is accepted under sub-section (7), the interest paid under sub-section (8) shall be refunded to the supplier by crediting the amount in the corresponding head of his electronic cash ledger in such manner as may be prescribed:</p> <p>♦ Provided that the amount of interest to be credited in any case shall not exceed the amount of interest paid by the recipient.</p> <p>Refund of interest paid on reclaim of reversals. (Rule 77 of CGST Rules, 2017)</p> <p>The interest to be refunded under sub-section (9) of section 42 or sub-section (9) of section 43 shall be claimed by the registered person in his return in FORM GSTR-3 and shall be credited to his electronic cash ledger in FORM GST PMT-5 and the amount credited shall be available for payment of any future liability towards interest or the taxable person may claim refund of the amount under section 54.</p>
Contravention in reduction of liability of suppliers [Sec. 43(10)]	<p>The amount reduced from output tax liability in contravention of the provisions of sub-section (7) shall be added to the output tax liability of the supplier in his return for the month in which such contravention takes place and such supplier shall be liable to pay interest on the amount so added at the rate specified in sub-section (3) of section 50.</p>

MATCHING OF CLAIM OF REDUCTION IN THE OUTPUT TAX LIABILITY

[RULE 73 OF CGST RULES, 2017]

The following details relating to the **claim of reduction in output tax liability** shall be matched under section 43 after the due date for furnishing the return in FORM GSTR-3—

- (a) Goods and Services Tax Identification Number of the supplier;
- (b) Goods and Services Tax Identification Number of the recipient;
- (c) credit note number;
- (d) credit note date; and
- (e) tax amount:

♦ **Provided** that where the time limit for furnishing FORM GSTR-1 under section 37 and FORM GSTR-2 under section 38 has been **extended**, the date of matching of claim of reduction in the output tax liability shall be extended accordingly:

♦ **Provided further** that the Commissioner may, on the recommendations of the Council, by order, extend the date of matching relating to claim of reduction in output tax liability to such date as may be specified therein.

Explanation.- For the purposes of this rule, it is hereby declared that—

(i) The claim of reduction in output tax liability due to issuance of credit notes in FORM GSTR-1 that were accepted by the corresponding recipient in FORM GSTR-2 without amendment shall be treated as matched if the said recipient has furnished a valid return.

(ii) The claim of reduction in the output tax liability shall be considered as matched where the amount of output tax liability after taking into account the reduction claimed is equal to or more than the claim of input tax credit after taking into account the reduction admitted and discharged on such credit note by the corresponding recipient in his valid return.

FINAL ACCEPTANCE OF REDUCTION IN OUTPUT TAX LIABILITY AND COMMUNICATION THEREOF [RULE 74 OF CGST RULES, 2017]

Final Acceptance of reduction in output tax liability [Rule 74(1)]	The final acceptance of reduction in output tax liability in respect of any tax period, specified in sub-section (2) of section 43, shall be made available electronically to the registered person making such claim in FORM GST MIS-1 through the common portal.
Final Acceptance of reduction of output tax after rectification [Rule 74(2)]	The claim of input tax credit in respect of any tax period which had been communicated as mismatched but is found to be matched after rectification by the supplier or recipient shall be finally accepted and made available electronically to the person making such claim in FORM GST MIS-1 through the common portal.

COMMUNICATION AND RECTIFICATION OF DISCREPANCY IN REDUCTION IN OUTPUT TAX LIABILITY AND REVERSAL OF CLAIM OF REDUCTION [RULE 75 OF CGST RULES, 2017]

Discrepancy to be available to supplier & person who is taking credit [Rule 75(1)]	<ul style="list-style-type: none"> ◆ Any discrepancy in the reduction of output tax liability in respect of any tax period, ◆ specified in sub-section (3) of section 43 and the details of output tax liable to be added under subsection (5) of the said section, ◆ on account of continuation of such discrepancy, ◆ shall be made available to the supplier making such claim electronically in FORM GST MIS-1 ◆ to the recipient electronically in FORM GST MIS-2 through the common portal and ◆ on or before the last date of the month in which the matching has been carried out.
Rectification of discrepancy by supplier [Rule 75(2)]	A supplier to whom any discrepancy is made available under sub-rule (1) may make suitable rectifications in the statement of outward supplies to be furnished for the month in which the discrepancy is made available.

Rectification of discrepancy by recipients [Rule 75(3)]	A recipient to whom any discrepancy is made available under sub-rule (1) may make suitable rectifications in the statement of inward supplies to be furnished for the month in which the discrepancy is made available .
Effect if no discrepancy is rectified [Rule 75(4)]	<ul style="list-style-type: none"> ◆ Where the discrepancy is not rectified under sub-rule (2) or sub-rule (3), ◆ an amount to the extent of discrepancy shall be added to the output tax liability of the supplier and debited to the electronic liability register and also shown in his return to be furnished in FORM GSTR-3, ◆ for the month succeeding the month in which the discrepancy is made available.

Explanation - For the purposes of this rule, it is hereby declared that—

- (i) Rectification by a supplier means deleting or correcting the details of an outward supply in his valid return so as to match the details of corresponding inward supply declared by the recipient.
- (ii) rectification by the recipient means adding or correcting the details of an inward supply so as to match the details of corresponding outward supply declared by the supplier.

CLAIM OF REDUCTION IN OUTPUT TAX LIABILITY MORE THAN ONCE **[RULE 76 OF CGST RULES, 2017]**

The **duplication** of claims for reduction in output tax liability in the details of outward supplies shall be communicated to the registered person in FORM GST MIS-1 electronically through the common portal.

REFUND OF INTEREST PAID ON RECLAIM OF REVERSALS **[RULE 77 OF CGST RULES, 2017]**

The interest to be refunded under sub-section (9) of section 42 or sub-section (9) of section 43 shall be claimed by the registered person in his return in FORM GSTR-3 and shall be credited to his electronic cash ledger in FORM GST PMT-5 and the amount credited shall be available for payment of any future liability towards interest or the taxable person may claim refund of the amount under section 54.

MATCHING OF DETAILS FURNISHED BY THE E-COMMERCE OPERATOR WITH THE DETAILS FURNISHED BY THE SUPPLIER [RULE 78 OF CGST RULES, 2017]

The following details relating to the supplies made through an **e-Commerce operator**, as declared in FORM GSTR-8, shall be matched with the corresponding details declared by the supplier in FORM GSTR-1—

(a) State of place of supply;

(b) net taxable value; and :

♦ **Provided** that where the time limit for furnishing FORM GSTR-1 under section 37 has been extended, the date of matching of the above mentioned details shall be extended accordingly:

♦ **Provided further** that the Commissioner may, on the recommendations of the Council, by order, extend the date of matching to such date as may be specified therein.

COMMUNICATION AND RECTIFICATION OF DISCREPANCY IN DETAILS FURNISHED BY THE E-COMMERCE OPERATOR AND THE SUPPLIER [RULE 79 OF CGST RULES, 2017]

Discrepancy to be available to supplier & operator [Rule 79(1)]	Any discrepancy in the details furnished by the operator and those declared by the supplier shall be made available to the supplier electronically in FORM GST MIS-3 and to the e-commerce operator electronically in FORM GST MIS-4 on the common portal on or before the last date of the month in which the matching has been carried out.
Rectification of discrepancy by supplier [Rule 79(2)]	A supplier to whom any discrepancy is made available under sub-rule (1) may make suitable rectifications in the statement of outward supplies to be furnished for the month in which the discrepancy is made available.
Rectification of discrepancy by operator [Rule 79(3)]	An operator to whom any discrepancy is made available under sub-rule (1) may make suitable rectifications in the statement to be furnished for the month in which the discrepancy is made available.

Effect if no discrepancy is rectified [Rule 79(4)]	Where the discrepancy is not rectified under sub-rule (2) or sub-rule (3), an amount to the extent of discrepancy shall be added to the output tax liability of the supplier in his return in FORM GSTR-3 for the month succeeding the month in which the details of discrepancy are made available and such addition to the output tax liability and interest payable thereon shall be made available to the supplier electronically on the common portal in FORM GST MIS-3
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DETAILS OF INWARD SUPPLY OF PERSONS HAVING UNIQUE IDENTITY NUMBER **[RULE 82 OF CGST RULES, 2017]**

Claim of Refund [Rule 82(1)]	Every person who has been issued a Unique Identity Number and claims refund of the taxes paid on his inward supplies, shall furnish the details of such supplies of taxable goods or services or both electronically in FORM GSTR-11, along with application for such refund claim, through the common portal either directly or through a Facilitation Centre notified by the Commissioner.
Details of inward supply [Rule 82(2)]	Every person, who has been issued a Unique Identity Number for purposes other than refund of the taxes paid, shall furnish the details of inward supplies of taxable goods or services or both as may be required by the proper officer in FORM GSTR-11.

ANNUAL RETURN [SEC. 44]

Time of Filing return. [Sec. 44(1)]	Every registered person, other than an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person, shall furnish an annual return for every financial year electronically in such form and manner as may be prescribed on or before the thirty-first day of December following the end of such financial year.
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Furnish copy of Audited Annual Accounts [Sec. 44(2)]	<p>Every registered person who is required to get his accounts audited in accordance with the provisions of sub-section (5) of section 35 shall furnish, electronically, the annual return under sub-section (1) along with a copy of the audited annual accounts and a reconciliation statement, reconciling the value of supplies declared in the return furnished for the financial year with the audited annual financial statement, and such other particulars as may be prescribed.</p>
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ANNUAL RETURN RULES [RULE 80 OF CGST RULES, 2017]

Annual Return by registered person [Rule 80(1)]	<p>Every registered person, other than an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person, shall furnish an annual return as specified under sub-section (1) of section 44 electronically in FORM GSTR-9 through the common portal either directly or through a Facilitation Centre notified by the Commissioner:</p> <p>♦ Provided that a person paying tax under section 10 shall furnish the annual return in FORM GSTR-9A.</p>
Annual Statement by E-commerce operator [Rule 80(2)]	<p>Every electronic commerce operator required to collect tax at source under section 52 shall furnish annual statement referred to in sub-section (5) of the said section in FORM GSTR-9B.</p>
Audit of Accounts [Rule 80(3)]	<p>Every registered person whose aggregate turnover during a financial year exceeds two crore rupees shall get his accounts audited as specified under sub-section (5) of section 35 and he shall furnish a copy of audited annual accounts and a reconciliation statement, duly certified, in FORM GSTR-9C, electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner.</p>

FINAL RETURN [SEC. 45]

Every registered person who is required to furnish a return under sub-section (1) of section 39 and whose **registration has been cancelled** shall furnish a final return within **three months** of the date of cancellation or date of order of cancellation, whichever is later, in such form and manner as may be prescribed.

FINAL RETURN [RULE 81 OF CGST RULES, 2017]

Every registered person required to furnish a final return under section 45, shall furnish such return electronically in FORM GSTR-10 through the common portal either directly or through a Facilitation Centre notified by the Commissioner.

NOTICE TO RETURN DEFAULTERS [SEC. 46]

Where a registered person **fails to furnish a return** under section 39 or section 44 or section 45, a notice shall be issued requiring him to furnish such return **within fifteen days** in such form and manner as may be prescribed.

NOTICE TO NON-FILERS OF RETURNS [RULE 68 OF CGST RULES, 2017]

A notice in FORM GSTR-3A shall be issued, electronically, to a registered person who fails to furnish return under section 39 or section 44 or section 45 or section 52.

LEVY OF LATE FEE [SEC. 47]

Levy of late fee. [Sec. 47(1)]	Any registered person who fails to furnish the details of outward or inward supplies required under section 37 or section 38 or returns required under section 39 or section 45 by the due date shall pay a late fee of one hundred rupees for every day during which such failure continues subject to a maximum amount of five thousand rupees .
Penalty on Late filing of Annual Return [Sec. 47(2)]	Any registered person who fails to furnish the return required under section 44 by the due date shall be liable to pay a late fee of one hundred rupees for every day during which such failure continues subject to a maximum of an amount calculated at a quarter per cent (.25%) of his turnover in the State or Union territory.

GOODS AND SERVICES TAX PRACTITIONERS [SEC. 48]

Eligibility and duty [Sec. 48(1)]	The manner of approval of goods and services tax practitioners, their eligibility conditions, duties and obligations, manner of removal and other conditions relevant for their functioning shall be such as may be prescribed .
Authorise the practitioners by Registered Person [Sec. 48(2)]	A registered person may authorise an approved goods and services tax practitioner to furnish the details of outward supplies under section 37, the details of inward supplies under section 38 and the return under section 39 or section 44 or section 45 in such manner as may be prescribed.
No Liability of GST Practitioners. [Sec. 48(3)]	Notwithstanding anything contained in sub-section (2), the responsibility for correctness of any particulars furnished in the return or other details filed by the goods and services tax practitioners shall continue to rest with the registered person on whose behalf such return and details are furnished.

PROVISIONS RELATING TO A GOODS AND SERVICES TAX PRACTITIONER [RULE 83 OF CGST RULES, 2017]

Enrolment as GST practitioner [Rule 83(1)]	<p>An application in FORM GST PCT-01 may be made electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner for enrolment as goods and services tax practitioner by any person who:</p> <ul style="list-style-type: none"> (i) is a citizen of India; (ii) is a person of sound mind; (iii) is not adjudicated as insolvent; (iv) has not been convicted by a competent court and satisfies any of the following conditions, namely:— <ul style="list-style-type: none"> (a) that he is a retired officer of the Commercial Tax Department of any State Government or of the Central Board of Excise and Customs, Department of Revenue, Government of India, who, during his service under the Government, had worked in a post not lower than the rank of a Group-B gazetted officer for a period of not less than two years; or
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	<p>(b) that he has enrolled as a sales tax practitioner or tax return preparer under the existing law for a period of not less than five years;</p> <p>(c) he has passed:</p> <p>(i) a graduate or postgraduate degree or its equivalent examination having a degree in Commerce, Law, Banking including Higher Auditing, or Business Administration or Business Management from any Indian University established by any law for the time being in force; or</p> <p>(ii) a degree examination of any Foreign University recognised by any Indian University as equivalent to the degree examination mentioned in sub-clause (i); or</p> <p>(iii) any other examination notified by the Government, on the recommendation of the Council, for this purpose; or</p> <p>(iv) has also passed any of the following examinations, namely.—</p> <p>(a) final examination of the Institute of Chartered Accountants of India; or</p> <p>(b) final examination of the Institute of Cost Accountants of India; or</p> <p>(c) final examination of the Institute of Company Secretaries of India.</p>
<p>Accept/reject the application to enrol GST practitioner [Rule 83(2)]</p>	<p>On receipt of the application referred to in sub-rule (1), the officer authorised in this behalf shall, after making such enquiry as he considers necessary, either enrol the applicant as a goods and services tax practitioner and issue a certificate to that effect in FORM GST PCT-02 or reject his application where it is found that the applicant is not qualified to be enrolled as a goods and services tax practitioner.</p>
<p>Validity [Rule 83(3)]</p>	<p>The enrolment made under sub-rule (2) shall be valid until it is cancelled:</p> <p>♦ Provided that no person enrolled as a goods and services tax practitioner shall be eligible to remain enrolled unless he passes such examination conducted at such periods and by such authority as may be notified by the Commissioner on the recommendations of the Council:</p> <p>♦ Provided further that no person to whom the provisions of clause (b) of sub-rule (1) apply shall be eligible to remain enrolled unless he passes the said examination within a period of one year from the appointed date.</p>

Misconduct by GST practitioner [Rule 83 (4)]	<p>If any goods and services tax practitioner is found guilty of misconduct in connection with any proceedings under the Act, the authorised officer may, after giving him a notice to show cause in FORM GST PCT-03 for such misconduct and after giving him a reasonable opportunity of being heard, by order in FORM GST PCT-04 direct that he shall henceforth be disqualified under section 48 to function as a goods and services tax practitioner.</p>
Appeal to commissioner [Rule 83(5)]	<p>Any person against whom an order under sub-rule (4) is made may, within thirty days from the date of issue of such order, appeal to the Commissioner against such order.</p>
Authorisation to GST practitioner/ withdrawal of authorization [Rule 83(6)]	<p>Any registered person may, at his option, authorise a goods and services tax practitioner on the common portal in FORM GST PCT-05 or, at any time, withdraw such authorisation in FORM GST PCT-05 and the goods and services tax practitioner so authorised shall be allowed to undertake such tasks as indicated in the said authorisation during the period of authorisation.</p>
Registered person will confirm the statement filed by practitioner [Rule 83(7)]	<p>Where a statement required to be furnished by a registered person has been furnished by the goods and services tax practitioner authorised by him, a confirmation shall be sought from the registered person over email or SMS and the statement furnished by the goods and services tax practitioner shall be made available to the registered person on the common portal:</p> <p>♦ Provided that where the registered person fails to respond to the request for confirmation till the last date of furnishing of such statement, it shall be deemed that he has confirmed the statement furnished by the goods and services tax practitioner.</p>
Activity undertaken by GST practitioner [Rule 83(8)]	<p>A goods and services tax practitioner can undertake any or all of the following activities on behalf of a registered person, if so authorised by him to:</p> <p>(a) furnish the details of outward and inward supplies;</p> <p>(b) furnish monthly, quarterly, annual or final return;</p>

	<p>(c) make deposit for credit into the electronic cash ledger;</p> <p>(d) file a claim for refund; and</p> <p>(e) file an application for amendment or cancellation of registration:</p> <p>Provided that where any application relating to a claim for refund or an application for amendment or cancellation of registration has been submitted by the goods and services tax practitioner authorised by the registered person, a confirmation shall be sought from the registered person and the application submitted by the said practitioner shall be made available to the registered person on the common portal and such application shall not be proceeded with further until the registered person gives his consent to the same.</p>
<p>Consent by registered person [Rule 83(9)]</p>	<p>Any registered person opting to furnish his return through a goods and services tax practitioner shall—</p> <p>(a) give his consent in FORM GST PCT-05 to any goods and services tax practitioner to prepare and furnish his return; and</p> <p>(b) before confirming submission of any statement prepared by the goods and services tax practitioner, ensure that the facts mentioned in the return are true and correct.</p>
<p>Duty of GST practitioner [Rule 83(10)]</p>	<p>The goods and services tax practitioner shall—</p> <p>(a) prepare the statements with due diligence; and</p> <p>(b) affix his digital signature on the statements prepared by him or electronically verify using his credentials.</p>
<p>GST Practitioner enrolled under any other state/ UT [Rule 83(11)]</p>	<p>A goods and services tax practitioner enrolled in any other State or Union territory shall be treated as enrolled in the State or Union territory for the purposes specified in sub-rule (8).</p>

CONDITIONS FOR PURPOSES OF APPEARANCE

[RULE 84 OF CGST RULES, 2017]

(1) No person shall be eligible to attend before any authority as a goods and services tax practitioner in connection with any proceedings under the Act on behalf of any registered or unregistered person unless he has been enrolled under rule 83.

(2) A goods and services tax practitioner attending on behalf of a registered or an un-registered person in any proceedings under the Act before any authority shall produce before such authority, if required, a copy of the authorisation given by such person in FORM GST PCT-05.

Illustration 1 - Time limit for rectification of mistakes : XYZ Ltd. furnished the annual returns for the year 2018-19 on August 25, 2019. An error is discovered in respect of a transaction pertaining to outward supplies of September 2018. Determine the time limit to rectify the mistake in case return of September 2019 is furnished on 19th September 2019. Would your answer be different if annual return for financial year 2018-19 is furnished on 25-12-2019.

Solution: As per provisions of Section 37(3) of the CGST Act, 2017, no rectification of error or omission in respect of the details furnished of outward supplies shall be allowed after -

- furnishing of the return under section 39 for the month of September following the end of the financial year to which such details pertain, or
- furnishing of the relevant annual return, **whichever is earlier.**

Thus, in this case the annual return has been furnished by XYZ Ltd. on August 25, 2019 and return for the month of September, 2019 is furnished on 19th September 2019, the rectification of the error pertaining to a transaction in September 2018 cannot be made beyond August 25th, 2019 i.e. earlier of 25th August 2019 or 19th September 2019.

Illustration 2 - Rectification of mistakes : Mr. X filed the return for outward supplies for the month of August 2017 on 20-09- 2017. Subsequently, while furnishing the return for December 2017, he noticed that he had omitted to consider certain transactions corresponding to the supplies of August 2017. Can he rectify the return for August 2017 now? What remedial action can be taken by him?

Solution: As per Section 39(9) of the GST Act, 2017, subject to the provisions of Sections 37 and Section 38, if any registered person, after furnishing the return under section 39(1)/(2)/(3)/(4)/or (5) discovers any omission or any incorrect particulars therein, he shall rectify the the same in the return to be furnished for the month or quarter during which such omission or incorrect particulars are noticed.

Thus, there is no scope for filing of revised return but the rectification can be made in the month in which it is discovered. Herein, the rectification can be made in the return for the month of December.

However, time limit has been prescribed within which the rectification can be made, being earlier of—

- Due date for furnishing of return for the month of September or second quarter following the end of the financial year; or
- The actual date of furnishing of relevant annual return.

Here, the rectification can be made by 20-10-2018 being the due date for filing of the return for September 2018 or the date of filing of the annual return, whichever is earlier.

Illustration 3 - Matching of output tax liability : Mr. X, a registered supplier, supplied services valuing Rs. 10,00,000 plus GST @ 12% to Mr. Y on 09-10-2017, incorporating these supplies in the details of outward supplies furnished for the month of October 2017 on 10-11-2017. Mr. Y recorded the said supplies as his inward supplies and accordingly claimed input tax credit on said inward supplies and furnished his return. There was disagreement regarding the quality of service and Mr. X issued a credit note on 15-12-2017 in favour of Mr. Y amounting Rs. 2,00,000 and reduced his output tax liability amounting Rs. 24,000 in the return furnished for the month of December 2017 on 20th January 2018. However Mr. Y did not reverse his input tax credit amounting Rs. 24,000 in the return furnished for the month of December, 2017. On matching being carried out the discrepancy was noticed and the same was communicated to both the parties on 31-01-2018. The said discrepancy was not corrected by Mr. Y in the return furnished for the month of January 2018. In whose tax liability this mismatch will be added and also discuss the remedial action that can be taken.

Solution: As per provisions of Section 43(3) of CGST Act, 2017, where the reduction of output tax liability in respect of outward supplies exceeds the corresponding reduction in the claim for input tax credit or the corresponding credit note is not declared by the recipient in his valid returns, the discrepancy shall be communicated to both such persons upto the end of the month in which such matching is carried out. i.e. 31st January 2018.

A recipient to whom any discrepancy is communicated may make suitable rectifications in the statement of inward supplies to be furnished for the month in which the discrepancy is made available i.e. upto 20th February 2018.

Where the discrepancy is not rectified by the recipient, an amount to the extent of discrepancy shall be added to the output tax liability of the supplier and debited to the electronic liability register and

also shown in his return in FORM GSTR-3 for the month succeeding the month in which the discrepancy is made available.

Thus, in this case since Mr. Y has not rectified the discrepancy in the return filed for the month of January 2018, i.e. upto 20th February, 2018, therefore the said amount of Rs. 24,000 shall be added to the output tax liability of the supplier i.e. Mr. X in the return of the month of February, 2018 which is filed on 20th March 2018. In this case Mr. X will be liable to pay interest from 20th January 2018 to 20th March 2018. i.e. $\text{Rs. } 24,000 \times 18\% \times 59/365 = \text{Rs. } 698.3$.

Return and due dates for payment of tax and filing of return for the registered person:

Section	Person Liable	FORM	CGST Rule, 2017	Due date for payment of tax	Due Date for filing of return	Periodicity
(A)	(B)	(C)	(D)	(E)	(F)	(G)
39(1)	Regular Taxpayers (other than registered person covered under subsection 2, 3, 4 & 5 of Section 39)	GSTR-3	61	On or before the due date of filing of return - Ref column (F)	On or before 20 th of the month succeeding such calendar month	Monthly
39(2)	Compounding Taxable persons	GSTR-4	62	On or before the due date of filing of return - Ref column (F)	Within 18 days after end of such quarter	Quarterly
39(3)	Any Registered person who is liable to deduct tax under section 51	GSTR-7	66	On or before the due date of filing of return - Ref column (F)	On or before 10 th of the month succeeding such calendar month	Monthly
39(4)	Input Service Distributor	GSTR-6	65		On or before 13 th of the month succeeding such calendar month	Monthly
39(5)	Non-Resident Taxable person	GSTR-5	63	On or before the due date of filing of return - Ref column (F)	Within 20 days after the end of the calendar month or within 7 days after the last day of the period of registration specified in Section 27(1) whichever is earlier	

CHAPTER 15

PAYMENT OF TAX

RELEVANT DEFINITION

Electronic Cash Ledger [Sec. 2(43)]

Means the electronic cash ledger referred to in sub-section (1) of section 49;

Electronic credit ledger [Sec. 2(46)]

Means the electronic credit ledger referred to in sub-section (2) of section 49;

Output tax [Sec. 2(82)]

In relation to a taxable person, means the tax chargeable under this Act on taxable supply of goods or services or both made by him or by his agent but excludes tax payable by him on reverse charge basis.

PAYMENT OF TAX, INTEREST, PENALTY AND OTHER AMOUNTS [SEC. 49]

Types of Payments to be made in GST regime

In the GST regime,

- For any intra-State supply, taxes to be paid are the Central GST (CGST), going into the account of the Central Government, and
- The State/UT GST (SGST, going into the account of the concerned State Government).
- For any inter-State supply, tax to be paid is Integrated GST (IGST) which will have components of both CGST and SGST.
- In addition, certain categories of registered persons will be required to pay to the government account Tax Deducted at Source (TDS) and Tax Collected at Source (TCS).
- In addition, wherever applicable, Interest, Penalty, Fees and any other payment will also be required to be made.

Who is liable to pay GST

In general,

- the supplier of goods or services is liable to pay GST.
- However, in specified cases like imports and other notified supplies, the liability may be cast on the recipient under the reverse charge mechanism.
- Further, in some notified cases of intra-State supply of services, the liability to pay GST may be cast on e-commerce operators through which such services are supplied.
- Also Government Departments making payments to vendors above a specified limit [2.5 lakh under one contract as per S. 51 (1)(el)] are required to deduct tax (TDS) and
- E-commerce operators are required to collect tax (TCS) on the net value [Le. aggregate value of taxable supplies of goods and/or services but excluding such value of services on which the operator is made liable to pay GST under Section 9(5) of the CGST Act, 2017] of supplies made through them and deposit it with the Government.

Electronic Cash Ledger [Sec. 49(1)]

- **Every deposit** made
- towards tax, interest, penalty, fee or any other amount
- by a person by internet banking or by using credit or debit cards or National Electronic Fund Transfer or Real Time Gross Settlement or by such other mode and
- subject to such conditions and restrictions as may be prescribed,
- shall be credited to the **electronic cash ledger** of such person to be maintained in such manner as may be prescribed

Electronic Credit Ledger [Sec. 49(2)]

- ♦ The **input tax credit**
- ♦ as self-assessed in the return of a registered person
- ♦ shall be credited to his **electronic credit ledger**,
- ♦ in accordance with section 41, to be maintained in such manner as may be prescribed.

Use of Electronic Ledger

<p>Use of Electronic Cash Ledger [Sec. 49(3)]</p>	<ul style="list-style-type: none"> ◆ The amount available in the electronic cash ledger may be used for ◆ making any payment towards tax, interest, penalty, fees or any other amount payable under the provisions of this Act or the rules made thereunder ◆ in such manner and subject to such conditions and within such time as may be prescribed
<p>Use of Electronic Credit Ledger [Sec. 49(4)]</p>	<ul style="list-style-type: none"> ◆ The amount available in the electronic credit ledger may be used for ◆ making any payment towards output tax under this Act or under the Integrated Goods and Services Tax Act ◆ in such manner and subject to such conditions and within such time as may be prescribed.
<p>Sequences for use of credit [Sec. 49(5)]</p>	<p>The amount of input tax credit available in the electronic credit ledger of the registered person on account of—</p> <p>(a) integrated tax shall first be utilised towards</p> <ul style="list-style-type: none"> ◆ payment of integrated tax and the amount remaining, if any, ◆ may be utilised towards the payment of central tax ◆ and State tax, or as the case may be, Union territory tax, in that order; <p>(b) the central tax shall first be utilised towards</p> <ul style="list-style-type: none"> ◆ payment of central tax and ◆ the amount remaining, if any, may be utilised towards the payment of integrated tax; <p>(c) the State tax shall first be utilised towards</p> <ul style="list-style-type: none"> ◆ payment of State tax and

	<p>♦ the amount remaining, if any, may be utilised towards payment of integrated tax;</p> <p>(d) the Union territory tax shall first be utilised towards</p> <p>♦ payment of Union territory tax and</p> <p>♦ the amount remaining, if any, may be utilised towards payment of integrated tax;</p> <p>(e) the central tax shall not be utilised towards payment of State tax or Union territory tax; and</p> <p>(f) the State tax or Union territory tax shall not be utilised towards payment of central tax.</p> <p>Analysis</p> <table> <tr> <th>Credit available</th><th>Order of utilization</th></tr> <tr> <td>IGST</td><td> 1 IGST 2 CGST 3 SGST/UTGST </td></tr> <tr> <td>CGST</td><td> 1 CGST 2 IGST </td></tr> <tr> <td>SGST/UTGST</td><td> 1 SGST/UTGST 2 IGST </td></tr> </table>	Credit available	Order of utilization	IGST	1 IGST 2 CGST 3 SGST/UTGST	CGST	1 CGST 2 IGST	SGST/UTGST	1 SGST/UTGST 2 IGST
Credit available	Order of utilization								
IGST	1 IGST 2 CGST 3 SGST/UTGST								
CGST	1 CGST 2 IGST								
SGST/UTGST	1 SGST/UTGST 2 IGST								
Balance in ledgers [Sec. 49(6)]	<p>The balance in the electronic cash ledger or electronic credit ledger after payment of tax, interest, penalty, fee or any other amount payable under this Act or the rules made there under may be refunded in accordance with the provisions of section 54.</p>								

Question 1. Value of supply of goods and services - Rs. 15,000. SGST and CGST rate on supply of goods and services is 9% each. Value of receipt of goods and services - Rs. 10,000. SGST and CGST rate on receipts is 9% each. Compute net tax liability.

Answer

Particular	CGST	SGST
Output tax liability	1350	1350
Input tax credit	900	900
Net tax payable in cash by the dealer in Electronic Cash Ledger	450	450

ELECTRONIC LIABILITY REGISTER [SEC. 49(7)]

All liabilities of a taxable person under this Act shall be recorded and maintained in an **electronic liability register** in such manner as may be prescribed

OTHER PROVISIONS [SEC. 49]

Order of Discharge of Liability [Sec. 49(8)]	<p>Every taxable person shall discharge his tax and other dues under this Act or the rules made thereunder in the following order, namely:—</p> <p>(a) self-assessed tax, and other dues related to returns of previous tax periods;</p> <p>(b) self-assessed tax, and other dues related to the return of the current tax period;</p> <p>(c) any other amount payable under this Act or the rules made thereunder including the demand determined under section 73 or section 74.</p>
Passing of incidence of tax to recipient [Sec. 49(9)]	<p>Every person who has paid the tax on goods or services or both under this Act shall, unless the contrary is proved by him, be deemed to have passed on the full incidence of such tax to the recipient of such goods or services or both.</p>

Explanation.—For the purposes of this section,—

(a) the date of credit to the account of the Government in the authorised bank shall be **deemed** to be the date of deposit in the electronic cash ledger;

(b) the expression,—

(c) "tax dues" means the tax payable under this Act and does not include interest, fee and penalty; and

(d) "other dues" means interest, penalty, fee or any other amount payable under this Act or the rules made thereunder.

ELECTRONIC LIABILITY REGISTER [RULE 85 OF CGST RULES, 2017]

Form GST PMT-01 to be maintain Rule 85(1)]	<p>The electronic liability register specified under sub-section (7) of section 49 shall be maintained in FORM GST PMT-01 for each person liable to pay tax, interest, penalty, late fee or any other amount on the common portal and all amounts payable by him shall be debited to the said register.</p>
Debit entry in Electronic Liability Register [Rule 85(2)]	<p>The electronic liability register of the person shall be debited by:—</p> <p>(a) the amount payable towards tax, interest, late fee or any other amount payable as per the return furnished by the said person;</p> <p>(b) the amount of tax, interest, penalty or any other amount payable as determined by a proper officer in pursuance of any proceedings under the Act or as ascertained by the said person;</p> <p>(c) the amount of tax and interest payable as a result of mismatch under section 42 or section 43 or section 50; or</p> <p>(d) any amount of interest that may accrue from time to time.</p>
Credit entry in Electronic Liability Register [Rule 85(3)]	<p>Subject to the provisions of section 49, payment of every liability by a registered person as per his return shall be made by debiting the electronic credit ledger maintained as per rule 86 or the electronic cash ledger maintained as per rule 87 and the electronic liability register shall be credited accordingly.</p>

Credit Electronic Liability Register by TDS/TCS etc. [Rule 85(4)]	The amount deducted under section 51, or the amount collected under section 52, or the amount payable on reverse charge basis, or the amount payable under section 10 any amount payable towards interest, penalty, fee or any other amount under the Act shall be paid by debiting the electronic cash ledger maintained as per rule 87 and the electronic liability register shall be credited accordingly.
Credit Electronic Liability Register by Relief [Rule 85(5)]	Any amount of demand debited in the electronic liability register shall stand reduced to the extent of relief given by the appellate authority or Appellate Tribunal or court and the electronic tax liability register shall be credited accordingly.
Credit Electronic Liability Register by Reducing of penalty [Rule 85(6)]	The amount of penalty imposed or liable to be imposed shall stand reduced partly or fully , as the case may be, if the taxable person makes the payment of tax, interest and penalty specified in the show cause notice or demand order and the electronic liability register shall be credited accordingly.
Communication of discrepancy in Electronic Liability Register [Rule 85(7)]	A registered person shall, upon noticing any discrepancy in his electronic liability ledger, communicate the same to the officer exercising jurisdiction in the matter, through the common portal in FORM GST PMT-04.

ELECTRONIC CREDIT LEDGER [RULE 86 OF CGST RULES, 2017]

Form GST PMT-02 to be maintain [Rule 86(1)]	The electronic credit ledger shall be maintained in FORM GST PMT-02 for each registered person eligible for input tax credit under the Act on the common portal and every claim of input tax credit under the Act shall be credited to the said ledger.
Debit of Electronic credit ledger [Rule 86(2)]	The electronic credit ledger shall be debited to the extent of discharge of any liability in accordance with the provision of section 49.
Debit of Electronic Credit Ledger in case of refund [Rule 86(3)]	Where a registered person has claimed refund of any unutilized amount from the electronic credit ledger in accordance with the provisions of section 54, the amount to the extent of the claim shall be debited in the said ledger.

Credit of Electronic Credit Ledger in case of rejection of refund [Rule 86(4)]	If the refund so filed is rejected, either fully or partly, the amount debited under sub- rule (3), to the extent of rejection, shall be re-credited to the electronic credit ledger by the proper officer by an order made in FORM GST PMT-03.
No direct entry [Rule 86(5)]	Save as provided in the provision of this chapter, no entry shall be made directly in the electronic credit ledger under any circumstance.
Communication of discrepancy [Rule 86(6)]	A registered person shall, upon noticing any discrepancy in his electronic credit ledger, communicate the same to the officer exercising jurisdiction in the matter, through the common portal in FORM GST PMT-04.
Explanation.- For the purposes of this rule, it is hereby clarified that a refund shall be deemed to be rejected, if the appeal is finally rejected or if the claimant gives an undertaking to the proper officer that he shall not file an appeal.	

ELECTRONIC CASH LEGER [RULE 87 OF CGST RULES, 2017]

Form GST PMT-05 to be maintain [Rule 87(1)]	The electronic cash ledger under sub-section (1) of section 49 shall be maintained in FORM GST PMT-05 for each person, liable to pay tax, interest, penalty, late fee or any other amount, on the common portal for crediting the amount deposited and debiting the payment there from towards tax, interest, penalty, fee or any other amount.
Generation of Challan [Rule 87(2)]	<p>Any person, or a person on his behalf, shall generate a challan in FORM GST PMT-06 on the common portal and enter the details of the amount to be deposited by him towards tax, interest, penalty, fees or any other amount.</p> <p>Provided that the Challan in the FORM GST PMT-06 generated at the common portal shall be valid for a period of 15 days.</p> <p>Provided further that a person supplying online information and database access or retrieval services from a place outside India to a non-taxable online recipient referred to in section 14 of the IGST Act, 2017 may also do so through the board's payment system namely, electronic accounting system in Excise and Service tax from the date to be notified by the board.</p>

Modes of deposits [Rule 87(3)]	<p>The deposit under sub-rule (2) shall be made through any of the following modes, namely:—</p> <p>(i) Internet Banking through authorised banks;</p> <p>(ii) Credit card or Debit card through the authorised bank;</p> <p>(iii) National Electronic Fund Transfer or Real Time Gross Settlement from any bank;</p> <p>(iv) Over the Counter payment through authorised banks for deposits up to ten thousand rupees per challan per tax period, by cash, cheque or demand draft:</p>
	<p>♦ Provided that the restriction for deposit up to ten thousand rupees per challan in case of an Over the Counter payment shall not apply to deposit to be made by—</p> <p>(a) Government Departments or any other deposit to be made by persons as may be notified by the Commissioner in this behalf;</p> <p>(b) Proper officer or any other officer authorised to recover outstanding dues from any person, whether registered or not, including recovery' made through attachment or sale of movable or immovable properties;</p> <p>(c) Proper officer or any other officer authorised for the amounts collected by way of cash, cheque or demand draft during any investigation or enforcement activity or any ad hoc deposit:</p> <p>Provided further that a person supplying online information and database access or retrieval services from a place outside India to a non-taxable online recipient referred to in section 14 of the IGST Act, 2017 may also make the deposit under sub-rule 2 through International money transfer through society for Worldwide Inter-bank Financial Telecommunication payment network, from the date notified by the board.</p>
Payment by person not registered under this Act. [Rule 87(4)]	<p>Any payment required to be made by a person who is not registered under the Act, shall be made on the basis of a temporary identification number generated through the common portal.</p>

Payment through NEFT/ RTGS [Rule 87(5)]	<p>Where the payment is made by way of National Electronic Fund Transfer or Real Time Gross Settlement mode from any bank, the mandate form shall be generated along with the challan on the common portal and the same shall be submitted to the bank from where the payment is to be made:</p> <p>♦ Provided that the mandate form shall be valid for a period of fifteen days from the date of generation of challan.</p>
Generation of CIN [Rule 87(6)]	<p>On successful credit of the amount to the concerned government account maintained in the authorised bank, a Challan Identification Number shall be generated by the collecting bank and the same shall be indicated in the challan.</p>
Amount Credited to electronic cash ledger [Rule 87(7)]	<p>On receipt of Challan Identification Number from the collecting bank, the said amount shall be credited to the electronic cash ledger of the person on whose behalf the deposit has been made and the common portal shall make available a receipt to this effect.</p>
Procedure when CIN not Generated/ Communicated [Rule 87(8)]	<p>Where the bank account of the person concerned, or the person making the deposit on his behalf, is debited but no Challan Identification Number is generated or generated but not communicated to the common portal, the said person may represent electronically in FORM GST PMT- 07 through the common portal to the bank or electronic gateway through which the deposit was initiated.</p>
Credit of TDS/TCS in Electronic Cash Ledger [Rule 87(9)]	<p>Any amount deducted under section 51 or collected under section 52 and claimed in FORM GSTR-02 by the registered taxable person from whom the said amount was deducted or, as the case may be, collected shall be credited to his electronic cash ledger in accordance with the provisions of rule 87.</p>
Debit of Electronic Cash Ledger in case of refund [Rule 87(10)]	<p>Where a person has claimed refund of any amount from the electronic cash ledger, the said amount shall be debited to the electronic cash ledger.</p>

Credit of Electronic Cash Ledger in case of rejection of refund[Rule 87(11)]	If the refund so claimed is rejected, either fully or partly, the amount debited under sub-rule (10), to the extent of rejection, shall be credited to the electronic cash ledger by the proper officer by an order made in FORM GST PMT-03.
Communication of discrepancy [Rule 87(12)]	A registered person shall, upon noticing any discrepancy in his electronic cash ledger, communicate the same to the officer exercising jurisdiction in the matter, through the common portal in FORM GST PMT-04.

Explanation 1.- The refund shall be deemed to be rejected if the appeal is finally rejected.

Explanation 2.- For the purposes of this rule, it is hereby clarified that a refund shall be deemed to be rejected if the appeal is finally rejected or if the claimant gives an undertaking to the proper officer that he shall not file an appeal.

IDENTIFICATION NUMBER FOR EACH TRANSACTION

[RULE 88 OF CGST RULES, 2017]

UIN for each debit/credit in electronic ledger [Rule 88(1)]	A unique identification number shall be generated at the common portal for each debit or credit to the electronic cash or credit ledger, as the case may be.
UIN for discharge of liability in electronic liability register [Rule 88(2)]	The unique identification number relating to discharge of any liability shall be indicated in the corresponding entry in the electronic liability register.

INTEREST ON DELAYED PAYMENT OF TAX [SEC. 50]

<p>Interest on late payment [Sec. 50(1)]</p>	<ul style="list-style-type: none"> ◆ Every person who is liable to pay tax ◆ in accordance with the provisions of this Act or the rules made thereunder, ◆ but fails to pay the tax or any part thereof ◆ to the Government within the period prescribed, ◆ shall for the period for which the tax or any part thereof remains unpaid, pay, ◆ on his own, interest at such rate, ◆ not exceeding eighteen per cent, as may be notified by the Government on the recommendations of the Council, <p>Note:- The Government notify the rate of interest @18% vide Notification No. 13 /2017-Central Tax, dated 28-6-2017</p>
<p>Manner to calculate interest [Sec. 50(2)]</p>	<p>The interest under sub-section (1) shall be calculated, in such manner as may be prescribed, from the day succeeding the day on which such tax was due to be paid</p>
<p>Interest on excess claim of ITC [Sec. 50(3)]</p>	<ul style="list-style-type: none"> ◆ A taxable person who makes an ◆ undue or excess claim of input tax credit ◆ under sub-section (10) of section 42 or ◆ undue or excess reduction in output tax liability under sub-section (10) of section 43, ◆ shall pay interest on such undue or excess claim or on such undue or excess reduction, as the case may be, ◆ at such rate not exceeding twenty-four per cent, as <p>may be notified by the Government on the recommendations of the Council.</p> <p>Note: The Government notify the rate of interest @ 24% vide Notification No. 13/2017-Central Tax, dated 28-6-2017.</p>

Illustration 1 - Computation of GST liability - When purchase and supply made intra-State : The following are details of purchases, sales, etc. effected by M/s. TAB & Co. a registered manufacturer under CGST Act, 2017 :

- (1) Purchased Raw material 'A' from local dealer Rs. 86,100 (inclusive of GST @ 5%).
- (2) Purchased Raw material 'B' from local dealer Rs. 1,12,000 (inclusive of GST @12%).
- (3) Purchased capital goods from within the state to be used in manufacture of the taxable goods Rs. 1,96,000(inclusive of GST @12%). Depreciation @ 15% to be charged.
- (4) Other Direct and Indirect expenses Rs. 55,460.
- (5) Earned 5% profit margin on total cost.
- (6) During the month of October, 2017 only 70% production is sold within the state and applicable GST rate being 12%.

Calculate the amount of CGST and SGST payable after utilising input tax credit for the month of October, 2017 assuming no opening balance of input tax credit is available.

Solution: Computation of Invoice Value and Tax liability:

Particulars		Rs.
Purchase Raw material 'A' from local dealer [Rs. 86,100 × 100 -H05]	[WN]	82,000
Purchase Raw material 'B' from local dealer [Rs. 1,12,000 × 100 H12]	[WN]	1,00,000
Depreciation expense [(Rs. 1,96,000 - 1,96,000 × 12 * 112) × 15%]		26,250
Other direct and indirect expense		55,460
Total Cost of goods manufactured		2,63,710
Cost of goods sold (70% of goods produced were sold)		1,84,597
Add: Profit margin @ 5% of cost		9,230
Total Sales Value		1,93,827

Working Note : Credit will be available for CGST and SGST charged by local suppliers. Hence the same is not to be included in the cost.

Computation of CGST and SGST payable for the month of October, 2017 after utilising the available input tax credit, [assuming no ITC opening balance]

Particulars	CGST (Rs.)	SGST (Rs.)
Output tax liability for the month of October, 2017 @ 12% (being CGST 6% and SGST 6%) [Rs. 1,93,827 × 12%]	11,630	11,630
Less: Eligible input tax credit in respect of purchases of :-		
Raw material 'A' [82,000 × 5%]	-2,050	-2,050
Raw material 'B' [1,00,000 × 12%]	-6,000	-6,000
Capital Goods [1,75,000 × 12%]	-10,500	-10,500
CGST/SGST credit to be carried forward	-6,920	-6,920

Illustration 2 - Computation of tax liability - Intra-State purchase and Interstate supply: M Ltd., a registered manufacturer in state of Gujarat provides the following particulars for tax period of January, 2018.

- (1) Inputs purchased within state Rs. 1,05,000 (includes GST @5%).
- (2) Machinery purchased on 15-01-2018 for Rs. 1,00,000 (excluding 18% GST) from a local dealer in Gujarat, eligible for input tax credit. Depreciation rate 15% p.a.
- (3) Manufacturing expenses and profits Rs. 55,000
- (4) Goods produced were sold outside Gujarat with IGST @18% on sales.

Calculate the amount of CGST and SGST payable after utilising input tax credit for the month of January, 2018 assuming no opening balance of input tax credit available.

Solution: Computation of Invoice value and Tax liability :

Particulars		Rs.
Inputs purchased from local dealer	[WN-1]	1,00,000
Depreciation expense		15,000
Manufacturing Expense and profits		55,000
Total Sales Value		1,70,000
Output tax Liability (IGST @18%)		30,600
Less: Input tax credit available on :	[WN-2]	
Inputs —		
➤ CGST		2,500
➤ SGST		2,500
Capital goods —		
➤ CGST		9,000
➤ SGST		9,000
IGST to be deposited in cash		7,600

Working Notes:

(1) Credit will be available for CGST and SGST charged by local suppliers, hence same is not to be included in the cost.

(2) The credit of CGST and SGST is to be utilised for payment of CGST and SGST output tax liability respectively and any amount remaining thereafter shall be utilised towards IGST liability.

Illustration 3 - Computation of Tax liability - Inter state purchase and InterAntra-State supply :
Mr. K of Kolkata purchased goods from Mr. A of Assam amounting to Rs. 1,18,000 (including 18% IGST) in the month of March, 2018. He also purchased raw material worth Rs. 1,25,000 from local dealer who has opted for composition scheme. He incurred Rs. 50,000 as direct and indirect expenses and added profit margin @ 12% of cost.

Mr. K sold 70% of finished goods to Mr. M of Mumbai with IGST @ 12% payable thereon, and 20% of finished goods to Mr. N of Kolkata with CGST and SGST @12% payable thereon.

Compute the net CGST, SGST and IGST liability and input tax credit if any, for the month of March, 2018.

Solution: Computation of Invoice Value and Tax liability :

Particulars		Rs.
Purchases of raw material from Mr. A of Assam	[WN-1]	1,00,000
Purchases of raw material from dealer opted for composition scheme	[WN-2]	1,25,000
Other direct and indirect expenses		50,000
Total Cost of goods manufactured		2,75,000
Cost of goods sold (90% of goods produced were sold)		2,47,500
Add: Profit margin @12% of cost		29,700
Total Sales Value		2,77,200
Goods sold to Mr. M of Mumbai (70% of goods produced were sold)		1,94,040
Goods sold to Mr. N of Kolkata (20% of goods produced were sold)		55,440

Particulars	CGST @ 6% (Rs.)	SGST @ 6% (Rs.)	IGST @ 12% (Rs.)
Goods sold to Mr. M of Mumbai	-	-	23,285
Goods sold to Mr. N of Kolkatta	3,326	3,326	-
Less: Eligible input tax credit in respect of purchases of -			
Raw material (from Assam)	-	-	-18,000
CGST/ SGST/ IGST to be paid in cash	3,326	3,326	5,285

Working Notes:

- (1) Credit will be available for IGST charged by outside state suppliers, hence same shall not be included in the cost.
- (2) No input tax credit shall be admissible on purchases made from dealer who has opted for the composition scheme.
- (3) The credit of IGST is to be utilised for payment of IGST output tax liability first and if any amount remains thereafter then such amount is to be utilised towards payment of CGST and SGST liability in order.

Illustration 4 - Computation of Tax liability - Inter/ Intra-State purchase and Inter/ Intra-State supply : Vivitha & Co., a registered dealer in Ludhiana, furnishes the following details of purchases and sales pertaining to the month of July, 2018:

Particulars	Rs.
Goods 'A' purchased from local market (including GST @ 12%)	50,400
Goods 'B' purchased from Jaipur (including IGST @ 18%)	82,600
Sales made during the month to Dealer of Kolkata of product:	
⇒ A	40,000
⇒ B	25,000
Sales made within the state of product 'B'	35,000

Above sales amount given is exclusive of tax. Compute the net CGST, SGST and IGST liability and input tax credit, if any for the month of July, 2018.

Solution: Computation of Tax liability:

Particulars	CGST (Rs.)	SGST (Rs.)	IGST (Rs.)
Inter-State Sale:			
Goods 'A' sold to Kolkata (IGST @ 12%)	-	-	4,800
Goods 'B' sold to Kolkata (IGST @ 18%)	-	-	4,500
Intra-State Sale:			
Goods 'B' sold within state (CGST/SGST @ 9% each)	3,150	3,150	-
Less: Eligible Input tax credit [(Rs. 50,400 × 100/112) × 12%]	2,700	2,700	12,600
Net amount of CGST/SGST/IGST	450	450	-3,300
Less: IGST used to set off payment liability of CGST and SGST in order	450	450	-900
Net amount of IGST credit to be carried forward	Nil	Nil	-2,400

CHAPTER 16

TAX DEDUCTION AT SOURCE

TAX DEDUCTION AT SOURCE [SEC. 51]

<p>TDS by government, local authority etc. [Sec. 51(1)]</p>	<p>Notwithstanding anything to the contrary contained in this Act, the Government may mandate,—</p> <p>(a) a department or establishment of the Central Government or State Government; or</p> <p>(b) local authority; or</p> <p>(c) Governmental agencies; or</p> <p>(d) such persons or category of persons as may be notified by the Government on the recommendations of the Council,</p> <p>(hereafter in this section referred to as “the deductor”), to deduct tax at the rate of one per cent from the payment made or credited to the supplier (hereafter in this section referred to as “the deductee”) of taxable goods or services or both, where the total value of such supply, under a contract, exceeds two lakh and fifty thousand rupees.</p> <p>♦ Provided that no deduction shall be made</p> <p>♦ if the location of the supplier and the place of supply</p> <p>is in a State or Union territory which is</p> <p>♦ different from the State or as the case may be, Union territory of registration of the recipient.</p> <p>Explanation.—For the purpose of deduction of tax specified above, the value of supply shall be taken as the amount excluding the central tax, State tax, Union territory tax, integrated tax and cess indicated in the invoice.</p>
<p>Time limit for deposit of TDS [Sec. 51(2)]</p>	<p>The amount deducted as tax under this section shall be paid to the Government by the deductor within ten days after the end of the month in which such deduction is made, in such manner as may be prescribed.</p>

Certificate of TDS [Sec. 51(3)]	The deductor shall furnish to the deductee a certificate mentioning therein the contract value, rate of deduction, amount deducted, amount paid to the Government and such other particulars in such manner as may be prescribed.
Fails to furnish Certificate [Sec. 51(4)]	If any deductor fails to furnish to the deductee the certificate, after deducting the tax at source, within five days of crediting the amount so deducted to the Government, the deductor shall pay, by way of a late fee , a sum of one hundred rupees per day from the day after the expiry of such five days period until the failure is rectified, subject to a maximum amount of five thousand rupees .
Credit Claim by deductee [Sec. 51(5)]	The deductee shall claim credit , in his electronic cash ledger, of the tax deducted and reflected in the return of the deductor furnished under sub-section (3) of section 39, in such manner as may be prescribed.
Fails to deposit TDS [Sec. 51(6)]	If any deductor fails to pay to the Government the amount deducted as tax under sub-section (1), he shall pay interest in accordance with the provisions of sub-section (1) of section 50, in addition to the amount of tax deducted.
Amount in default [Sec. 51(7)]	The determination of the amount in default under this section shall be made in the manner specified in section 73 or section 74.
Refund in case of excess or erroneous deduction [Sec. 51(8)]	<p>The refund to the deductor or the deductee arising on account of excess or erroneous deduction shall be dealt with in accordance with the provisions of section 54:</p> <p>♦ Provided that no refund to the deductor shall be granted, if the amount deducted has been credited to the electronic cash ledger of the deductee.</p>

Illustration 1 - Computation of TDS : XYZ Ltd. has supplied goods to local authority for Rs.

11,80,000 (inclusive of GST @ 18%). Determine the amount of tax to be deducted at source. Also determine the interest liability if the tax deducted at source on 25-12-2017 is deposited 28-03-2018.

Solution: As per provisions Section 50(1) of the Act, the local authority has to deduct tax @1% from the payment made or credited to the supplier of taxable goods or services or both, where the total value of such supply, under a contract, exceeds Rs. 2,50,000. Such tax has to be paid to the Government by the deductor within 10 days after the end of the month in which such deduction is made, in such manner as may be prescribed otherwise interest shall be levied @18% p.a. for the period for which the tax or any part thereof remains unpaid.

Hence, the amount of tax to be deducted at source shall be 1% of Rs. 10,00,000 = Rs. 10,000

Computation of Interest on delay in deposit of TDS :

Due date for deposit of TDS	[A]	10-01-2018
Date of payment of GST	[B]	28-03-2018
Period of delay (in days)	[C = B - A]	77
Amount of TDS	[D]	10,000
Interest payable @ 18 % p.a. for delay in payment of days [D × 18% × C / 365 days]		380

CHAPTER 17

TAX collection AT SOURCE

COLLECTION OF TAX AT SOURCE [SEC. 52]

<p>TCS collected by E-commerce operator [Sec. 52(1)]</p>	<ul style="list-style-type: none"> ◆ Notwithstanding anything to the contrary contained in this Act, ◆ every electronic commerce operator (hereafter in this section referred to as the "operator"), ◆ not being an agent, ◆ shall collect an amount calculated at such rate ◆ not exceeding one per cent, as may be notified by the Government on the recommendations of the Council, ◆ of the net value of taxable supplies made through it ◆ by other suppliers where the consideration with respect to such supplies is to be collected by the operator. <p>Explanation.—For the purposes of this sub-section, the expression "net value of taxable supplies" shall mean the aggregate value of taxable supplies of goods or services or both, other than services notified under sub-section (5) of section 9, made during any month by all registered persons through the operator reduced by the aggregate value of taxable supplies returned to the suppliers during the said month.</p>
<p>Mode of recovery [Sec. 52(2)]</p>	<p>The power to collect the amount specified in sub-section (1) shall be without prejudice to any other mode of recovery from the operator.</p>
<p>Time limit to deposit TCS [Sec. 52(3)]</p>	<p>The amount collected under sub-section (1) shall be paid to the Government by the operator within ten days after the end of the month in which such collection is made, in such manner as may be prescribed.</p>
<p>Furnishing of statement [Sec. 52(4)]</p>	<p>Every operator who collects the amount specified in sub-section (1) shall furnish a statement, electronically, containing the details of outward supplies of goods or services or both effected through it, including the supplies of goods or services or both returned through it, and the amount collected under sub-section (1) during a month, in such form and manner as may be prescribed, within ten days after the end of such month.</p>

Annual Return [Sec. 52(5)]	<p>Every operator who collects the amount specified in sub-section (1) shall furnish an annual statement, electronically, containing the details of outward supplies of goods or services or both effected through it, including the supplies of goods or services or both returned through it, and the amount collected under the said sub-section during the financial year, in such form and manner as may be prescribed, before the 31st December following the end of such financial year.</p>
Rectify of omission or incorrect particulars [Sec. 52(6)]	<ul style="list-style-type: none"> ◆ If any operator after furnishing a statement under sub-section (4) ◆ discovers any omission or incorrect particulars therein, ◆ other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, ◆ he shall rectify such omission or incorrect particulars ◆ in the statement to be furnished for the month during which such omission or incorrect particulars are noticed, ◆ subject to payment of interest, as specified in sub-section (1) of section 50: <p>Provided that no such rectification of any omission or incorrect particulars shall be allowed after the due date for furnishing of statement for the month of September following the end of the financial year or the actual date of furnishing of the relevant annual statement, whichever is earlier.</p>
Claim of Credit [Sec. 52(7)]	<p>The supplier who has supplied the goods or services or both through the operator shall claim credit, in his electronic- cash ledger, of the amount collected and reflected in the statement of the operator furnished under sub-section (4), in such manner as may be prescribed.</p>
Matching of details [Sec. 52(8)]	<p>The details of supplies furnished by every operator under sub-section (4) shall be matched with the corresponding details of outward supplies furnished by the concerned supplier registered under this Act in such manner and within such time as may be prescribed.</p>

<p>Discrepancy to be communicate [Sec. 52(9)]</p>	<p>Where the details of outward supplies furnished by the operator under sub-section (4) do not match with the corresponding details furnished by the supplier under section 37, the discrepancy shall be communicated to both persons in such manner and within such time as may be prescribed.</p>
<p>Discrepancy not rectify [Sec. 52(10)]</p>	<p>The amount in respect of which any discrepancy is communicated under sub-section (9) and which is not rectified by the supplier in his valid return or the operator in his statement for the month in which discrepancy is communicated, shall be added to the output tax liability of the said supplier, where the value of outward supplies furnished by the operator is more than the value of outward supplies furnished by the supplier, in his return for the month succeeding the month in which the discrepancy is communicated in such manner as may be prescribed.</p>
<p>Interest by supplier [Sec. 52(11)]</p>	<p>The concerned supplier, in whose output tax liability any amount has been added under sub-section (10), shall pay the tax payable in respect of such supply along with interest, at the rate specified under sub-section (1) of section 50 on the amount so added from the date such tax was due till the date of its payment.</p>
<p>Serve notice [Sec. 52(12)]</p>	<p>Any authority not below the rank of Deputy Commissioner may serve a notice, either before or during the course of any proceedings under this Act, requiring the operator to furnish such details relating to—</p> <p>(a) supplies of goods or services or both effected through such operator during any period; or</p> <p>(b) stock of goods held by the suppliers making supplies through such operator in the godowns or warehouses, by whatever name called, managed by such operator and declared as additional places of business by such suppliers, as may be specified in the notice.</p>
<p>Time limit for reply [Sec. 52(13)]</p>	<p>Every operator on whom a notice has been served under sub-section (12) shall furnish the required information within fifteen working days of the date of service of such notice</p>

Penalty if fail to reply [Sec. 52(14)]	<p>Any person who fails to furnish the information required by the notice served under sub-section (12) shall, without prejudice to any action that may be taken under section 122, be liable to a penalty which may extend to twenty-five thousand rupees.</p> <p>Explanation.—For the purposes of this section, the expression “concerned supplier” shall mean the supplier of goods or services or both making supplies through the operator.</p>
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Illustration 1 - Computation of TCS : XYZ Ltd. a registered supplier of goods is effecting supplies through E- Comm Ltd (an Electronic Commerce operator). It has made taxable supplies of goods amounting Rs. 25,00,000 in month of December 2017 through E-Comm Ltd. E- comm Ltd. has returned goods amounting Rs. 2,50,000 to XYZ Ltd during the month of December 2017. Determine the amount of tax to be collected at source by E-comm Ltd.

Solution: As per provisions of Section 52 of CGST Act, 2017, every electronic commerce operator, not being an agent, shall collect an amount calculated at such rate not exceeding 1%, as may be notified by the Government on the recommendations of the Council, of the net value of taxable supplies made through it by other suppliers where the consideration with respect to such supplies is to be collected by the operator.

Thus, the amount of tax to be collected at source by E- Comm Ltd. is as under :

Particulars	Rs.
Value of taxable supplies of goods made by XYZ Ltd.	25,00,000
Less: Value of taxable supplies of goods returned to XYZ Ltd.	2,50,000
Amount on which tax is to be collected at source	22,50,000
Rate of TCS	1%
Amount of TCS	22,500

TRANSFER OF INPUT TAX CREDIT

Explain the provisions under Section 53 of CGST Act, 2017 relating to Transfer of input tax credit on account of utilization of CGST credit for payment of IGST.

Ans: Transfer of input tax credit [Section 53]: On utilisation of input tax credit availed under this Act for payment of tax dues under the Integrated Goods and Services Tax Act in accordance with the provisions of Section 49(5), as reflected in the valid return furnished under Section 39(1), the amount collected as central tax shall stand reduced by an amount equal to such credit so utilised and the Central Government shall transfer an amount equal to the amount so reduced from the central tax account to the integrated tax account in such manner and within such time as may be prescribed.

Explain the provisions of Section 18 of IGST Act, 2017 relating to transfer of input tax credit on account of utilization of IGST credit for payment of other taxes.

Ans: Transfer of input tax credit [Section 18 of IGST Act, 2017]: The relevant provisions are discussed as under :

(a) Use of IGST to pay CGST - CG to transfer such amount to Central Tax Account [Section 18(a)] : On utilisation of credit of integrated tax availed under this Act for payment of central tax in accordance with the provisions of Section 49(5) of the CGST Act, the amount collected as integrated tax shall stand reduced by an amount equal to the credit so utilised and the Central Government shall transfer an amount equal to the amount so reduced from the integrated tax account to the central tax account in such manner and within such time as may be prescribed;

(b) Use of IGST to pay UTGST - Central Government to transfer such amount to Union Territory Tax Account [Section 18(b)] : On utilisation of credit of integrated tax availed under this Act for payment of Union territory tax in accordance with the provisions of section 9 of the Union Territory Goods and Services Tax Act, the amount collected as integrated tax shall stand reduced by an amount equal to the credit so utilised and the Central Government shall transfer an amount equal to the amount so reduced from the integrated tax account to the Union territory tax account in such manner and within such time as may be prescribed;

(c) Use of IGST to pay SGST - Central Government to transfer such amount to State Government Tax Account [Section 18(c)] : On utilisation of credit of integrated tax availed under this Act for payment of State tax in accordance with the provisions of the respective State Goods and Services Tax Act, the amount collected as integrated tax shall stand reduced by an amount equal to the credit so utilised and shall be apportioned to the appropriate State Government and the Central Government shall transfer the amount so apportioned to the account of the appropriate State Government in such manner and within such time as may be prescribed.

CHAPTER 18

REFUNDS

REFUND OF TAX [SEC. 54]

Refund of Tax and interest [Sec. 54(1)]	<p>Any person claiming refund of any tax and interest, if any, paid on such tax or any other amount paid by him, may make an application before the expiry of two years from the relevant date in such form and manner as may be prescribed:</p> <p>♦ Provided that a registered person, claiming refund of any balance in the electronic cash ledger in accordance with the provisions of sub-section (6) of section 49, may claim such refund in the return furnished under section 39 in such manner as may be prescribed.</p>
Refund by specified person [Sec. 54(2)]	<p>A specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries or any other person or class of persons, as notified under section 55, entitled to a refund of tax paid by it on inward supplies of goods or services or both, may make an application for such refund, in such form and manner as may be prescribed, before the expiry of six months from the last day of the quarter in which such supply was received.</p>
Refund of unutilised input tax [Sec. 54(3)]	<p>Subject to the provisions of sub-section (10), a registered person may claim refund of any unutilised input tax credit at the end of any tax period:</p> <p>♦ Provided that no refund of unutilised input tax credit shall be allowed in cases other than –</p> <p>(i) zero rated supplies made without payment of tax;</p> <p>(ii) where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies), except supplies of goods or services or both as may be notified by the Government on the recommendations of the Council:</p>

	<p>Note:-</p> <p>(1) Government has notified some goods under Notification No. 5/2017-Central 1 Tax (Rate)</p> <p>♦ Provided further that no refund of unutilised input tax credit shall be allowed in cases where the goods exported out of India are subjected to export duty: ,</p> <p>♦ Provided also that no refund of input tax credit shall be allowed, if the supplier of goods or services or both avails of drawback in respect of central tax or claims refund of the integrated tax paid on such supplies.</p> <p>Notification No. 15/2017-Central Tax (Rate)</p> <p>Central Government hereby notifies that no refund of unutilised input tax credit shall be allowed under sub-section 1 (3) of section 54 of the said Central Goods and Services Tax 1 Act, in case of supply of services specified in sub-item (b) of item 5 of Schedule II of the Central Goods and Services ! Tax Act.</p>
<p>Documents to claim refund [Sec. 54(4)]</p>	<p>The application shall be accompanied by—</p> <p>(a) such documentary evidence as may be prescribed to establish that a refund is due to the applicant; and</p> <p>(b) such documentary or other evidence (including the documents referred to in section 33)</p> <p>♦ as the applicant may furnish to establish that</p> <p>♦ the amount of tax and interest, if any, paid on such tax or any other amount paid</p> <p>♦ in relation to which such refund is claimed was collected from, or paid by, him and the incidence of such tax and interest</p> <p>♦ had not been passed on to any other person:</p> <p>■ Provided that where the amount claimed as refund is less than two lakh rupees, it shall not be necessary for the applicant to furnish any documentary and other evidences but he may file a declaration, based on the documentary or other evidences available with him, certifying that the incidence of such tax and interest had not been passed on to any other person.</p>

Order for refund [Sec. 54(5)]	<p>If, on receipt of any such application, the proper officer is satisfied that the whole or part of the amount claimed as refund is refundable, he may make an order accordingly and the amount so determined shall be credited to the Fund referred to in section 57.</p>
Refund on Provisional basis [Sec. 54(6)]	<ul style="list-style-type: none"> ♦ Notwithstanding anything contained in sub-section ♦ the proper officer may, in the case of any claim for refund on account of zero-rated supply of goods or services or both made by registered persons, ♦ other than such category of registered persons as may be notified by the Government on the recommendations of the Council, ♦ refund on a provisional basis, ninety per cent, of the total amount so claimed, ♦ excluding the amount of input tax credit provisionally accepted, ♦ in such manner and subject to such conditions, limitations and safeguards as may be prescribed and ♦ thereafter make an order under sub-section (5) for final settlement of the refund claim after due verification of documents furnished by the applicant.
Time limit for issue refund [Sec. 54(7)]	<p>The proper officer shall issue the order under sub-section (5) within sixty days from the date of receipt of application complete in all respects.</p>
Refund in certain cases [Sec. 54(8)]	<p>Notwithstanding anything contained in sub-section (5), the refundable amount shall, instead of being credited to the Fund, be paid to the applicant, if such amount is relatable to—</p> <ul style="list-style-type: none"> (a) refund of tax paid on zero-rated supplies of goods or services or both or on inputs or input services used in making such zero-rated supplies; (b) refund of un-utilised input tax credit under sub-section (3); (c) refund of tax paid on a supply which is not provided, either wholly or partially, and for which invoice has not been issued, or where a refund voucher has been issued; (d) refund of tax in pursuance of section 77; (e) the tax and interest, if any, or any other amount paid by the applicant, if he had not passed on the incidence of such tax and interest to any other person; or (f) the tax or interest borne by such other class of applicants as the Government may, on the recommendations of the Council, by notification, specify.

<p>Refund procedure [Sec. 54(9)]</p>	<p>Notwithstanding anything to the contrary contained in any judgment, decree, order or direction of the Appellate Tribunal or any court or in any other provisions of this Act or the rules made thereunder or in any other law for the time being in force, no refund shall be made except in accordance with the provisions of sub-section (8).</p>
<p>Withhold or deduct refund [Sec. 54(10)]</p>	<p>Where any refund is due under sub-section (3) to a registered person who has defaulted in furnishing any return or who is required to pay any tax, interest or penalty, which has not been stayed by any court, Tribunal or Appellate Authority by the specified date, the proper officer may—</p> <p>(a) withhold payment of refund due until the said person has furnished the return or paid the tax, interest or penalty, as the case may be;</p> <p>(b) deduct from the refund due, any tax, interest, penalty, fee or any other amount which the taxable person is liable to pay but which remains unpaid under this Act or under the existing law.</p> <p>Explanation.—For the purposes of this sub-section, the expression "specified date" shall mean the last date for filing an appeal under this Act.</p>
<p>Withhold refund in proceedings etc. [Sec. 54(11)]</p>	<p>Where an order giving rise to a refund is the subject matter of an appeal or further proceedings or where any other proceedings under this Act is pending and the Commissioner is of the opinion that grant of such refund is likely to adversely affect the revenue in the said appeal or other proceedings on account of malfeasance or fraud committed, he may, after giving the taxable person an opportunity of being heard, withhold the refund till such time as he may determine.</p>

<p>Interest on refund [Sec. 54(12)]</p>	<p>Where a refund is withheld under sub-section (11), the taxable person shall, notwithstanding anything contained in section 56, be entitled to interest at such rate not exceeding six per cent as may be notified on the recommendations of the Council, if as a result of the appeal or further proceedings he becomes entitled to refund.</p> <p>Note:- The Government notify the rate of interest @ 6% vide Notification No. 13/2017-Central Tax, dated 28-6-2017.</p> <p>Example</p> <p>Pepsico Ltd. has applied for the refund claim on 29.11.2017 with all the required documents and informative records. The Department Issued the refund amount on 04.03.18. The Department has to pay interest amount also along with refund amount. The interest amount will be calculated from the date of completion of 60 days to the date of original refund claim issued.</p> <p>In the above case the interest amount will be computed from 29.01.2018 to 04.03.2018.</p> <p>Example:</p> <p>On 15.11.2017 Champ cash Ltd. has applied for refund claim along with all the mandatory documents. The department refused the refund issue request made by the company. Afterwards the Appellate Authority issued the order for refund the department sanctioned the refund amount on 30.09.2018. In this Case interest amount will be paid from 15.01.2018 to 30.09.2018.</p>
<p>Refund claim by Casual or non resident taxable person [Sec. 54(13)]</p>	<p>Notwithstanding anything to the contrary contained in this section, the amount of advance tax deposited by a casual taxable person or a non-resident taxable person under sub-section (2) of section 27, shall not be refunded unless such person has, in respect of the entire period for which the certificate of registration granted to him had remained in force, furnished all the returns required under section 39.</p>
<p>No refund if amt is less than Rs. 1000 [Sec. 54(14)]</p>	<p>Notwithstanding anything contained in this section, no refund under sub-section (5) or sub-section (6) shall be paid to an applicant, if the amount is less than one thousand rupees.</p>

Explanation.—For the purposes of this section,—

1. "refund" includes refund of tax paid **on zero-rated supplies** of goods or services or both or on inputs or input services used in making such zero-rated supplies, or refund of tax on the supply of goods regarded as **deemed exports**, or refund of unutilised input tax credit as provided under sub-section (3).
2. "relevant date" means—
 - a. in the case of goods exported out of India where a refund of tax paid is available in respect of goods themselves or, as the case may be, the inputs or input services used in such goods,—
 - (i) if the goods are exported by sea or air, the date on which the ship or the aircraft in which such goods are loaded, **leaves India**; or
 - (ii) if the goods are exported **by land**, the date on which such goods **pass the frontier**; or
 - (iii) if the goods are **exported by post**, the date of despatch of goods by the Post Office concerned to a place outside India;
 - b. in the case of supply of goods regarded as deemed exports where a refund of tax paid is available in respect of the goods, the date on which the return relating to such deemed exports is furnished;
 - c. in the case of **services exported** out of India where a refund of tax paid is available in respect of services themselves or, as the case may be, the inputs or input services used in such services, the date of—
 - (i) **receipt of payment** in convertible foreign exchange, where the supply of services had been completed **prior to the receipt of such payment**; or
 - (ii) **issue of invoice**, where payment for the services had been received in advance prior to the date of issue of the invoice;
 - d. in case where the tax becomes refundable as a consequence of judgment, decree, order or direction of the Appellate Authority, Appellate Tribunal or any court, the **date of communication of such judgment, decree, order or direction**;
 - e. in the case of refund of **unutilised input tax** credit under sub-section (3), the end of the financial year in which such claim for refund arises;
 - f. in the case where tax is paid provisionally under this Act or the rules made thereunder, the date of adjustment of tax after the final assessment thereof;
 - g. in the case of a person, other than the supplier, the date of receipt of goods or services or both by such person; and in any other case, the **date of payment of tax**.

APPLICATION FOR REFUND OF TAX, INTEREST, PENALTY, FEES OR ANY OTHER AMOUNT [RULE 89 OF CGST RULES, 2017]

<p>Filing of Application [Rule 89(1)]</p>	<p>Any person, except the persons covered under notification issued under section 55, claiming refund of any tax, interest, penalty, fees or any other amount paid by him, other than refund of integrated tax paid on goods exported out of India, may file an application electronically in FORM GST RFD-01 through the common portal, either directly or through a Facilitation Centre notified by the Commissioner:</p> <p>♦ Provided that any claim for refund relating to balance in the electronic cash ledger in accordance with the provisions of sub-section (6) of section 49 may be made through the return furnished for the relevant tax period in FORM GSTR-3 or FORM GSTR-4 or FORM GSTR-7, as the case may be:</p> <p>♦ Provided further that in respect of supplies to a Special Economic Zone unit or a Special Economic Zone developer, the application for refund shall be filed by the—</p> <p>(a) supplier of goods after such goods have been admitted in full in the Special Economic Zone for authorised operations, as endorsed by the specified officer of the Zone;</p> <p>(b) supplier of services along with such evidence regarding receipt of services for authorised operations as endorsed by the specified officer of the Zone:</p> <p>♦ Provided also that in respect of supplies regarded as deemed exports, the application may be filed by –</p> <ol style="list-style-type: none"> a recipient of deemed export supplies or the supplier of deemed export supplies in cases where the recipient does not avail the input tax credit on such a supplies and furnishes an undertaking on the effect that the supplier may claim the refund. <p>♦ Provided also that refund of any amount, after adjusting the tax payable by the applicant out of the advance tax deposited by him under section 27 at the time of registration, shall be claimed in the last return required to be furnished by him.</p>
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<p>Documents required for refund of claim</p> <p>[Rule 89(2)]</p>	<p>The application under sub-rule (1) shall be accompanied by any of the following documentary evidences in Annexure 1 in Form GST RFD-01, as applicable, to establish that a refund is due to the applicant, namely:—</p> <p>(a) the reference number of the order and a copy of the order passed by the proper officer or an appellate authority or Appellate Tribunal or court resulting in such refund or reference number of the payment of the amount specified in sub-section (6) of section 107 and sub-section (8) of section 112 claimed as refund;</p> <p>(b) a statement containing the number and date of shipping bills or bills of export and the number and the date of the relevant export invoices, in a case where the refund is on account of export of goods;</p> <p>(c) a statement containing the number and date of invoices and the relevant Bank Realisation Certificates or Foreign Inward Remittance Certificates, as the case may be, in a case where the refund is on account of the export of services;</p> <p>(d) a statement containing the number and date of invoices as provided in rule 46 along with the evidence regarding the endorsement specified in the second proviso to sub-rule (1) in the case of the supply of goods made to a Special Economic Zone unit or a Special Economic Zone developer;</p> <p>(e) a statement containing the number and date of invoices, the evidence regarding the endorsement specified in the second proviso to sub-rule (1) and the details of payment, along with the proof thereof, made by the recipient to the supplier for authorised operations as defined under the Special Economic Zone Act, 2005, in a case where the refund is on account of supply of services made to a Special Economic Zone unit or a Special Economic Zone developer;</p>
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	<p>(f) a declaration to the effect that the Special Economic Zone unit or the Special Economic Zone developer has not availed the input tax credit of the tax paid by the supplier of goods or services or both, in a case where the refund is on account of supply of goods or services made to a Special Economic Zone unit or a Special Economic Zone developer;</p> <p>(g) a statement containing the number and date of invoices along with such other evidence as may be notified in this behalf, in a case where the refund is on account of deemed exports;</p> <p>(h) a statement containing the number and the date of the invoices received and issued during a tax period in a case where the claim pertains to refund of any unutilised input tax credit under sub-section (3) of section 54 where the credit has accumulated on account of the rate of tax on the inputs being higher than the rate of tax on output supplies, other than nil-rated or fully exempt supplies;</p> <p>(i) the reference number of the final assessment order and a copy of the said order in a case where the refund arises on account of the finalisation of provisional assessment;</p> <p>(j) a statement showing the details of transactions considered as intra-State supply but which is subsequently held to be inter-State supply;</p> <p>(k) a statement showing the details of the amount of claim on account of excess payment of tax;</p> <p>(l) a declaration to the effect that the incidence of tax, interest or any other amount claimed as refund has not been passed on to any other person, in a case where the amount of refund claimed does not exceed two lakh rupees:</p> <p>♦ Provided that a declaration is not required to be furnished in respect of the cases covered under clause (a) or clause (b) or clause (c) or clause (d) or clause (f) of sub-section (8) of section 54;</p>
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	<p>(m) a Certificate in Annexure 2 of FORM GST RFD-01 issued by a chartered accountant or a cost accountant to the effect that the incidence of tax, interest or any other amount claimed as refund has not been passed on to any other person, in a case where the amount of refund claimed exceeds two lakh rupees:</p> <p>♦ Provided that a certificate is not required to be furnished in respect of cases covered under clause (a) or clause (b) or clause (c) or clause (d) or clause (f) of sub-section (8) of section 54;</p> <p>Explanation.—For the purposes of this rule,</p> <p>(i) in case of refunds referred to in clause (c) of sub-section (8) of section 54, the expression “invoice” means invoice conforming to the provisions contained in section 31;</p> <p>(ii) where the amount of tax has been recovered from the recipient, it shall be deemed that the incidence of tax has been passed on to the ultimate consumer.</p>
Debit Electronic Credit ledger in case input credit refund [Rule 89(3)]	Where the application relates to refund of input tax credit, the electronic credit ledger shall be debited by the applicant by an amount equal to the refund so claimed.
Refund of input tax in case of Zero-rated supply [Rule 89(4)]	<p>In the case of zero-rated supply of goods or services or both without payment of tax under bond or letter of undertaking in accordance with the provisions of sub-section (3) of section 16 of the Integrated Goods and Services Tax Act (13 of 2017), refund of input tax credit shall be granted as per the following formula:</p> <p>Refund Amount =</p> <p>(Turnover of zero-rated supply of goods + Turnover of zero-rated supply of services) x Net ITC » Rs. Adjusted Total Turnover Where,—</p> <p>(A) "Refund amount" means the maximum refund that is admissible;</p> <p>(B) "Net ITC" means input tax credit availed on inputs and input services during the relevant period;</p>

	<p>(C) “Turnover of zero-rated supply of goods” means the value of zero-rated supply of goods made during the relevant period without payment of tax under bond or letter of undertaking;</p> <p>(D) “Turnover of zero-rated supply of services” means the value of zero-rated supply of services made without payment of tax under bond or letter of undertaking, calculated in the following manner, namely:—</p> <p>Zero-rated supply of services is the aggregate of the payments received during the relevant period for zero-rated supply of services and zero-rated supply of services where supply has been completed for which payment had been received in advance in any period prior to the relevant period reduced by advances received for zero-rated supply of services for which the supply of services has not been completed during the relevant period;</p> <p>(E) “Adjusted Total turnover” means the turnover in a State or a Union territory, as defined under sub-section (112) of section 2, excluding the value of exempt supplies other than zero-rated supplies, during the relevant period;</p> <p>(F) “Relevant period” means the period for which the claim has been filed.</p>
Refund of input tax in case of inverted duty structure [Rule 89(5)]	<p>In the case of refund on account of inverted duty structure, refund of input tax credit shall be granted as per the following formula:</p> <p>Maximum Refund Amount =</p> <p>[(Turnover of inverted rated supply of goods) x Net ITC » Adjusted Total Turnover]</p> <p>Less:- tax payable on such inverted rated supply of goods.</p> <p>Explanation: For the purposes of this sub rule, the expressions "Net ITC" and "Adjusted Total turnover" shall have the same meanings as assigned to them in sub-rule (4).</p>

ACKNOWLEDGEMENT [RULE 90 OF CGST RULES, 2017]

Acknowledgement for submission of refund application [Rule 90(1)]	<p>Where the application relates to a claim for refund from the electronic cash ledger, an acknowledgement in FORM GST RFD-02 shall be made available to the applicant through the common portal electronically, clearly indicating the date of filing of the claim for refund and the time period specified in sub-section (7) of section 54 shall be counted from such date of filing.</p>
Acknowledgement for submission of refund application other than Electronic cash ledger [Rule 90(2)]	<p>The application for refund, other than claim for refund from electronic cash ledger, shall be forwarded to the proper officer who shall, within a period of fifteen days of filing of the said application, scrutinize the application for its completeness and where the application is found to be complete in terms of sub-rules (2), (3) and (4) of rule 89, an acknowledgement in FORM GST RFD-02 shall be made available to the applicant through the common portal electronically, clearly indicating the date of filing of the claim for refund and the time period specified in sub-section (7) of section 54 shall be counted from such date of filing.</p>
Communication of deficiencies [Rule 90(3)]	<p>Where any deficiencies are noticed, the proper officer shall communicate the deficiencies to the applicant in FORM GST RFD-03 through the common portal electronically, requiring him to file a fresh refund application after rectification of such deficiencies.</p>
Communication of deficiencies [Rule 90(4)]	<p>Where deficiencies have been communicated in FORM GST RFD-03 under the State Goods and Service Tax Rules, 2017, the same shall also deemed to have been communicated under this rule along with the deficiencies communicated under sub-rule (3).</p>

GRANT OF PROVISIONAL REFUND [RULE 91 OF CGST RULES, 2017]

Condition for claiming Provisional refund [Rule 91(1)]	<p>The provisional refund in accordance with the provisions of sub-section (6) of section 54 shall be granted subject to the condition that the person claiming refund has, during any period of five years immediately preceding the tax period to which the claim for refund relates, not been prosecuted for any offence under the Act or under an existing law where the amount of tax evaded exceeds two hundred and fifty lakh rupees;</p>
Order for Provisional Refund [Rule 91(2)]	<p>The proper officer, after scrutiny of the claim and the evidence submitted in support thereof and on being prima facie satisfied that the amount claimed as refund under sub-rule (1) is due to the applicant in accordance with the provisions of sub-section (6) of section 54, shall make an order in FORM GST RFD-04, sanctioning the amount of refund due to the said applicant on a provisional basis within a period not exceeding seven days from the date of the acknowledgement under sub-rule (1) or sub-rule (2) of rule 90.</p>
Issue of Payment advise [Rule 91(3)]	<p>The proper officer shall issue a payment advice in FORM GST RFD-05 for the amount sanctioned under sub-rule (2) and the same shall be electronically credited to any of the bank accounts of the applicant mentioned in his registration particulars and as specified in the application for refund.</p>

ORDER SANCTIONING REFUND [RULE 92 OF CGST RULES, 2017]

<p>Adjustment of any outstanding demand against refund [Rule 92(1)]</p>	<p>Where, upon examination of the application, the proper officer is satisfied that a refund under sub-section (5) of section 54 is due and payable to the applicant, he shall make an order in FORM GST RFD-06, sanctioning the amount of refund to which the applicant is entitled, mentioning therein the amount, if any, refunded to him on a provisional basis under sub-section (6) of section 54, amount adjusted against any outstanding demand under the Act or under any existing law and the balance amount refundable:</p> <p>♦ Provided that in cases where the amount of refund is completely adjusted against any outstanding demand under the Act or under any existing law, an order giving details of the adjustment shall be issued in Part A of FORM GST RFD-07.</p>
<p>Reason for withholding the tax [Rule 92(2)]</p>	<p>Where the proper officer or the Commissioner is of the opinion that the amount of refund is liable to be withheld under the provisions of sub-section (10) or, as the case may be, sub-section (11) of section 54, he shall pass an order in Part B of FORM GST RFD-07 informing him the reasons for withholding of such refund.</p>
<p>Notice to applicant and reply by applicant [Rule 92(3)]</p>	<p>Where the proper officer is satisfied, for reasons to be recorded in writing, that the whole or any part of the amount claimed as refund is not admissible or is not payable to the applicant, he shall issue a notice in FORM GST RFD-08 to the applicant, requiring him to furnish a reply in FORM GST RFD-09 within a period of fifteen days of the receipt of such notice and after considering the reply, make an order in FORM GST RFD-06, sanctioning the amount of refund in whole or part, or rejecting the said refund claim and the said order shall be made available to the applicant electronically and the provisions of sub-rule (1) shall, <i>mutatis mutandis</i>, apply to the extent refund is allowed:</p> <p>♦ Provided that no application for refund shall be rejected without giving the applicant an opportunity of being heard.</p>

Issue of Payment advise [Rule 92(4)]	<p>Where the proper officer is satisfied that the amount refundable under sub-rule (1) or sub-rule (2) is payable to the applicant under sub-section (8) of section 54, he shall make an order in FORM GST RFD-06 and issue a payment advice in FORM GST RFD-05 for the amount of refund and the same shall be electronically credited to any of the bank accounts of the applicant mentioned in his registration particulars and as specified in the application for refund.</p>
Consumer welfare fund [Rule 92(5)]	<p>Where the proper officer is satisfied that the amount refundable under sub-rule (1) or sub-rule (2) is not payable to the applicant under sub-section (8) of section 54, he shall make an order in FORM GST RFD-06 and issue an advice in FORM GST RFD-05, for the amount of refund to be credited to the Consumer Welfare Fund.</p>

CREDIT OF THE AMOUNT OF REJECTED REFUND CLAIM

[RULE 93 OF CGST RULES, 2017]

Re-credit of amount after correction of deficiencies [Rule 93(1)]	<p>Where any deficiencies have been communicated under sub-rule (3) of rule 90, the amount debited under sub-rule (3) of rule 89 shall be re-credited to the electronic credit ledger.</p>
Re-credit of amount if refund rejected under Rule 4 [Rule 93(2)]	<p>Where any amount claimed as refund is rejected under rule 92, either fully or partly, the amount debited, to the extent of rejection, shall be re-credited to the electronic credit ledger by an order made in FORM GST PMT-03.</p>

Explanation—For the purposes of this rule, a refund shall be deemed to be rejected, if the appeal is finally rejected or if the claimant gives an undertaking in writing to the proper officer that he shall not file an appeal.

REFUND IN CERTAIN CASES [SEC. 55]

The Government may, on the **recommendations of the Council**, by notification, specify any specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries and any other person or class of persons as may be specified in this behalf, who shall, subject to such conditions and restrictions as may be prescribed, be entitled to claim a refund of **taxes paid on the notified supplies** of goods or services or both received by them.

REFUND OF TAX TO CERTAIN PERSONS [RULE 95 OF CGST RULES, 2017]

Application for Refund [Rule 95(1)]	Any person eligible to claim refund of tax paid by him on his inward supplies as per notification issued section 55 shall apply for refund in FORM GST RFD-10 once in every quarter , electronically on the common portal, either directly or through a Facilitation Centre notified by the Commissioner, along with a statement of the inward supplies of goods or services or both in FORM GSTR-11, prepared on the basis of the statement of the outward supplies furnished by the corresponding suppliers in FORM GSTR-1.
Acknowledgement for receipts of application [Rule 95(2)]	An acknowledgement for the receipt of the application for refund shall be issued in FORM GST RFD-02.
Condition for claiming the refund [Rule 95(3)]	The refund of tax paid by the applicant shall be available if- (a) the inward supplies of goods or services or both were received from a registered person against a tax invoice and the price of the supply covered under a single tax invoice exceeds five thousand rupees, excluding tax paid, if any; (b) name and Goods and Service Tax Identification Number or Unique Identification Number of the applicant is mentioned in the tax invoice; and (c) such other restrictions or conditions as may be specified in the notification are satisfied.

Rule 4 shall <i>Mutatis mutandis</i> apply [Rule 95(4)]	The provisions of rule 92 shall, <i>mutatis mutandis</i> , apply for the sanction and payment of refund under this rule.
Treaty or other international agreement shall prevail over rules [Rule 95(5)]	Where an express provision in a treaty or other international agreement, to which the President or the Government of India is a party, is inconsistent with the provisions of this chapters, such treaty or international agreement shall prevail.

INTEREST ON DELAYED REFUNDS [SEC. 56]

- If any tax ordered to be refunded under sub-section (5) of section 54 to any applicant is not refunded
- **within sixty days** from the date of receipt of application under subsection (7) of that section
- interest at such rate **not exceeding six per cent**, as may be specified in the notification issued by the Government on the recommendations of the Council
- shall be payable in respect of such refund
- from the date immediately after the expiry of sixty days from the date of receipt of application under the said sub-section till the date of refund of such tax:

Provided that where any claim of refund arises from

- an order passed by an adjudicating authority or Appellate Authority or Appellate Tribunal or court which has attained finality and
- the same is not refunded **within sixty days**
- from the date of receipt of application filed consequent to such order,
- interest at such rate **not exceeding nine per cent** as may be notified by the Government on the recommendations of the Council
- shall be payable in respect of such refund from the date immediately after the expiry of sixty days from the date of receipt of application till the date of refund.

Note:- The Government notify the rate of interest @ 6% vide Notification No. 13/2017-Central Tax, dated 28-6-2017.

Explanation.—For the purposes of this section, where any order of refund is made by an Appellate Authority, Appellate Tribunal or any court against an order of the proper officer under sub-section (5) of section 54, the order passed by the Appellate Authority, Appellate Tribunal or by the court shall be deemed to be an order passed under the said sub-section (5).

ORDER SANCTIONING INTEREST ON DELAYED REFUNDS

[RULE 94 OF COST RULES, 2017]

Where any interest is due and payable to the applicant under section 56, the proper officer shall make an order along with a payment advice in FORM GST RFD-05, specifying therein the amount of refund which is delayed, the period of delay for which interest is payable and the amount of interest payable, and such amount of interest shall be electronically credited to any of the bank accounts of the applicant mentioned in his registration particulars and as specified in the application for refund.

CONSUMER WELFARE FUND [SEC. 57]

The Government shall constitute a Fund, to be called the Consumer Welfare Fund and there shall be credited to the Fund,—

- a. the amount referred to in sub-section (5) of section 54;
- b. any income from investment of the amount credited to the Fund; and
- c. such other monies received by it, in such manner as may be prescribed.

CONSUMER WELFARE FUND [RULE 97 OF CGST RULES, 2017]

1. All credits to the Consumer Welfare Fund shall be made under sub rule (5) of rule 92,
2. Any amount, having been credited to the Fund, ordered or directed as payable to any claimant by orders of the proper officer, appellate authority or Appellate Tribunal or court, shall be paid from the Fund.
3. The Committee shall have powers—
 - a. to require any applicant to produce before it, or before a duly authorised Officer of the Government such books, accounts, documents, instruments, or commodities in custody and control of the applicant, as may be necessary for proper evaluation of the application;

- b. to require any applicant to allow entry and inspection of any premises, from which activities claimed to be for the welfare of consumers are stated to be carried on, to a duly authorised officer of the Central Government or, as the case may be, State Government;
- c. to get the accounts of the applicants audited, for ensuring proper utilisation of the grant;
- d. to require any applicant, in case of any default, or suppression of material information on his part, to refund in lump-sum, the sanctioned grant to the Committee, and to be subject to prosecution under the Act;
- e. to recover any sum due from any applicant in accordance with the provisions of the Act;
- f. to require any applicant, or class of applicants to submit a periodical report, indicating proper utilisation of the grant;
- g. to reject an application placed before it on account of factual inconsistency, or inaccuracy in material particulars;
- h. to recommend minimum financial assistance, by way of grant to an applicant, having regard to his financial status, and importance and utility of nature of activity under pursuit, after ensuring that the financial assistance provided shall not be misutilised;
- i. to identify beneficial and safe sectors, where investments out of Consumer Welfare Fund may be made and make recommendations, accordingly.
- j. to relax the conditions required for the period of engagement in consumer welfare activities of an applicant;
- k. to make guidelines for the management, administration and audit of the Consumer Welfare Fund.

UTILISATION OF FUND [SEC. 58]

Utilisation of funds [Sec. 58(1)]	All sums credited to the Fund shall be utilised by the Government for the welfare of the consumers in such manner as may be prescribed
Maintenance of records [Sec. 58(2)]	The Government or the authority specified by it shall maintain proper and separate account and other relevant records in relation to the Fund and prepare an annual statement of accounts in such form as may be prescribed in consultation with the Comptroller and Auditor-General of India.

REFUND OF INTEGRATED TAX PAID ON GOODS EXPORTED OUT OF INDIA

[RULE 96 OF CGST RULES, 2017]

(1) The shipping bill filed by an exporter shall be deemed to be an application for refund of integrated tax paid on the goods exported out of India and such application shall be deemed to have been filed only when:—

(a) the person in charge of the conveyance carrying the export goods duly files an export manifest or an export report covering the number and the date of shipping bills or bills of export; and

(b) the applicant has furnished a valid return in FORM GSTR-3 or FORM GSTR-3B, as the case may be;

(2) The details of the relevant export invoices contained in FORM GSTR-1 shall be transmitted electronically by the common portal to the system designated by the Customs and the said system shall electronically transmit to the common portal, a confirmation that the goods covered by the said invoices have been exported out of India.

(3) Upon the receipt of the information regarding the furnishing of a valid return in FORM GSTR-3 or FORM GSTR-B, as the case may be from the common portal, the system designated by the Customs shall process the claim for refund and an amount equal to the integrated tax paid in respect of each shipping bill or bill of export shall be electronically credited to the bank account of the applicant mentioned in his registration particulars and as intimated to the Customs authorities.

(4) The claim for refund shall be withheld where,—

(a) a request has been received from the jurisdictional Commissioner of Central tax, State tax or Union territory tax to withhold the payment of refund due to the person claiming refund in accordance with the provisions of sub-section (10) or sub-section (11) of section 54; or

(b) the proper officer of Customs determines that the goods were exported in violation of the provisions of the Customs Act, 1962.

(5) Where refund is withheld in accordance with the provisions of clause (a) of sub-rule (4), the proper officer of integrated tax at the Customs station shall intimate the applicant and the jurisdictional Commissioner of central tax, State tax or Union territory tax, as the case may be, and a copy of such intimation shall be transmitted to the common portal.

(6) Upon transmission of the intimation under sub-rule (5), the proper officer of central tax or State tax or Union territory tax, as the case may be, shall pass an order in Part B of FORM GST RFD-07.

(7) Where the applicant becomes entitled to refund of the amount withheld under clause (a) of sub-rule (4), the concerned jurisdictional officer of central tax, State tax or Union territory tax, as the case may be, shall proceed to refund the amount after passing an order in FORM GST RFD-06.

(8) The Central Government may pay refund of the integrated tax to the Government of Bhutan on the exports to Bhutan for such class of goods as may be notified in this behalf and where such refund is paid to the Government of Bhutan, the exporter shall not be paid any refund of the integrated tax.

REFUND OF INTEGRATED TAX PAID ON GOODS OR SERVICES EXPORTED OUT OF INDIA UNDER BOND OR LUT [RULE 96A OF CGST RULES, 2017]

Refund of integrated tax paid on export of goods or services under bond or Letter of Undertaking.—

(1) Any registered person availing the option to supply goods or services for export without payment of integrated tax shall furnish, prior to export, a bond or a Letter of Undertaking in FORM GST RFD-11 to the jurisdictional Commissioner, binding himself to pay the tax due along with the interest specified under sub-section (1) of section 50 within a period of-

(a) fifteen days after the expiry of three months from the date of issue of the invoice for export, if the goods are not exported out of India; or

(b) fifteen days after the expiry of one year, or such further period as may be allowed by the Commissioner, from the date of issue of the invoice for export, if the payment of such services is not received by the exporter in convertible foreign exchange.

(2) The details of the export invoices contained in FORM GSTR-1 furnished on the common portal shall be electronically transmitted to the system designated by Customs and a confirmation that the goods covered by the said invoices have been exported out of India shall be electronically transmitted to the common portal from the said system.

(3) Where the goods are not exported within the time specified in sub-rule (1) and the registered person fails to pay the amount mentioned in the said sub-rule, the export as allowed under bond or Letter of Undertaking shall be withdrawn forthwith and the said amount shall be recovered from the registered person in accordance with the provisions of section 79.

(4) The export as allowed under bond or Letter of Undertaking withdrawn in terms of sub-rule (3) shall be restored immediately when the registered person pays the amount due.

(5) The Board, by way of notification, may specify the conditions and safeguards under which a Letter of Undertaking may be furnished in place of a bond.

(6) The provisions of sub-rule (1) shall apply, mutatis mutandis, in respect of zero-rated supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit without payment of integrated tax.

Notification No. 37/2017- 4th October, 2017

The Central Board of Excise and Customs hereby specifies conditions and safeguards for furnishing a Letter of Undertaking in place of a Bond by a registered person who intends to supply goods or services for export without payment of integrated tax –

(i) all registered persons who intends to supply goods or services for export without payment of integrated tax shall be eligible to furnish a Letter of Undertaking in place of a Bond except those who have been prosecuted for any offence under the Central Goods and Service Tax Act, 2017 or the Integrated Goods and Services Tax Act, 2017 or any of the existing laws in force in a case where the amount of tax evaded exceeds 250 lakh rupees;

(ii) the Letter of Undertaking shall be furnished on the letter Head of the registered person, in duplicate, for a financial year in the annexure to FORM GST RFD-11 referred to in sub-rule (1) of rule 96A of the Central Goods and Service Tax Act, 2017 and it shall be executed by the working partner, the Managing Director or Company Secretary or the proprietor or by a person duly authorized by such working partner or Board of Director of such Company or proprietor;

(iii) where the registered person fails to pay the tax due along with interest, as specified in sub-rule (1) of rule 96A of the Central Goods and Service Tax Act, 2017, within the period mentioned in clause (a) or clause (b) of the said sub-rule, the facility of export without payment of integrated tax will be deemed to have been withdrawn and if the amount mentioned in the said sub-rule is paid, the facility of export without payment of integrated tax shall be restored.

The provisions of this notification shall mutatis mutandis apply in respect of zero-rated supply of goods or services or both made by a registered person (including a Special Economic Zone developer or Special Economic Zone unit) to a Special Economic Zone developer or Special Economic Zone unit without payment of integrated tax.

CHAPTER 19

ASSESSMENT

SELF-ASSESSMENT [SEC. 59]

Every registered person shall **self-assess** the taxes payable under this Act and furnish a return for each tax period as specified under section 39.

PROVISIONAL ASSESSMENT [SEC. 60]

Request to proper officer [Sec. 60(1)]	<p>Subject to the provisions of sub-section (2), where the taxable person is unable to determine the value of goods or services or both or determine the rate of tax applicable thereto, he may request the proper officer in writing giving reasons for payment of tax on a provisional basis and the proper officer shall pass an order, within a period not later than ninety days from the date of receipt of such request, allowing payment of tax on provisional basis at such rate or on such value as may be specified by him.</p>
Execution of Bonds [Sec. 60(2)]	<p>The payment of tax on provisional basis may be allowed, if the taxable person executes a bond in such form as may be prescribed, and with such surety or security as the proper officer may deem fit, binding the taxable person for payment of the difference between the amount of tax as may be finally assessed and the amount of tax provisionally assessed.</p>
Final assessment order [Sec. 60(3)]	<p>The proper officer shall, within a period not exceeding six months from the date of the communication of the order issued under sub-section (1), pass the final assessment order after taking into account such information as may be required for finalizing the assessment:</p> <p>♦ Provided that the period specified in this sub-section may, on sufficient cause being shown and for reasons to be recorded in writing, be extended by the Joint Commissioner or Additional Commissioner for a further period not exceeding six months and by the Commissioner for such further period not exceeding four years.</p>

Interest payment on tax payable [Sec. 60(4)]	<p>The registered person shall be liable to pay interest on any tax payable on the supply of goods or services or both under provisional assessment but not paid on the due date specified under sub-section (7) of section 39 or the rules made thereunder, at the rate specified under sub-section (1) of section 50, from the first day after the due date of payment of tax in respect of the said supply of goods or services or both till the date of actual payment, whether such amount is paid before or after the issuance of order for final assessment.</p>
Interest on refund [Sec. 60(5)]	<p>Where the registered person is entitled to a refund consequent to the order of final assessment under sub-section (3), subject to the provisions of sub-section (8) of section 54, interest shall be paid on such refund as provided in section 56.</p>

PROVISIONAL ASSESSMENT [RULE 98 OF CGST RULES, 2017]

Filing of Application [Rule 98(1)]	<p>Every registered person requesting for payment of tax on a provisional basis in accordance with the provisions of subsection (1) of section 60 shall furnish an application along with the documents in support of his request, electronically, in FORM GST ASMT-01 on the common portal, either directly or through a Facilitation Centre notified by the Commissioner.</p>
Issue of notice by office and reply by applicant [Rule 98(2)]	<p>The proper officer may, on receipt of the application under sub-rule (1), issue a notice in FORM GST ASMT-02 requiring the registered person to furnish additional information or documents in support of his request and the applicant shall file a reply to the notice in FORM GST ASMT-03, and may appear in person before the said officer if he so desires.</p>
Issue of order by officer [Rule 98(3)]	<p>The proper officer shall issue an order in FORM GST ASMT-04, allowing the payment of tax on a provisional basis indicating the value or the rate or both on the basis of which the assessment is to be allowed on a provisional basis and the amount for which the bond is to be executed and security to be furnished not exceeding twenty five per cent of the amount covered under the bond.</p>

<p>Execution of Bond [Rule- 98(4)]</p>	<p>The registered person shall execute a bond in accordance with the provisions of sub-section (2) of section 60 in FORM GST ASMT-05 along with a security in the form of a bank guarantee for an amount as determined under sub-rule (3):</p> <p>♦ Provided that a bond furnished to the proper officer under the State Goods and Services Tax Act or Integrated Goods and Services Tax Act shall be deemed to be a bond furnished under the provisions of the Act and the rules made thereunder.</p> <p>Explanation.—For the purposes of this rule, the expression "amount" shall include the amount of integrated tax, central tax, State tax or Union territory tax and cess payable in respect of the transaction.</p>
<p>Calling for information for issue of final assessment order [Rule 98(5)]</p>	<p>The proper officer shall issue a notice in FORM GST ASMT-06, calling for information and records required for finalization of assessment under sub-section (3) of section 60 and shall issue a final assessment order, specifying the amount payable by the registered person or the amount refundable, if any, in FORM GST ASMT-07.</p>
<p>Application for release of security [Rule 98(6)]</p>	<p>The applicant may file an application in FORM GST ASMT- 08 for the release of the security furnished under sub-rule (4) after issue of the order under sub-rule (5).</p>
<p>Issue of order by office to release the security [Rule 98(7)]</p>	<p>The proper officer shall release the security furnished under sub-rule (4), after ensuring that the applicant has paid the amount specified in sub-rule (5) and issue an order in FORM GST ASMT-09 within a period of seven working days from the date of the receipt of the application under sub-rule (6).</p>

SCRUTINY OF RETURNS [SEC. 61]

Scrutinize of return [Sec. 61(1)]	The proper officer may scrutinize the return and related particulars furnished by the registered person to verify the correctness of the return and inform him of the discrepancies noticed, if any, in such manner as may be prescribed and seek his explanation thereto.
Communication to registered person [Sec. 61(2)]	In case the explanation is found acceptable , the registered person shall be informed accordingly and no further action shall be taken in this regard.
Action by proper officer [Sec. 61(3)]	In case no satisfactory explanation is furnished within a period of thirty days of being informed by the proper officer or such further period as may be permitted by him or where the registered person, after accepting the discrepancies, fails to take the corrective measure in his return for the month in which the discrepancy is accepted, the proper officer may initiate appropriate action including those under section 65 or section 66 or section 67, or proceed to determine the tax and other dues under sub-section (7) of section 73 or section 74.

SCRUTINY OF RETURNS [RULE 99 OF CGST RULES, 2017]

Issue notice to registered person for discrepancy [Rule 99(1)]	Where any return furnished by a registered person is selected for scrutiny, the proper officer shall scrutinize the same in accordance with the provisions of section 61 with reference to the information available with him, and in case of any discrepancy, he shall issue a notice to the said person in FORM GST ASMT-10, informing him of such discrepancy and seeking his explanation thereto within such time, not exceeding thirty days from the date of service of the notice or such further period as may be permitted by him and also, where possible, quantifying the amount of tax, interest and any other amount payable in relation to such discrepancy.
Reply by registered person [Rule 99(2)]	The registered person may accept the discrepancy mentioned in the notice issued under sub-rule (1), and pay the tax, interest and any other amount arising from such discrepancy and inform the same or furnish an explanation for the discrepancy in FORM GST ASMT-11 to the proper officer.
Inform to registered person by officer [Rule 99(3)]	Where the explanation furnished by the registered person or the information submitted under sub-rule (2) is found to be acceptable , the proper officer shall inform him accordingly in FORM GST ASMT-12.

ASSESSMENT OF NON-FILERS OF RETURNS [SEC. 62]

Best Judgment assessment [Sec. 62(1)]	<p>Notwithstanding anything to the contrary contained in section 73 or section 74, where a registered person fails to furnish the return under section 39 or section 45, even after the service of a notice under section 46, the proper officer may proceed to assess the tax liability of the said person to the best of his judgment taking into account all the relevant material which is available or which he has gathered and issue an assessment order within a period of five years from the date specified under section 44 for furnishing of the annual return for the financial year to which the tax not paid relates.</p> <p>(Rule 100(1) of CGST Rules, 2017)</p> <p>The order of assessment made under sub-section (1) of section 62 shall be issued in FORM GST ASMT-13.</p>
Withdrawal of order [Sec. 62(2)]	<p>Where the registered person furnishes a valid return within thirty days of the service of the assessment order under sub-section (1), the said assessment order shall be deemed to have been withdrawn but the liability for payment of interest under sub-section (1) of section 50 or for payment of late fee under section 47 shall continue.</p>

ASSESSMENT OF UNREGISTERED PERSONS [SEC. 63]

Notwithstanding anything to the contrary contained in section 73 or section 74, where a taxable person **fails to obtain registration** even though liable to do so or whose registration has been cancelled under sub-section (2) of section 29 but who was liable to pay tax, the proper officer may proceed to assess the tax liability of such taxable person to the **best of his judgment** for the relevant tax periods and issue an assessment order within a period of **five years** from the date specified under section 44 for furnishing of the annual return for the financial year to which the tax not paid relates:

♦ **Provided** that no such assessment order shall be passed without giving the person an opportunity of being heard.

SUMMARY ASSESSMENT IN CERTAIN SPECIAL CASES [SEC. 64]

<p>Summary assessment [Sec. 64(1)]</p>	<p>The proper officer may, on any evidence showing a tax liability of a person coming to his notice, with the previous permission of Additional Commissioner or Joint Commissioner, proceed to assess the tax liability of such person to protect the interest of revenue and issue an assessment order, if he has sufficient grounds to believe that any delay in doing so may adversely affect the interest of revenue:</p>
	<p>♦ Provided that where the taxable person to whom the liability pertains is not ascertainable and such liability pertains to supply of goods, the person in charge of such goods shall be deemed to be the taxable person liable to be assessed and liable to pay tax and any other amount due under this section.</p> <p>(Rule 100(3) of CGST Rules, 2017)</p> <p>The order of summary assessment under sub-section (1) of section 64 shall be issued in FORM GST ASMT-16.</p>
<p>Withdrawal of order [Sec. 64(2)]</p>	<p>On an application made by the taxable person within thirty days from the date of receipt of order passed under sub-section (1) or on his own motion, if the Additional Commissioner or Joint Commissioner considers that such order is erroneous, he may withdraw such order and follow the procedure laid down in section 73 or section 74.</p> <p>(Rule 100(4) of CGST Rules, 2017)</p> <p>The person referred to in sub-section (2) of section 64 may file an application for withdrawal of the summary assessment order in FORM GST ASMT-17.</p> <p>(Rule 100(5) of CGST Rules, 2017)</p> <p>The order of withdrawal or, as the case may be, rejection of the application under sub-section (2) of section 64 shall be issued in FORM GST ASMT-18.</p>

CHAPTER 20

AUDIT

MEANING OF AUDIT [SEC. 2(13)]

Means the examination of records, returns and other documents maintained or furnished by the registered person under this Act or the rules made thereunder or under any other law for the time being in force to verify the correctness of turnover declared, taxes paid, refund claimed and input tax credit availed, and to assess his compliance with the provisions of this Act or the rules made thereunder;

AUDIT BY TAX AUTHORITIES [SEC. 65]

Audit of registered person [Sec. 65(1)]	The Commissioner or any officer authorised by him, by way of a general or a specific order, may undertake audit of any registered person for such period, at such frequency and in such manner as may be prescribed.
Audit at Place of business of office [Sec. 65(2)]	The officers referred to in sub-section (1) may conduct audit at the place of business of the registered person or in their office .
Prior Notice [Sec. 65(3)]	The registered person shall be informed by way of a notice not less than fifteen working days prior to the conduct of audit in accordance with Rule 101(2) in FORM GST ADT-01
Time limit for Audit [Sec. 65(4)]	<p>The audit under sub-section (1) shall be completed within a period of three months from the date of commencement of the audit:</p> <p>♦ Provided that where the Commissioner is satisfied that audit in respect of such registered person cannot be completed within three months, he may, for the reasons to be recorded in writing, extend the period by a further period not exceeding six months.</p> <p><i>Explanation.</i>-For the purposes of this sub-section, the expression "commencement of audit" shall mean the date on which the records and other documents, called for by the tax authorities, are made available by the registered person or the actual institution of audit at the place of business, whichever is later.</p>

	<p>Example:</p> <p>On 15.01.2018 M/ s. Plywood Ltd. received a notice for Audit Compliance. M/s. Plywood filed all the required information on 20.04.2018. The Audit officer with his team visited at Plywood Ltd on 18.05.2018. In what duration the audit should be completed?</p> <p>Audit should be completed within 3 months from 20.04.2018 till 19.07.2018 or within extended period of 6 months. The extended period will be 19.01.2018.</p>
<p>Duty of registered person [Sec. 65(5)]</p>	<p>During the course of audit, the authorised officer may require the registered person,—</p> <p>(i) to afford him the necessary facility to verify the books of account or other documents as he may require;</p> <p>(ii) to furnish such information as he may require and render assistance for timely completion of the audit.</p>
<p>Reports to be sent to registered person [Sec. 65(6)]</p>	<p>On conclusion of audit, the proper officer shall, within thirty days, inform the registered person, whose records are audited, about the findings, his rights and obligations and the reasons for such findings.</p>
<p>Action by proper officer [Sec. 65(7)]</p>	<p>Where the audit conducted under sub-section (1) results in detection of tax not paid or short paid or erroneously refunded, or input tax credit wrongly availed or utilised, the proper officer may initiate action under section 73 or section 74.</p>

SPECIAL AUDIT [SEC. 66]

Calling for Books of Account [Sec. 66(1)]	<p>If at any stage of scrutiny, inquiry, investigation or any other proceedings before him, any officer not below the rank of Assistant Commissioner, having regard to the nature and complexity of the case and the interest of revenue, is of the opinion that the value has not been correctly declared or the credit availed is not within the normal limits, he may, with the prior approval of the Commissioner, direct such registered person by a communication in writing to get his records including books of account examined and audited by a chartered accountant or a cost accountant as may be nominated by the Commissioner.</p>
Time limit for Audit [Sec. 66(2)]	<p>The chartered accountant or cost accountant so nominated shall, within the period of ninety days, submit a report of such audit duly signed and certified by him to the said Assistant Commissioner mentioning therein such other particulars as may be specified:</p> <p>♦ Provided that the Assistant Commissioner may, on an application made to him in this behalf by the registered person or the chartered accountant or cost accountant or for any material and sufficient reason, extend the said period by a further period of ninety days.</p>
Special Audit is different from others audit [Sec. 66(3)]	<p>The provisions of sub-section (7) shall have effect notwithstanding that the accounts of the registered person have been audited under any other provisions of this Act or any other law for the time being in force.</p>
Opportunity of being heard [Sec. 66(4)]	<p>The registered person shall be given an opportunity of being heard in respect of any material gathered on the basis of special audit under sub-section (1) which is proposed to be used in any proceedings against him under this Act or the rules made thereunder.</p>
Remuneration of Auditor [Sec. 66(5)]	<p>The expenses of the examination and audit of records under sub-section (1), including the remuneration of such chartered accountant or cost accountant, shall be determined and paid by the Commissioner and such determination shall be final.</p>
Necessary action [Sec. 66(6)]	<p>Where the special audit conducted under sub-section (1) results in detection of tax not paid or short paid or erroneously refunded, or input tax credit wrongly availed or utilised, the proper officer may initiate action under section 73 or section 74.</p>

CHAPTER 21

INSPECTION, SEARCH, SEIZURE AND ARREST

POWER OF INSPECTION, SEARCH AND SEIZURE [SEC. 67]

<p>Inspect any place of business</p> <p>[Sec. 67(1)]</p>	<p>Where the proper officer, not below the rank of Joint Commissioner, has reasons to believe that—</p> <p>(a) taxable person has</p> <ul style="list-style-type: none"> ◆ suppressed any transaction relating to supply of goods or services or both or the stock of goods in hand, or ◆ has claimed input tax credit in excess of his entitlement under this Act or ◆ has indulged in contravention of any of the provisions of this Act or the rules made thereunder to evade tax under this Act; <p>or</p> <p>(b) any person</p> <ul style="list-style-type: none"> ◆ engaged in the business of transporting goods ◆ an owner or operator of a warehouse or a godown or any other place is keeping goods ◆ which have escaped payment of tax or ◆ has kept his accounts or goods in such a manner as is likely to cause evasion of tax payable under this Act, he may authorise in writing any other officer of central tax to inspect any places of business of the taxable person or the persons engaged in the business of transporting goods or the owner or the operator of warehouse or godown or any other place.
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<p>Seizure</p> <p>[Sec. 67(2)]</p>	<p>Where the proper officer,</p> <ul style="list-style-type: none"> ◆ not below the rank of Joint Commissioner, ◆ either pursuant to an inspection carried out under sub-section (1) or otherwise, ◆ has reasons to believe that any goods liable to confiscation or any documents or books or things, ◆ which in his opinion shall be useful for or relevant to any proceedings under this Act, ◆ are secreted in any place, ◆ he may authorise in writing any other officer of central tax to search and seize or ◆ may himself search and seize such goods, documents or books or things: <p>Provided that where it is not practicable</p> <ul style="list-style-type: none"> ◆ to seize any such goods, ◆ the proper officer, or any officer authorised by him, ◆ may serve on the owner or the custodian of the goods an order that he shall not remove, part with, or otherwise deal with the goods ◆ except with the previous permission of such officer: <p>Provided further that the documents or books or things so seized shall be retained by such officer only for so long as may be necessary for their examination and for any inquiry or proceedings under this Act.</p>
<p>Return of Documents, books, things etc.</p> <p>[Sec. 67(3)]</p>	<p>The documents, books or things</p> <ul style="list-style-type: none"> ◆ referred to in sub-section (2) or any other documents, books or things ◆ produced by a taxable person or any other person, ◆ which have not been relied upon for the issue of notice under this Act or the rules made thereunder, ◆ shall be returned to such person within a period not exceeding thirty days of the issue of the said notice.

Power with officer [Sec. 67(4)]	<p>The officer authorised under sub-section (2)</p> <ul style="list-style-type: none"> ♦ shall have the power to seal or ♦ break open the door of any premises or ♦ to break open any almirah, electronic devices, box, receptacle in which any goods, accounts, registers or documents of the person are suspected to be concealed, where access to such premises, almirah, electronic devices, box or receptacle is denied.
Copy or extract of documents [Sec. 67(5)]	<p>The person from whose custody</p> <ul style="list-style-type: none"> ♦ any documents are seized under sub-section (2) shall be entitled to make copies thereof or ♦ take extracts there from in the presence of an authorised officer at such place and time as such officer may indicate in this behalf ♦ except where making such copies or taking such extracts may, in the opinion of the proper officer, prejudicially affect the investigation.
Released of goods on provisional basis [Sec. 67(6)]	<p>The goods so seized under sub-section (2)</p> <ul style="list-style-type: none"> ♦ shall be released, on a provisional basis, ❖ upon execution of a bond and furnishing of a security, in such manner and of such quantum, respectively, as may be prescribed or * on payment of applicable tax, interest and penalty payable, as the case may be. <p>Bond and security for release of seized goods (Rule 140 of CGST Rules, 2017)</p> <p>(1) The seized goods may be released on a provisional basis upon execution of a bond for the value of the goods in FORM GST INS-04 and furnishing of a security in the form of a bank guarantee equivalent to the amount of applicable tax, interest and penalty payable.</p> <p>Explanation.—For the purposes of the rules under the provisions of this Chapter, the “applicable tax” shall include central tax and State tax or central tax and the Union territory tax, as the case may be and the cess, if any, payable under the Goods and Services Tax (Compensation to States) Act, 2017 (15 of 2017).</p>

	<p>(2) In case the person to whom the goods were released provisionally fails to produce the goods at the appointed date and place indicated by the proper officer, the security shall be encashed and adjusted against the tax, interest and penalty and fine, if any, payable in respect of such goods.</p>
<p>Notice of seizure of goods [Sec. 67(7)]</p>	<p>Where any goods are seized under sub-section (2) and no notice in respect thereof is given within six months of the seizure of the goods, the goods shall be returned to the person from whose possession they were seized:</p> <p>Provided that the period of six months may, on sufficient cause being shown, be extended by the proper officer for a further period not exceeding six months.</p>
<p>Disposed of goods by proper officer in certain cases [Sec. 67(8)]</p>	<p>The Government may, having regard to the perishable or hazardous nature of any goods, depreciation in the value of the goods with the passage of time, constraints of storage space for the goods or any other relevant considerations, by notification, specify the goods or class of goods which shall, as soon as may be after its seizure under sub-section (2), be disposed of by the proper officer in such manner as may be prescribed.</p> <p>Procedure in respect of seized goods (Rule 141 of CGST Rules, 2017)</p> <p>(1) Where the goods or things seized are of perishable or hazardous nature, and if the taxable person pays an amount equivalent to the market price of such goods or things or the amount of tax, interest and penalty that is or may become payable by the taxable person, whichever is lower, such goods or, as the case may be, things shall be released forthwith, by an order in FORM GST INS-05, on proof of payment.</p> <p>(2) Where the taxable person fails to pay the amount referred to in sub-rule (1) in respect of the said goods or things, the Commissioner may dispose of such goods or things and the amount realized thereby shall be adjusted against the tax, interest, penalty, or any other amount payable in respect of such goods or things.</p>

Prepare inventory sheet [Sec. 67(9)]	<p>Where any goods, being goods specified under sub-section (8), have been seized by a proper officer, or any officer authorised by him under sub-section (2), he shall prepare an inventory of such goods in such manner as may be prescribed.</p>
Code of criminal procedure shall also apply [Sec. 67(10)]	<p>The provisions of the Code of Criminal Procedure, 1973, relating to search and seizure, shall, so far as may be, apply to search and seizure under this section subject to the modification that sub-section (5) of section 165 of the said Code shall have effect as if for the word “Magistrate”, wherever it occurs, the word “Commissioner” were substituted.</p>
Seize the records produced before him [Sec. 67(11)]	<p>Where the proper officer</p> <ul style="list-style-type: none"> ◆ has reasons to believe that any person has evaded or ◆ is attempting to evade the payment of any tax, ◆ he may, for reasons to be recorded in writing, seize the accounts, registers or documents of such person produced before him and ◆ shall grant a receipt for the same, and ◆ shall retain the same for so long as may be necessary in connection with any proceedings under this Act or the rules made thereunder for prosecution.
Cancelling any tax invoice or bill of supply [Sec. 67(12)]	<p>The Commissioner or an officer authorised by him</p> <ul style="list-style-type: none"> ◆ may cause purchase of any goods or services or both by any person authorised by him from the business premises of any taxable person, ◆ to check the issue of tax invoices or bills of supply by such taxable person, and ◆ on return of goods so purchased by such officer, ◆ such taxable person or any person in charge of the business premises shall refund the amount so paid towards the goods after cancelling any tax invoice or bill of supply issued earlier.

INSPECTION, SEARCH AND SEIZURE [RULE 139 OF CGST RULES, 2017]

- (1) Where the proper officer not below the rank of a Joint Commissioner has reasons to believe that a place of business or any other place is to be visited for the purposes of inspection or search or, as the case may be, seizure in accordance with the provisions of section 67, he shall issue an authorisation in FORM GST INS-01 authorising any other officer subordinate to him to conduct the inspection or search or, as the case may be, seizure of goods, documents, books or things liable to confiscation.
- (2) Where any goods, documents, books or things are liable for seizure under sub-section (2) of section 67, the proper officer or an authorised officer shall make an order of seizure in FORM GST INS-02.
- (3) The proper officer or an authorised officer may entrust upon the owner or the custodian of goods, from whose custody such goods or things are seized, the custody of such goods or things for safe upkeep and the said person shall not remove, part with, or otherwise deal with the goods or things except with the previous permission of such officer.
- (4) Where it is not practicable to seize any such goods, the proper officer or the authorised officer may serve on the owner or the custodian of the goods, an order of prohibition in FORM GST INS-03 that he shall not remove, part with, or otherwise deal with the goods except with the previous permission of such officer.
- (5) The officer seizing the goods, documents, books or things shall prepare an inventory of such goods or documents or books or things containing, *inter alia*, description, quantity or unit, make, mark or model, where applicable, and get it signed by the person from whom such goods or documents or books or things are seized.

INSPECTION OF GOODS IN MOVEMENT [SEC. 68]

Documents carrying by person in charge [Sec. 68(1)]	The Government may require the person in charge of a conveyance carrying any consignment of goods of value exceeding such amount as may be specified to carry with him such documents and such devices as may be prescribed.
Validation of documents [Sec. 68(2)]	The details of documents required to be carried under sub-section (1) shall be validated in such manner as may be prescribed.
Documents produced by charge of conveyance in transit [Sec. 68(3)]	Where any conveyance referred to in sub-section (1) <ul style="list-style-type: none"> ▪ is intercepted by the proper officer at any place, ▪ he may require the person in charge of the said conveyance ▪ to produce the documents prescribed under the said sub-section and devices for verification, and ▪ the said person shall be liable to produce the documents and devices and also allow the inspection of goods.

E-WAY RULES [RULE 138]

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

(1) Every registered person who causes movement of goods of consignment value exceeding fifty thousand rupees –

(i) in relation to a supply; or

(ii) for reasons other than supply; or

(iii) due to inward supply from an unregistered person,

shall, before commencement of such movement, furnish information relating to the said goods in Part A of FORM GST EWB-01, electronically, on the common portal.

Provided that where goods are sent by a principal located in one State to a job worker located in any other State, the e-way bill shall be generated by the principal irrespective of the value of the consignment:

Provided further that where handicraft goods are transported from one State to another by a person who has been exempted from the requirement of obtaining registration under clauses (i) and (ii) of section 24, the e-way bill shall be generated by the said person irrespective of the value of the consignment.

(2) Where the goods are transported by the registered person as a consignor or the recipient of supply as the consignee, whether in his own conveyance or a hired one or by railways or by air or by vessel, the said person or the recipient may generate the e-way bill in FORM GST EWB-01 electronically on the common portal after furnishing information in Part B of FORM GST EWB-01.

(3) Where the e-way bill is not generated under sub-rule (2) and the goods are handed over to a transporter for transportation by road, the registered person shall furnish the information relating to the transporter in Part B of FORM GST EWB-01 on the common portal and the e-way bill shall be generated by the transporter on the said portal on the basis of the information furnished by the registered person in Part A of FORM GST EWB-01:

Provided that the registered person or, as the case may be, the transporter may, at his option, generate and carry the e-way bill even if the value of the consignment is less than fifty thousand rupees:

Provided further that where the movement is caused by an unregistered person either in his own conveyance or a hired one or through a transporter, he or the transporter may, at their option, generate the e-way bill in FORM GST EWB-01 on the common portal in the manner specified in this rule:

Provided also that where the goods are transported for a distance of less than ten kilometres within the State or Union territory from the place of business of the consignor to the place of business of the transporter for further transportation, the supplier or the transporter may not furnish the details of conveyance in Part B of FORM GST EWB-01.

Explanation 1.— For the purposes of this sub-rule, where the goods are supplied by an unregistered supplier to a recipient who is registered, the movement shall be said to be caused by such recipient if the recipient is known at the time of commencement of the movement of goods.

Explanation 2.— The information in Part A of FORM GST EWB-01 shall be furnished by the consignor or the recipient of the supply as consignee where the goods are transported by railways or by air or by vessel.

(4) Upon generation of the e-way bill on the common portal, a unique e-way bill number (EBN) shall be made available to the supplier, the recipient and the transporter on the common portal.

(5) Any transporter transferring goods from one conveyance to another in the course of transit shall, before such transfer and further movement of goods, update the details of conveyance in the e-way bill on the common portal in FORM GST EWB-01:

Provided that where the goods are transported for a distance of less than ten kilometres within the State or Union territory from the place of business of the transporter finally to the place of business of the consignee, the details of conveyance may not be updated in the e-way bill.

(6) After e-way bill has been generated in accordance with the provisions of sub-rule (1), where multiple consignments are intended to be transported in one conveyance, the transporter may indicate the serial number of e-way bills generated in respect of each such consignment electronically on the common portal and a consolidated e-way bill in FORM GST EWB-02 may be generated by him on the said common portal prior to the movement of goods.

(7) Where the consignor or the consignee has not generated FORM GST EWB-01 in accordance with the provisions of sub-rule (1) and the value of goods carried in the conveyance is more than fifty thousand rupees, the transporter shall generate FORM GST EWB-01 on the basis of invoice or bill of supply or delivery challan, as the case may be, and may also generate a consolidated e-way bill in FORM GST EWB-02 on the common portal prior to the movement of goods.

(8) The information furnished in Part A of FORM GST EWB-01 shall be made available to the registered supplier on the common portal who may utilize the same for furnishing details in FORM GSTR-1:

Provided that when the information has been furnished by an unregistered supplier in FORM GST EWB-01, he shall be informed electronically, if the mobile number or the email is available.

(9) Where an e-way bill has been generated under this rule, but goods are either not transported or are not transported as per the details furnished in the e-way bill, the e-way bill may be cancelled electronically on the common portal, either directly or through a Facilitation Centre notified by the Commissioner, within 24 hours of generation of the e-way bill:

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

(10) An e-way bill or a consolidated e-way bill generated under this rule shall be valid for the period as specified

Sr. No.	Distance	Validity period
1	Upto 100 km	One day
2	For every 100 km or part thereof thereafter	One additional day

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

Provided further that where, under circumstances of an exceptional nature, the goods cannot be transported within the validity period of the e-way bill, the transporter may generate another e-way bill after updating the details in Part B of FORM GSTEWB-01.

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

(11) The details of e-way bill generated under sub-rule (1) shall be made available to the recipient, if registered, on the common portal, who shall communicate his acceptance or rejection of the consignment covered by the e- way bill.

(12) Where the recipient referred to in sub-rule (11) does not communicate his acceptance or rejection within seventy two hours of the details being made available to him on the common portal, it shall be deemed that he has accepted the said details.

(13) The e-way bill generated under this rule or under rule 138 of the Goods and Services Tax Rules of any State shall be valid in every State and Union territory.

(14) Notwithstanding anything contained in this rule, no e-way bill is required to be generated –

(a) where the goods being transported are specified in

(b) where the goods are being transported by a non-motorised conveyance;

(c) where the goods are being transported from the port, airport, air cargo complex and land customs station to an inland container depot or a container freight station for clearance by Customs; and

(d) in respect of movement of goods within such areas as are notified under clause (d) of sub-rule (14) of rule 138 of the Goods and Services Tax Rules of the concerned State.

Explanation. - The facility of generation and cancellation of e-way bill may also be made available through SMS.

Documents and devices to be carried by a person-in-charge of a conveyance [Section 138A]

(1) The person in charge of a conveyance shall carry—

(a) the invoice or bill of supply or delivery challan, as the case may be; and

(b) a copy of the e-way bill or the e-way bill number, either physically or mapped to a Radio Frequency Identification Device embedded on to the conveyance in such manner as may be notified by the Commissioner.

(2) A registered person may obtain an Invoice Reference Number from the common portal by uploading, on the said portal, a tax invoice issued by him in FORM GST INV-1 and produce the same for verification by the proper officer in lieu of the tax invoice and such number shall be valid for a period of thirty days from the date of uploading.

(3) Where the registered person uploads the invoice under sub-rule (2), the information in Part A of FORM GST EWB-01 shall be auto-populated by the common portal on the basis of the information furnished in FORM GST INV-1.

(4) The Commissioner may, by notification, require a class of transporters to obtain a unique Radio Frequency Identification Device and get the said device embedded on to the conveyance and map the e-way bill to the Radio Frequency Identification Device prior to the movement of goods.

(5) Notwithstanding anything contained clause (b) of sub-rule (1), where circumstances so warrant, the Commissioner may, by notification, require the person-in-charge of the conveyance to carry the following documents instead of the e-way bill- (a) tax invoice or bill of supply or bill of entry; or (b) a delivery challan, where the goods are transported for reasons other than by way of supply.

CHAPTER 22

Demand and recovery

DETERMINATION OF TAX NOT PAID OR SHORT PAID OR ERRONEOUSLY REFUNDED OR INPUT TAX CREDIT WRONGLY AVAILED OR UTILISED FOR ANY REASON OTHER THAN FRAUD OR ANY WILFUL- MISSTATEMENT OR SUPPRESSION OF FACTS [SEC. 73]

<p>Serve notice</p> <p>[Sec. 73(1)]</p>	<p>Where it appears to the proper officer that</p> <ul style="list-style-type: none"> ♦ any tax has not been paid, or ♦ short paid, or ♦ erroneously refunded, or ♦ where input tax credit has been wrongly availed or utilised, or ♦ for any reason, ♦ other than the reason of fraud or any wilful-misstatement or suppression of facts to evade tax, ♦ he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, ♦ requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and ♦ a penalty leviable under the provisions of this Act or the rules made thereunder.
<p>Time limit of notice [Sec. 73(2)]</p>	<p>The proper officer shall issue the notice under sub-section (1) at least three months prior to the time limit specified in sub-section (10) for issuance of order.</p>

Issue of Statement for matters covered other than Sec. 73(1) [Sec. 73(3)]	<p>Where a notice has been issued for any period under sub-section (1),</p> <ul style="list-style-type: none"> ♦ the proper officer may serve a statement, ♦ containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for such periods ♦ other than those covered under sub-section (1), on the person chargeable with tax.
Statement shall be treated as Deemed notice [Sec. 73(4)]	<p>The service of such statement shall be deemed to be service of notice on such person under sub-section (1), subject to the condition that the grounds relied upon for such tax periods other than those covered under sub-section (1) are the same as are mentioned in the earlier notice.</p>
Suo motu payment of tax [Sec. 73(5)]	<p>The person chargeable with tax may,</p> <ul style="list-style-type: none"> ♦ before service of notice under sub-section (1) or, ♦ as the case may be, the statement under sub-section (3), ♦ pay the amount of tax along with interest payable thereon under section 50 on the basis of his own ascertainment of such tax or the tax as ascertained by the proper officer and ♦ inform the proper officer in writing of such payment.
No notice if tax paid as above [Sec. 73(6)]	<p>The proper officer, on receipt of such information,</p> <ul style="list-style-type: none"> ♦ shall not serve any notice under sub-section (1) or, ♦ as the case may be, the statement under sub-section (3), ♦ in respect of the tax so paid or any penalty payable under the provisions of this Act or the rules made thereunder.
Notice by office in case of short amount paid [Sec. 73(7)]	<p>Where the proper officer is of the opinion that the amount paid under sub-section (5) falls short of the amount actually payable, he shall proceed to issue the notice as provided for in sub-section (1) in respect of such amount which falls short of the amount actually payable.</p>

<p>No penalty if amount paid within 30 days of issue of SCN [Sec. 73(8)]</p>	<p>Where any person chargeable with tax under sub-section (1) or sub-section (3) pays the said tax along with interest payable under section 50 within thirty days of issue of show cause notice, no penalty shall be payable and all proceedings in respect of the said notice shall be deemed to be concluded.</p>
<p>Determination of Interest and penalty [Sec. 73(9)]</p>	<p>The proper officer shall, after considering the representation, if any, made by person chargeable with tax, determine the amount of tax, interest and a penalty equivalent to ten per cent of tax or ten thousand rupees, whichever is higher, due from such person and issue an order.</p>
<p>Time limit for issue of order [Sec. 73(10)]</p>	<p>The proper officer shall issue the order under sub-section (9) within three years from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within three years from the date of erroneous refund.</p>
<p>Penalty [Sec. 73(11)]</p>	<p>Notwithstanding anything contained in sub-section (6) or sub-section (8), penalty under sub-section (9) shall be payable where any amount of self-assessed tax or any amount collected as tax has not been paid within a period of thirty days from the due date of payment of such tax.</p>

DETERMINATION OF TAX NOT PAID OR SHORT PAID OR ERRONEOUSLY REFUNDED OR INPUT TAX CREDIT WRONGLY AVAILABLE OR UTILISED BY REASON OF FRAUD OR ANY WILFUL- MISSTATEMENT OR SUPPRESSION OF FACTS [SEC. 74]

<p>Serve notice [Sec. 74(1)]</p>	<p>Where it appears to the proper officer that</p> <ul style="list-style-type: none"> ♦ any tax has not been paid ♦ or short paid or ♦ erroneously refunded or ♦ where input tax credit has been wrongly availed or utilised ♦ by reason of fraud, or any wilful-misstatement or suppression of facts to evade tax, ♦ he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, ♦ requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty equivalent to the tax specified in the notice.
<p>Time limit of notice [Sec. 74(2)]</p>	<p>The proper officer shall issue the notice under sub-section (1) at least six months prior to the time limit specified in sub-section (10) for issuance of order.</p>
<p>Issue of Statement for matters covered other than Sec. 74(1) [Sec. 74(3)]</p>	<p>Where a notice has been issued for any period under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for such periods other than those covered under sub-section (1), on the person chargeable with tax.</p>

Deemed notice [Sec. 74(4)]	<p>The service of statement under sub-section (3) shall be deemed to be service of notice under sub-section (1) of section 73, subject to the condition that the grounds relied upon in the said statement, except the ground of fraud, or any wilful-misstatement or suppression of facts to evade tax, for periods other than those covered under sub-section (1) are the same as are mentioned in the earlier notice.</p>
Suo motu payment of tax [Sec. 74(5)]	<p>The person chargeable with tax may, before service of notice under sub-section (1), pay the amount of tax along with interest payable under section 50 and a penalty equivalent to fifteen per cent of such tax on the basis of his own ascertainment of such tax or the tax as ascertained by the proper officer and inform the proper officer in writing of such payment.</p>
No notice if tax paid as above [Sec. 74(6)]	<p>The proper officer, on receipt of such information, shall not serve any notice under sub-section (1), in respect of the tax so paid or any penalty payable under the provisions of this Act or the rules made thereunder.</p>
Notice by office in case of short amount paid [Sec. 74(7)]	<p>Where the proper officer is of the opinion that the amount paid under sub-section (5) falls short of the amount actually payable, he shall proceed to issue the notice as provided for in sub-section (1) in respect of such amount which falls short of the amount actually payable.</p>
No penalty if amount paid within 30 days of issue of SCN [Sec. 74(8)]	<p>Where any person chargeable with tax under sub-section (1) pays the said tax along with interest payable under section 50 and a penalty equivalent to twenty-five per cent of such tax within thirty days of issue of the notice, all proceedings in respect of the said notice shall be deemed to be concluded.</p>
Determination of Interest and penalty [Sec. 74(9)]	<p>The proper officer shall, after considering the representation, if any, made by the person chargeable with tax, determine the amount of tax, interest and penalty due from such person and issue an order.</p>

Time limit for issue of order [Sec. 74(10)]	<p>The proper officer shall issue the order under sub-section (9) within a period of five years from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within five years from the date of erroneous refund.</p>
Payment of tax, interest, penalty etc. [Sec. 74(11)]	<p>Where any person served with an order issued under sub-section (9) pays the tax along with interest payable thereon under section 50 and a penalty equivalent to fifty per cent of such tax within thirty days of communication of the order, all proceedings in respect of the said notice shall be deemed to be concluded.</p>
<p>Explanation 1.— For the purposes of section 73 and this section,—</p> <p>(i) the expression “all proceedings in respect of the said notice” shall not include proceedings under section 132;</p> <p>(ii) where the notice under the same proceedings is issued to the main person liable to pay tax and some other persons, and such proceedings against the main person have been concluded under section 73 or section 74, the proceedings against all the persons liable to pay penalty under sections 122, 125, 129 and 130 are deemed to be concluded.</p> <p>Explanation 2,—For the purposes of this Act, the expression "suppression" shall mean non-declaration of facts or information which a taxable person is required to declare in the return, statement, report or any other document furnished under this Act or the rules made thereunder, or failure to furnish any information on being asked for, in writing, by the proper officer.</p>	

GENERAL PROVISIONS RELATING TO DETERMINATION OF TAX [SEC. 75]

Stayed days excluded in time limit for issue of notice /order [Sec. 75(1)]	<p>Where the service of notice or issuance of order is stayed by an order of a court or Appellate Tribunal, the period of such stay shall be excluded in computing the period specified in sub-sections (2) and (10) of section 73 or sub-sections (2) and (10) of section 74, as the case may be.</p>
Deeming provision [Sec. 75(2)]	<p>Where any Appellate Authority or Appellate Tribunal or court concludes that the notice issued under sub-section (1) of section 74 is not sustainable for the reason that the charges of fraud or any wilful-misstatement or suppression of facts to evade tax has not been established against the person to whom the notice was issued, the proper officer shall determine the tax payable by such person, deeming as if the notice were issued under sub-section (1) of section 73.</p>
Time limit for order [Sec. 75(3)]	<p>Where any order is required to be issued in pursuance of the direction of the Appellate Authority or Appellate Tribunal or a court, such order shall be issued within two years from the date of communication of the said direction.</p>
Opportunity of hearing [Sec. 75(4)]	<p>An opportunity of hearing shall be granted where a request is received in writing from the person chargeable with tax or penalty, or where any adverse decision is contemplated against such person.</p>
Adjournment [Sec. 75(5)]	<p>The proper officer shall, if sufficient cause is shown by the person chargeable with tax, grant time to the said person and adjourn the hearing for reasons to be recorded in writing:</p> <p>♦ Provided that no such adjournment shall be granted for more than three times to a person during the proceedings.</p>
Facts and basis [Sec. 75(6)]	<p>The proper officer, in his order, shall set out the relevant facts and the basis of his decision.</p>
Amount of Demand [Sec. 75(7)]	<p>The amount of tax, interest and penalty demanded in the order shall not be in excess of the amount specified in the notice and no demand shall be confirmed on the grounds other than the grounds specified in the notice.</p>

Modification of Order [Sec. 75(8)]	Where the Appellate Authority or Appellate Tribunal or court modifies the amount of tax determined by the proper officer, the amount of interest and penalty shall stand modified accordingly, taking into account the amount of tax so modified.
Interest [Sec. 75(9)]	The interest on the tax short paid or not paid shall be payable whether or not specified in the order determining the tax liability.
Deemed conclusion [Sec. 75(10)]	The adjudication proceedings shall be deemed to be concluded , if the order is not issued within three years as provided for in sub-section (10) of section 73 or within five years as provided for in sub-section (10) of section 74.
Exclusion of days [Sec. 75(11)]	An issue on which the Appellate Authority or the Appellate Tribunal or the High Court has given its decision which is prejudicial to the interest of revenue in some other proceedings and an appeal to the Appellate Tribunal or the High Court or the Supreme Court against such decision of the Appellate Authority or the Appellate Tribunal or the High Court is pending , the period spent between the date of the decision of the Appellate Authority and that of the Appellate Tribunal or the date of decision of the Appellate Tribunal and that of the High Court or the date of the decision of the High Court and that of the Supreme Court shall be excluded in computing the period referred to in sub-section (10) of section 73 or sub-section (10) of section 74 where proceedings are initiated by way of issue of a show cause notice under the said sections.
Recovery of unpaid tax or interest [Sec. 75(12)]	Notwithstanding anything contained in section 73 or section 74, where any amount of self-assessed tax in accordance with a return furnished under section 39 remains unpaid , either wholly or partly, or any amount of interest payable on such tax remains unpaid, the same shall be recovered under the provisions of section 79.
No Penalty in other provision on same act [Sec. 75(13)]	Where any penalty is imposed under section 73 or section 74, no penalty for the same act or omission shall be imposed on the same person under any other provision of this Act.

TAX COLLECTED BUT NOT PAID TO GOVERNMENT [SEC. 76]

Payment of collected tax to Government [Sec. 76(1)]	<p>Notwithstanding anything to the contrary contained</p> <ul style="list-style-type: none"> ♦ in any order or direction of any Appellate Authority or Appellate Tribunal or court or in any other provisions of this Act or the rules made thereunder or any other law for the time being in force, ♦ every person who has collected from any other person any amount as representing the tax under this Act, and ♦ has not paid the said amount to the Government, shall forthwith pay the said amount to the Government, irrespective of whether the supplies in respect of which such amount was collected are taxable or not.
Issue of SCN [Sec. 76(2)]	<p>Where any amount is required to be paid to the Government under sub-section (1), and which has not been so paid, the proper officer may serve on the person liable to pay such amount a notice requiring him to show cause as to why the said amount as specified in the notice, should not be paid by him to the Government and why a penalty equivalent to the amount specified in the notice should not be imposed on him under the provisions of this Act.</p>
Representation by person [Sec. 76(3)]	<p>The proper officer shall, after considering the representation, if any, made by the person on whom the notice is served under sub-section (2), determine the amount due from such person and thereupon such person shall pay the amount so determined.</p>
Interest amount [Sec. 76(4)]	<p>The person referred to in sub-section (1) shall in addition to paying the amount referred to in sub-section (1) or sub-section (3) also be liable to pay interest thereon at the rate specified under section 50 from the date such amount was collected by him to the date such amount is paid by him to the Government.</p>
Opportunity of hearing [Sec. 76(5)]	<p>An opportunity of hearing shall be granted where a request is received in writing from the person to whom the notice was issued to show cause.</p>

Time limit for issue of order [Sec. 76(6)]	The proper officer shall issue an order within one year from the date of issue of the notice.
Stay period not include in 1 year [Sec. 76(7)]	Where the issuance of order is stayed by an order of the court or Appellate Tribunal, the period of such stay shall be excluded in computing the period of one year.
Facts and basis [Sec. 76(8)]	The proper officer, in his order, shall set out the relevant facts and the basis of his decision
Adjustment of TCS [Sec. 76(9)]	The amount paid to the Government under sub-section (1) or sub-section (3) shall be adjusted against the tax payable , if any, by the person in relation to the supplies referred to in sub-section (1).
Credited to fund or refund [Sec. 76(10)]	Where any surplus is left after the adjustment under sub-section (9), the amount of such surplus shall either be credited to the Fund or refunded to the person who has borne the incidence of such amount.
Apply for Refund [Sec. 76(11)]	The person who has borne the incidence of the amount, may apply for the refund of the same in accordance with the provisions of section 54.

NOTICE AND ORDER FOR DEMAND OF AMOUNTS PAYABLE UNDER THE ACT

[RULE 142 OF CGST RULES, 2017]

- (1) The proper officer shall serve, along with the
- (a) notice under sub-section (1) of section 73 or sub-section (1) of section 74 or sub-section (2) of section 76, a summary' thereof electronically in FORM GST DRC-01,
 - (b) statement under sub-section (3) of section 73 or sub-section (3) of section 74, a summary thereof electronically in FORM GST DRC-02, specifying therein the details of the amount payable.
- (2) Where, before the service of notice or statement, the person chargeable with tax makes payment of the tax and interest in accordance with the provisions of sub-section (5) of section 73 or, as the case may be, tax, interest and penalty in accordance with the provisions of sub-section (5) of section 74, he shall inform the proper officer of such payment in FORM GST DRC-03 and the proper officer shall issue an acknowledgement, accepting the payment made by the said person in FORM GST DRC-04.

(3) Where the person chargeable with tax makes payment of tax and interest under sub-section (8) of section 73 or, as the case may be, tax, interest and penalty under sub-section (8) of section 74 within thirty days of the service of a notice under sub-rule (1), he shall intimate the proper officer of such payment in FORM GST DRC-03 and the proper officer shall issue an order in FORM GST DRC-05 concluding the proceedings in respect of the said notice.

(4) The representation referred to in sub-section (9) of section 73 or sub-section (9) of section 74 or sub-section (3) of section 76 shall be in FORM GST DRC-06.

(5) A summary of the order issued under sub-section (9) of section 73 or sub-section (9) of section 74 or sub-section (3) of section 76 shall be uploaded electronically in FORM GST DRC-07, specifying therein the amount of tax, interest and penalty payable by the person chargeable with tax.

(6) The order referred to in sub-rule (5) shall be treated as the notice for recovery.

(7) Any rectification of the order, in accordance with the provisions of section 161, shall be made by the proper officer in FORM GST DRC-08.

TAX WRONGFULLY COLLECTED AND PAID TO CENTRAL GOVERNMENT OR STATE GOVERNMENT [SEC. 77]

Tax paid wrongly-refunded [Sec. 77(1)]	A registered person who has paid the Central tax and State tax or, as the case may be, the Central tax and the Union territory tax on a transaction considered by him to be an intra-State supply , but which is subsequently held to be an inter-State supply , shall be refunded the amount of taxes so paid in such manner and subject to such conditions as may be prescribed.
No interest [Sec. 77(2)]	A registered person who has paid integrated tax on a transaction considered by him to be an inter-State supply , but which is subsequently held to be an intra-State supply , shall not be required to pay any interest on the amount of central tax and State tax or, as the case may be, the Central tax and the Union territory tax payable.

INITIATION OF RECOVERY PROCEEDINGS [SEC. 78]

Any amount payable by a taxable person in pursuance of an order passed under this Act shall be paid by such person within a period of **three months** from the date of service of such order failing which recovery proceedings shall be initiated:

♦ **Provided** that where the proper officer considers it expedient **in the interest of revenue**, he may, for reasons to be recorded in writing, require the said taxable person to make such payment within such period **less than a period of three months** as may be specified by him.

RECOVERY OF TAX [SEC. 79]

<p>Recovery procedure [Sec. 79(1)]</p>	<p>Where any amount payable by a person to the Government under any of the provisions of this Act or the rules made thereunder is not paid, the proper officer shall proceed to recover the amount by one or more of the following modes, namely:-</p> <p>(a) the proper officer may deduct or may require any other specified officer to deduct the amount so payable from any money owing to such person which may be under the control of the proper officer or such other specified officer;</p> <p>(b) the proper officer may recover or may require any other specified officer to recover the amount so payable by detaining and selling any goods belonging to such person which are under the control of the proper officer or such other specified officer;</p> <p>(i) the proper officer may, by a notice in writing, require any other person from whom money is due or may become due to such person or who holds or may subsequently hold money for or on account of such person, to pay to the Government either forthwith upon the money becoming due or being held, or within the time specified in the notice not being before the money becomes due or is held, so much of the money as is sufficient to pay the amount due from such person or the whole of the money when it is equal to or less than that amount;</p>
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	<p>(ii) every person to whom the notice is issued under sub-clause (i) shall be bound to comply with such notice, and in particular, where any such notice is issued to a post office, banking company or an insurer, it shall not be necessary to produce any pass book, deposit receipt, policy or any other document for the purpose of any entry, endorsement or the like being made before payment is made, notwithstanding any rule, practice or requirement to the contrary;</p> <p>(iii) in case the person to whom a notice under sub-clause (i) has been issued, fails to make the payment in pursuance thereof to the Government, he shall be deemed to be a defaulter in respect of the amount specified in the notice and all the consequences of this Act or the rules made thereunder shall follow;</p> <p>(iv) the officer issuing a notice under sub-clause (i) may, at any time, amend or revoke such notice or extend the time for making any payment in pursuance of the notice;</p> <p>(v) any person making any payment in compliance with a notice issued under sub-clause (i) shall be deemed to have made the payment under the authority of the person in default and such payment being credited to the Government shall be deemed to constitute a good and sufficient discharge of the liability of such person to the person in default to the extent of the amount specified in the receipt;</p> <p>(vi) any person discharging any liability to the person in default after service on him of the notice issued under sub-clause (i) shall be personally liable to the Government to the extent of the liability discharged or to the extent of the liability of the person in default for tax, interest and penalty, whichever is less;</p>
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	<p>(vii) where a person on whom a notice is served under sub-clause (i) proves to the satisfaction of the officer issuing the notice that the money demanded or any part thereof was not due to the person in default or that he did not hold any money for or on account of the person in default, at the time the notice was served on him, nor is the money demanded or any part thereof, likely to become due to the said person or be held for or on account of such person, nothing contained in this section shall be deemed to require the person on whom the notice has been served to pay to the Government any such money or part thereof;</p> <p>(c) the proper officer may, in accordance with the rules to be made in this behalf, distrain any movable or immovable property belonging to or under the control of such person, and detain the same until the amount payable is paid; and in case, any part of the said amount payable or of the cost of the distress or keeping of the property, remains unpaid for a period of thirty days next after any such distress, may cause the said property to be sold and with the proceeds of such sale, may satisfy the amount payable and the costs including cost of sale remaining unpaid and shall render the surplus amount, if any, to such person;</p> <p>(d) the proper officer may prepare a certificate signed by him specifying the amount due from such person and send it to the Collector of the district in which such person owns any property or resides or carries on his business or to any officer authorised by the Government and the said Collector or the said officer, on receipt of such certificate, shall proceed to recover from such person the amount specified thereunder as if it were an arrear of land revenue;</p> <p>(e) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the proper officer may file an application to the appropriate Magistrate and such Magistrate shall proceed to recover from such person the amount specified thereunder as if it were a fine imposed by him.</p>
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Recovery through Bond [Sec. 79(2)]	Where the terms of any bond or other instrument executed under this Act or any rules or regulations made thereunder provide that any amount due under such instrument may be recovered in the manner laid down in sub-section (1), the amount may, without prejudice to any other mode of recovery, be recovered in accordance with the provisions of that sub-section.
Recovery of arrear of tax [Sec. 79(3)]	Where any amount of tax, interest or penalty is payable by a person to the Government under any of the provisions of this Act or the rules made thereunder and which remains unpaid, the proper officer of State tax or Union territory tax, during the course of recovery of said tax arrears, may recover the amount from the said person as if it were an arrear of State tax or Union territory tax and credit the amount so recovered to the account of the Government.
Proportion of tax [Sec. 79(4)]	Where the amount recovered under sub-section (i) is less than the amount due to the Central Government and State Government, the amount to be credited to the account of the respective Governments shall be in proportion to the amount due to each such Government.

RECOVERY BY DEDUCTION FROM ANY MONEY OWED

[RULE 143 OF CGST RULES, 2017]

Where any amount payable by a person (hereafter referred to in this rule as "the defaulter") to the Government under any of the provisions of the Act or the rules made thereunder is not paid, the proper officer may require, in FORM GST DRC-09, a specified officer to deduct the amount from any money owing to such defaulter in accordance with the provisions of clause (a) of sub-section (1) of section 79.

Explanation.—For the purposes of this rule, "specified officer" shall mean any officer of the Central Government or a State Government or the Government of a Union territory or a local authority, or of a Board or Corporation or a company owned or controlled, wholly or partly, by the Central Government or a State Government or the Government of a Union territory or a local authority.

RECOVERY BY SALE OF GOODS UNDER THE CONTROL OF PROPER OFFICER [RULE 144 OF CGST RULES, 2017]

(1) Where any amount due from a defaulter is to be recovered by selling goods belonging to such person in accordance with the provisions of clause (b) of sub-section (1) of section 79, the proper officer shall prepare an inventory and estimate the market value of such goods and proceed to sell only so much of the goods as may be required for recovering the amount payable along with the administrative expenditure incurred on the recovery process.

(2) The said goods shall be sold through a process of auction, including e-auction, for which a notice shall be issued in FORM GST DRC-10 clearly indicating the goods to be sold and the purpose of sale.

(3) The last day for submission of bid or the date of auction shall not be earlier than fifteen days from the date of issue of the notice referred to in sub-rule (2):

Provided that where the goods are of perishable or hazardous nature or where the expenses of keeping them in custody are likely to exceed their value, the proper officer may sell them forthwith.

(4) The proper officer may specify the amount of pre-bid deposit to be furnished in the manner specified by such officer, to make the bidders eligible to participate in the auction, which may be returned to the unsuccessful bidders, forfeited in case the successful bidder fails to make the payment of the full amount, as the case may be.

(5) The proper officer shall issue a notice to the successful bidder in FORM GST DRC-11 requiring him to make the payment within a period of fifteen days from the date of auction. On payment of the full bid amount, the proper officer shall transfer the possession of the said goods to the successful bidder and issue a certificate in FORM GST DRC-12.

(6) Where the defaulter pays the amount under recovery, including any expenses incurred on the process of recovery, before the issue of the notice under sub-rule (2), the proper officer shall cancel the process of auction and release the goods.

(7) The proper officer shall cancel the process and proceed for re-auction where no bid is received or the auction is considered to be non-competitive due to lack of adequate participation or due to low bids.

RECOVERY FROM A THIRD PERSON [RULE 145 OF CGST RULES, 2017]

(1) The proper officer may serve upon a person referred to in clause (c) of sub-section (1) of section 79 (hereafter referred to in this rule as “the third person”), a notice in FORM GST DRC-13 directing him to deposit the amount specified in the notice.

(2) Where the third person makes the payment of the amount specified in the notice issued under sub-rule (1), the proper officer shall issue a certificate in FORM GST DRC-14 to the third person clearly indicating the details of the liability so discharged.

RECOVERY THROUGH EXECUTION OF A DECREE, ETC. [RULE 146 OF CGST RULES, 2017]

Where any amount is payable to the defaulter in the **execution of a decree** of a civil court for the payment of money or for sale in the enforcement of a mortgage or charge, the proper officer shall send a request in FORM GST DRC-15 to the said court and the court shall, subject to the provisions of the Code of Civil Procedure, 1908 (5 of 1908), execute the attached decree, and credit the net proceeds for settlement of the amount recoverable.

RECOVERY BY SALE OF MOVABLE OR IMMOVABLE PROPERTY [RULE 147 OF CGST RULES, 2017]

(1) The proper officer shall prepare a list of movable and immovable property belonging to the defaulter, estimate their value as per the prevalent market price and issue an order of attachment or distraint and a notice for sale in FORM GST DRC-16 prohibiting any transaction with regard to such movable and immovable property as may be required for the recovery of the amount due:

Provided that the attachment of any property in a debt not secured by a negotiable instrument, a share in a corporation, or other movable property not in the possession of the defaulter except for property deposited in, or in the custody of any Court, shall be attached in the manner provided in rule 151.

(2) The proper officer shall send a copy of the order of attachment or distraint to the concerned Revenue Authority or Transport Authority or any such Authority to place encumbrance on the said movable or immovable property, which shall be removed only on the written instructions from the proper officer to that effect.

(3) Where the property subject to the attachment or distraint under subrule (1) is-

(a) an immovable property, the order of attachment or distraint shall be affixed on the said property and shall remain affixed till the confirmation of sale;

(b) a movable property, the proper officer shall seize the said property in accordance with the provisions of chapter XIV of the Act and the custody of the said property shall either be taken by the proper officer himself or an officer authorised by him.

(4) The property attached or distrained shall be sold through auction, including e-auction, for which a notice shall be issued in FORM GST DRC-17 clearly indicating the property to be sold and the purpose of sale.

(5) Notwithstanding anything contained in the provision of this Chapter, where the property to be sold is a negotiable instrument or a share in a corporation, the proper officer may, instead of selling it by public auction, sell such instrument or a share through a broker and the said broker shall deposit to the Government so much of the proceeds of such sale, reduced by his commission, as may be required for the discharge of the amount under recovery and pay the amount remaining, if any, to the owner of such instrument or a share.

(6) The proper officer may specify the amount of pre-bid deposit to be furnished in the manner specified by such officer, to make the bidders eligible to participate in the auction, which may be returned to the unsuccessful bidders or, forfeited in case the successful bidder fails to make the payment of the full amount, as the case may be.

(7) The last day for the submission of the bid or the date of the auction shall not be earlier than fifteen days from the date of issue of the notice referred to in sub-rule (4):

Provided that where the goods are of perishable or hazardous nature or where the expenses of keeping them in custody are likely to exceed their value, the proper officer may sell them forthwith.

(8) Where any claim is preferred or any objection is raised with regard to the attachment or distraint of any property on the ground that such property is not liable to such attachment or distraint, the proper officer shall investigate the claim or objection and may postpone the sale for such time as he may deem fit.

(9) The person making the claim or objection must adduce evidence to show that on the date of the order issued under sub-rule (1) he had some interest in, or was in possession of, the property in question under attachment or distraint.

(10) Where, upon investigation, the proper officer is satisfied that, for the reason stated in the claim or objection, such property was not, on the said date, in the possession of the defaulter or of any other person on his behalf or that, being in the possession of the defaulter on the said date, it was in his possession, not on his own account or as his own property, but on account of or in trust for any

other person, or partly on his own account and partly on account of some other person, the proper officer shall make an order releasing the property, wholly or to such extent as he thinks fit, from attachment or distraint.

(11) Where the proper officer is satisfied that the property was, on the said date, in the possession of the defaulter as his own property and not on account of any other person, or was in the possession of some other person in trust for him, or in the occupancy of a tenant or other person paying rent to him, the proper officer shall reject the claim and proceed with the process of sale through auction.

(12) The proper officer shall issue a notice to the successful bidder in FORM GST DRC-11 requiring him to make the payment within a period of fifteen days from the date of such notice and after the said payment is made, he shall issue a certificate in FORM GST DRC-12 specifying the details of the property, date of transfer, the details of the bidder and the amount paid and upon issuance of such certificate, the rights, title and interest in the property shall be deemed to be transferred to such bidder:

Provided that where the highest bid is made by more than one person and one of them is a co-owner of the property, he shall be deemed to be the successful bidder.

(13) Any amount, including stamp duty, tax or fee payable in respect of the transfer of the property specified in sub-rule (12), shall be paid to the Government by the person to whom the title in such property is transferred.

(14) Where the defaulter pays the amount under recovery, including any expenses incurred on the process of recovery, before the issue of the notice under sub-rule (4), the proper officer shall cancel the process of auction and release the goods.

(15) The proper officer shall cancel the process and proceed for re-auction where no bid is received or the auction is considered to be non-competitive due to lack of adequate participation or due to low bids.

PROHIBITION AGAINST BIDDING OR PURCHASE BY OFFICER

[RULE 148 OF CGST RULES, 2017]

No officer or other person having any duty to perform in connection with any sale under the provisions of this Chapter shall, either directly or indirectly, bid for, acquire or attempt to acquire any interest in the property sold.

PROHIBITION AGAINST SALE ON HOLIDAYS [RULE 149 OF CGST RULES, 2017]

No sale under the rules under the provision of this chapter shall take place on a Sunday or other general holidays recognized by the Government or on any day which has been notified by the Government to be a holiday for the area in which the sale is to take place.

ASSISTANCE BY POLICE [RULE 150 OF CGST RULES, 2017]

The proper officer may seek such assistance from the officer-in-charge of the jurisdictional police station as may be necessary in the discharge of his duties and the said officer-in-charge shall depute sufficient number of police officers for providing such assistance.

ATTACHMENT OF DEBTS AND SHARES, ETC [RULE 151 OF CGST RULES, 2017]

(1) A debt not secured by a negotiable instrument, a share in a corporation, or other movable property not in the possession of the defaulter except for property deposited in, or in the custody of any court shall be attached by a written order in FORM GST DRC-16 prohibiting.-

(a) in the case of a debt, the creditor from recovering the debt and the debtor from making payment thereof until the receipt of a further order from the proper officer;

(b) in the case of a share, the person in whose name the share may be standing from transferring the same or receiving any dividend thereon;

(c) in the case of any other movable property, the person in possession of the same from giving it to the defaulter.

(2) A copy of such order shall be affixed on some conspicuous part of the office of the proper officer, and another copy shall be sent, in the case of debt, to the debtor, and in the case of shares, to the registered address of the corporation and in the case of other movable property, to the person in possession of the same.

(3) A debtor, prohibited under clause (a) of sub-rule (1), may pay the amount of his debt to the proper officer, and such payment shall be deemed as paid to the defaulter.

ATTACHMENT OF PROPERTY IN CUSTODY OF COURTS OR PUBLIC OFFICER [RULE 152 OF CGST RULES, 2017]

Where the property to be attached is in the custody of any court or Public Officer, the proper officer shall send the order of attachment to such court or officer, requesting that such property, and any interest or dividend becoming payable thereon, may be held till the recovery of the amount payable.

ATTACHMENT OF INTEREST IN PARTNERSHIP [RULE 153 OF CGST RULES, 2017]

(1) Where the property to be attached consists of an interest of the defaulter, being a partner, in the partnership property, the proper officer may make an order charging the share of such partner in the partnership property and profits with payment of the amount due under the certificate, and may, by the same or subsequent order, appoint a receiver of the share of such partner in the profits, whether already declared or accruing, and of any other money which may become due to him in respect of the partnership, and direct accounts and enquiries and make an order for the sale of such interest or such other order as the circumstances of the case may require.

(2) The other partners shall be at liberty at any time to redeem the interest charged or, in the case of a sale being directed, to purchase the same.

DISPOSAL OF PROCEEDS OF SALE OF GOODS AND MOVABLE OR IMMOVABLE PROPERTY [RULE 154 OF CGST RULES, 2017]

The amounts so realised from the sale of goods, movable or immovable property, for the recovery of dues from a defaulter shall,-

- (a) first, be appropriated against the administrative cost of the recovery process;
- (b) next, be appropriated against the amount to be recovered;
- (c) next, be appropriated against any other amount due from the defaulter under the Act or the Integrated Goods and Services Tax Act, 2017 or the Union Territory Goods and Services Tax Act, 2017 or any of the State Goods and Services Tax Act, 2017 and the rules made thereunder; and
- (d) any balance, be paid to the defaulter.

RECOVERY THROUGH LAND REVENUE AUTHORITY [RULE 155 OF CGST RULES, 2017]

Where an amount is to be recovered in accordance with the provisions of clause (e) of sub-section (1) of section 79, the proper officer shall send a certificate to the Collector or Deputy Commissioner of the district or any other officer authorised in this behalf in FORM GST DRC-18 to recover from the person concerned, the amount specified in the certificate as if it were an arrear of land revenue.

RECOVERY THROUGH COURT [RULE 156 OF CGST RULES, 2017]

Where an amount is to be recovered as if it were a fine imposed under the Code of Criminal Procedure, 1973, the proper officer shall make an application before the appropriate Magistrate in accordance with the provisions of clause (f) of sub-section (1) of section 79 in FORM GST DRC-19 to recover from the person concerned, the amount specified thereunder as if it were a fine imposed by him.

RECOVERY FROM SURETY [RULE 157 OF CGST RULES, 2017]

Where any person has become surety for the amount due by the defaulter, he may be proceeded against under this Chapter as if he were the defaulter.

PAYMENT OF TAX AND OTHER AMOUNTS IN INSTALMENTS [RULE 158 OF CGST RULES, 2017]

(1) On an application filed electronically by a taxable person, in FORM GST DRC-20, seeking extension of time for the payment of taxes or any amount due under the Act or for allowing payment of such taxes or amount in instalments in accordance with the provisions of section 80, the Commissioner shall call for a report from the jurisdictional officer about the financial ability of the taxable person to pay the said amount.

(2) Upon consideration of the request of the taxable person and the report of the jurisdictional officer, the Commissioner may issue an order in FORM GST DRC- 21 allowing the taxable person further time to make payment and/or to pay the amount in such monthly instalments, not exceeding twenty-four, as he may deem fit.

(3) The facility referred to in sub-rule (2) shall not be allowed where-

(a) the taxable person has already defaulted on the payment of any amount under the Act or the Integrated Goods and Services Tax Act, 2017 or the Union Territory Goods and Services Tax Act, 2017 or any of the State Goods and Services Tax Act, 2017, for which the recovery process is on;

(b) the taxable person has not been allowed to make payment in instalments in the preceding financial year under the Act or the Integrated Goods and Services Tax Act, 2017 or the Union Territory Goods and Services Tax Act, 2017 or any of the State Goods and Services Tax Act, 2017;

(c) the amount for which instalment facility is sought is less than twenty-five thousand rupees.

RECOVERY FROM COMPANY IN LIQUIDATION [RULE 160 OF CGST RULES, 2017]

Where the company is under liquidation as specified in section 88, the Commissioner shall notify the liquidator for the recovery of any amount representing tax, interest, penalty or any other amount due under the Act in FORM GST DRC-24. " ‘

PAYMENT OF TAX AND OTHER AMOUNT IN INSTALMENTS [SEC. 80]

On an application filed by a taxable person, the Commissioner may, for reasons to be recorded in writing, **extend the time** for payment or allow payment of any amount due under this Act, other than the amount due as per the liability self-assessed in any return, by such person in **monthly instalments** not exceeding **twenty four**, subject to payment of interest under section 50 and subject to such conditions and limitations as may be prescribed:

♦ **Provided** that where there is **default** in payment of **any one instalment** on its due date, the whole outstanding balance payable on such date shall become due and payable forthwith and shall, without any further notice being served on the person, be liable for recovery.

TRANSFER OF PROPERTY TO BE VOID IN CERTAIN CASES [SEC. 81]

Where a person, after any amount has become due from him, creates a charge on or parts with the property belonging to him or in his possession by way of sale, mortgage, exchange, or any other mode of transfer whatsoever of any of his properties in favour of any other person with the intention **of defrauding the Government revenue**, such charge or transfer shall be **void** as against any claim in respect of any tax or any other sum payable by the said person:

♦ **Provided** that, such charge or transfer **shall not be void** if it is made for **adequate consideration**, in good faith and **without notice of the pendency of such proceedings** under this Act or without notice of such tax or other sum payable by the said person, or with the previous permission of the proper officer.

Example:-

A Demand Notice is delivered to Mr. Sonu of Rs. 15 lakhs on 25th July 2018. On 5th August he filed a reply stated that he is not able to deposit tax as business unsoundness. On 30th July 2018, the whole property worth Rs. 45 lakhs transfers from Mr. Sonu to his wife Mrs. Meenu for a consideration of Rs. 24,000. Is it Valid?

As per Section 81, the property worth Rs. 45 lakhs still is considered in the name of Mr. Sonu So the above said transfer is void.

TAX TO BE FIRST CHARGE ON PROPERTY [SEC. 82]

Notwithstanding anything to the contrary contained in any law for the time being in force, save as otherwise provided in the Insolvency and Bankruptcy Code, 2016, any amount payable by a taxable person or any other person on account of tax, interest or penalty which he is liable to pay to the Government shall be a **first charge on the property** of such taxable person or such person.

PROVISIONAL ATTACHMENT TO PROTECT REVENUE IN CERTAIN CASES [SEC. 83]

(1) Where during the pendency of any proceedings under section 62 or section 63 or section 64 or section 67 or section 73 or section 74, the Commissioner is of the opinion that for the purpose of protecting the interest of the Government revenue, it is necessary so to do, he may, by order in writing attach provisionally any property, including bank account, belonging to the taxable person in such manner as may be prescribed.

(2) Every such provisional attachment shall cease to have effect after the expiry of a period of one year from the date of the order made under sub-section (1).

PROVISIONAL ATTACHMENT OF PROPERTY [RULE 159 OF CGST RULES, 2017]

(1) Where the Commissioner decides to attach any property, including bank account in accordance with the provisions of section 83, he shall pass an order in FORM GST DRC-22 to that effect mentioning therein, the details of property which is attached.

(2) The Commissioner shall send a copy of the order of attachment to the concerned Revenue Authority or Transport Authority or any such Authority to place encumbrance on the said movable or immovable property, which shall be removed only on the written instructions from the Commissioner to that effect.

(3) Where the property attached is of perishable or hazardous nature, and if the taxable person pays an amount equivalent to the market price of such property or the amount that is or may become payable by the taxable person, whichever is lower, then such property shall be released forthwith, by an order in FORM GST DRC-23, on proof of payment.

(4) Where the taxable person fails to pay the amount referred to in subrule (3) in respect of the said property of perishable or hazardous nature, the Commissioner may dispose of such property and the amount realized thereby shall be adjusted against the tax, interest, penalty, fee or any other amount payable by the taxable person.

(5) Any person whose property is attached may, within seven days of the attachment under sub-rule(1), file an objection to the effect that the property attached was or is not liable to attachment, and the Commissioner may, after affording an opportunity of being heard to the person filing the objection, release the said property by an order in FORM GST DRC-23.

(6) The Commissioner may, upon being satisfied that the property was, or is no longer liable for attachment, release such property by issuing an order in FORM GST DRC-23.

CONTINUATION AND VALIDATION OF CERTAIN RECOVERY PROCEEDINGS

[SEC. 84]

Where any notice of demand in respect of any tax, penalty, interest or any other amount payable under this Act, (hereafter in this section referred to as “Government dues”), is served upon any taxable person or any other person and any appeal or revision application is filed or any other proceedings is initiated in respect of such Government dues, then-

(a) where such Government dues are **enhanced** in such appeal, revision or other proceedings, the Commissioner shall serve upon the taxable person or any other person **another notice of demand** in respect of the amount by which such Government dues are enhanced and any recovery proceedings in relation to such Government dues as are covered by the notice of demand served upon him **before the disposal of such appeal**, revision or other proceedings may, without the service of any fresh notice of demand, be continued from the stage at which such proceedings stood immediately before such disposal;

(b) where such Government dues are **reduced** in such appeal, revision or in other proceedings—

(i) it shall not be necessary for the Commissioner to serve upon the taxable person a fresh notice of demand;

(ii) the Commissioner shall give **intimation** of such reduction to him and to the appropriate authority with whom recovery proceedings is pending;

(iii) any recovery proceedings initiated on the basis of the demand served upon him prior to the disposal of such appeal, revision or other proceedings may be **continued** in relation to the amount so reduced from the stage at which such proceedings stood immediately before such disposal.

PROCEDURE FOR COMPOUNDING OF OFFENCES

[RULE 161 OF CGST RULES, 2017]

The order for the reduction or enhancement of any demand under section 84 shall be issued in FORM GST DRC-25.

CHAPTER 23

Liability to pay in certain cases

LIABILITY IN CASE OF TRANSFER OF BUSINESS [SEC.85]

Jointly and severally liability [Sec. 85(1)]	<p>Where a taxable person, liable to pay tax under this Act, transfers his business</p> <ul style="list-style-type: none"> ◆ in whole or in part, ◆ by sale, gift, lease, leave and license, hire or in any other manner whatsoever, ◆ the taxable person and the person to whom the business is so transferred shall, jointly and severally, ◆ be liable wholly or to the extent of such transfer, ◆ to pay the tax, interest or any penalty due from the taxable person upto the time of such transfer, ◆ whether such tax, interest or penalty has been determined before such transfer, but has remained unpaid or is determined thereafter.
Amendment in RC in case of transfer of business [Sec. 85(2)]	<p>Where the transferee of a business referred to in sub-section (1) carries on such business either in his own name or in some other name, he shall be liable to pay tax on the supply of goods or services or both effected by him with effect from the date of such transfer and shall, if he is a registered person under this Act, apply within the prescribed time for amendment of his certificate of registration.</p>

LIABILITY OF AGENT AND PRINCIPAL [SEC. 86]

Where an agent supplies or receives any taxable goods on behalf of his principal, such agent and his principal shall, **jointly and severally**, be liable to pay the tax payable on such goods under this Act.

LIABILITY IN CASE OF AMALGAMATION OR MERGER OF COMPANIES [SEC. 87]

<p>Tax liability between date of effective order and date of order [Sec. 87(1)]</p>	<p>When two or more companies are</p> <ul style="list-style-type: none"> ◆ amalgamated or merged in pursuance of an order of court or of Tribunal or otherwise and ◆ the order is to take effect from a date earlier to the date of the order and ◆ any two or more of such companies have supplied or received any goods or services or both to or from each other during the period commencing on the date from which the order takes effect till the date of the order, ◆ then such transactions of supply and receipt shall be included in the turnover of supply or receipt of the respective companies and they shall be liable to pay tax accordingly.
<p>Cancellation of RC [Sec. 87(2)]</p>	<p>Notwithstanding anything contained in the said order, for the purposes of this Act, the said two or more companies shall be treated as distinct companies for the period up to the date of the said order and the registration certificates of the said companies shall be cancelled with effect from the date of the said order.</p>

LIABILITY IN CASE OF COMPANY IN LIQUIDATION [SEC.88]

<p>Appointment of liquidator [Sec. 88(1)]</p>	<p>When any company is being wound up whether under the orders of a court or Tribunal or otherwise, every person appointed as receiver of any assets of a company (hereafter in this section referred to as the ‘‘liquidator’’¹), shall, within thirty days after his appointment, give intimation of his appointment to the Commissioner.</p>
<p>Notify the amount payable to liquidator [Sec. 88(2)]</p>	<p>The Commissioner shall, after making such inquiry or calling for such information as he may deem fit, notify the liquidator within three months from the date on which he receives intimation of the appointment of the liquidator, the amount which in the opinion of the Commissioner would be sufficient to provide for any tax, interest or penalty which is then, or is likely thereafter to become, payable by the company.</p>

Personal liability of director [Sec. 88(3)]	<p>When any private company is wound up and any tax, interest or penalty determined under this Act on the company for any period, whether before or in the course of or after its liquidation, cannot be recovered, then every person who was a director of such company at any time during the period for which the tax was due shall, jointly and severally, be liable for the payment of such tax, interest or penalty, unless he proves to the satisfaction of the Commissioner that such non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.</p>
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LIABILITY OF DIRECTORS OF PRIVATE COMPANY [SEC. 89]

(1) Notwithstanding anything contained in the Companies Act, 2013, where any tax, interest or penalty due from a private company in respect of any supply of goods or services or both for any period cannot be recovered, then, every person who was a **director** of the private company during such period shall, jointly and severally, be liable for the payment of such tax, interest or penalty unless he proves that the non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.

(2) Where a private company is **converted into a public company** and the tax, interest or penalty in respect of any supply of goods or services or both for any period during which such company was a private company cannot be recovered before such conversion, then, **nothing contained in sub-section (1) shall apply** to any person who was a director of such private company in relation to any tax, interest or penalty in respect of such supply of goods or services or both of such private company:

♦ **Provided** that nothing contained in this sub-section shall apply to any **personal penalty** imposed on such director.

LIABILITY OF PARTNERS OF FIRM TO PAY TAX [SEC. 90]

Notwithstanding any contract to the contrary and any other law for the time being in force, where any firm is **liable to pay** any tax, interest or penalty under this Act, the firm and each of the partners of the firm shall, **jointly and severally**, be liable for such payment:

♦ **Provided** that where any partner **retires** from the firm, he or the firm, shall **intimate the** date of retirement of the said partner to the **Commissioner** by a notice in that behalf in writing and such partner shall be liable to pay tax, interest or penalty due up to the date of his retirement whether determined or not, on that date:

♦ **Provided further** that if no such intimation is given within **one month** from the date of retirement, the liability of such partner under the first proviso shall continue until the date on which such intimation is received by the Commissioner.

LIABILITY OF GUARDIANS, TRUSTEES, ETC [SEC. 91]

Where the business in respect of which any tax, interest or penalty is **payable** under this Act is carried on by any guardian, trustee or agent of a minor or other incapacitated person on behalf of and for the benefit of such minor or other incapacitated person, the tax, interest or penalty shall be levied upon and recoverable from such guardian, trustee or agent in like manner and to the same extent as it would be determined and recoverable from any such minor or other incapacitated person, as if he were a major or capacitated person and as if he were conducting the business himself, and **all the provisions** of this Act or the **rules** made thereunder shall **apply** accordingly.

LIABILITY OF COURT OF WARDS, ETC. [SEC. 92]

Where the estate or any portion of the estate of a taxable person owning a business in respect of which any tax, interest or penalty is payable under this Act is under the **control of the Court of Wards**, the Administrator General, the Official Trustee or any receiver or manager (including any person, whatever be his designation, who in fact manages the business) appointed by or under any order of a court, the tax, interest or penalty shall be levied upon and be recoverable from such

♦ Court of Wards,

♦ Administrator General,

♦ Official Trustee,

♦ receiver or **manager**

in like manner and to the same extent as it would be determined and be recoverable from the taxable person as if he were conducting the business himself, and all the provisions of this Act or the rules made thereunder shall apply accordingly.

Example:

Mr. Suresh has a diamond & precious stones business. The property & belongings are managed by Mr. Naresh who works as Assistant Manager of Mr. Suresh. The Government imposed liability of CGST, interest and other penalties of Rs. 35,00,000. In this case department can recover such dues from Mr. Naresh who is manage his belongings.

SPECIAL PROVISIONS REGARDING LIABILITY TO PAY TAX, INTEREST OR PENALTY IN CERTAIN CASES. [SEC. 93]

<p>Liability in case Death of individual [Sec. 93(1)]</p>	<p>Save as otherwise provided in the Insolvency and Bankruptcy Code, 2016, where a person, liable to pay tax, interest or penalty under this Act, dies, then-</p> <p>(a) if a business carried on by the person is continued after his death by his legal representative or any other person, such legal representative or other person, shall be liable to pay tax, interest or penalty due from such person under this Act; and</p> <p>(b) if the business carried on by the person is discontinued, whether before or after his death, his legal representative shall be liable to pay, out of the estate of the deceased, to the extent to which the estate is capable of meeting the charge, the tax, interest or penalty due from such person under this Act, - whether such tax, interest or penalty has been determined before his death but has remained unpaid or is determined after his death.</p>
<p>Liability in case of partition of HUF/AOP [Sec. 93(2)]</p>	<p>Save as otherwise Provided in the Insolvency and Bankruptcy Code, 2016, where a taxable person, liable to pay tax, interest or penalty under this Act, is a Hindu Undivided Family or an association of persons and the property of the Hindu Undivided Family or the association of persons is partitioned amongst the various members or groups of members, then, each member or group of members shall, jointly and severally, be liable to pay the tax, interest or penalty due from the taxable person under this Act up to the time of the partition whether such tax, penalty or interest has been determined before partition but has remained unpaid or is determined after the partition.</p>

Liability in case of dissolution of firm [Sec. 93(3)]	<p>Save as otherwise provided in the Insolvency and Bankruptcy Code, 2016, where a taxable person, liable to pay tax, interest or penalty under this Act, is a firm, and the firm is dissolved, then, every person who was a partner shall, jointly and severally, be liable to pay the tax, interest or penalty due from the firm under this Act up to the time of dissolution whether such tax, interest or penalty has been determined before the dissolution, but has remained unpaid or is determined after dissolution.</p>
Liability in case of termination of guardianship / trust [Sec. 93(4)]	<p>Save as otherwise provided in the Insolvency and Bankruptcy Code, 2016, where a taxable person liable to pay tax, interest or penalty under this Act,~</p> <p>(a) is the guardian of a ward on whose behalf the business is carried on by the guardian; or</p> <p>(b) is a trustee who carries on the business under a trust for a beneficiary, then, if the guardianship or trust is terminated, the ward or the beneficiary shall be liable to pay the tax, interest or penalty due from the taxable person upto the time of the termination of the guardianship or trust, whether such tax, interest or penalty has been determined before the termination of guardianship or trust but has remained unpaid or is determined thereafter.</p>

LIABILITY IN OTHER CASES [SEC. 94]

Discontinuance of business [Sec. 94(1)]	<p>Where a taxable person is a firm or an association of persons or a Hindu Undivided Family and such firm, association or family has discontinued business-</p> <p>(a) the tax, interest or penalty payable under this Act by such firm, association or family up to the date of such discontinuance may be determined as if no such discontinuance had taken place; and</p> <p>(b) every person who, at the time of such discontinuance, was a partner of such firm, or a member of such association or family, shall, notwithstanding such discontinuance, jointly and severally, be liable for the payment of tax and interest determined and penalty imposed and payable by such firm, association or family, whether such tax and interest has been determined or penalty imposed prior to or after such discontinuance and subject as aforesaid, the provisions of this Act shall, so far as may be, apply as if every such person or partner or member were himself a taxable person.</p>
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Reconstitution of firm [Sec. 94(2)]	<p>Where a change has occurred in the constitution of a firm or an association of persons, the partners of the firm or members of association, as it existed before and as it exists after the reconstitution, shall, without prejudice to the provisions of section 90, jointly and severally, be liable to pay tax, interest or penalty due from such firm or association for any period before its reconstitution.</p>
Construed as reference to dissolution or to partition [Sec. 94(3)]	<p>The provisions of sub-section (1) shall, so far as may be, apply where the taxable person, being a firm or association of persons is dissolved or where the taxable person, being a Hindu Undivided Family, has effected partition with respect to the business carried on by it and accordingly references in that sub-section to discontinuance shall be construed as reference to dissolution or to partition.</p>
<p>Explanation.--For the purposes of this Chapter,-</p> <p>(i) a “Limited Liability Partnership” formed and registered under the provisions of the Limited Liability Partnership Act, 2008 shall also be considered as a firm;</p> <p>(ii) “court” means the District Court, High Court or Supreme Court.</p>	

CHAPTER 24

ADVANCE RULING

DEFINITIONS [SEC. 95]

In this Chapter, **unless the context otherwise requires,-**

- a. “advance ruling” means a **decision provided** by the Authority or the Appellate Authority to an applicant on matters or on questions specified in sub-section (2) of section 97 or sub-section (1) of section 100, in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant;
- b. “Appellate Authority” means the Appellate Authority for Advance Ruling referred to in section 99;
- c. "applicant" means any person registered or desirous of obtaining registration under this Act;
- d. “application” means an application made to the Authority under sub-section (1) of section 97;
- e. "Authority” means the Authority for Advance Ruling referred to in section 96.

AUTHORITY FOR ADVANCE RULING [SEC. 96]

Subject to the provisions of this Chapter, for the purposes of this Act, the Authority for advance ruling constituted under the provisions of a **State Goods and Services Tax Act** or **Union Territory Goods and Services Tax Act** shall be deemed to be the Authority for advance ruling in respect of that State or Union territory.

APPLICATION FOR ADVANCE RULING [SEC. 97]

Submission of application [Sec. 97(1)]	<p>An applicant desirous of obtaining an advance ruling under this Chapter may make an application in such form and manner and accompanied by such fee as may be prescribed, stating the question on which the advance ruling is sought.</p> <p>Rule 104(1) of Advance Ruling</p> <p>An application for obtaining an advance ruling under sub-section (1) of section 97 shall be made on the common portal in FORM GST ARA-01 and shall be accompanied by a fee of five thousand rupees, to be deposited in the manner specified in section 49.</p>
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	<p>Rule 104(2) of CGST Rules, 2017</p> <p>The application referred to in sub-rule (1), the verification contained therein and all the relevant documents accompanying such application shall be signed in the manner specified in rule 26.</p>
<p>Question on which advance ruling is sought [Sec. 97(2)]</p>	<p>The question on which the advance ruling is sought under this Act, shall be in respect of,—</p> <p>(a) classification of any goods or services or both;</p> <p>(b) applicability of a notification issued under the provisions of this Act;</p> <p>(c) determination of time and value of supply of goods or services or both;</p> <p>(d) admissibility of input tax credit of tax paid or deemed to have been paid;</p> <p>(e) determination of the liability to pay tax on any goods or services or both;</p> <p>(f) whether applicant is required to be registered;</p> <p>(g) whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.</p>

PROCEDURE ON RECEIPT OF APPLICATION [SEC. 98]

<p>Calling information from concern officer by Authority [Sec. 98(1)]</p>	<p>On receipt of an application, the Authority shall cause a copy thereof to be forwarded to the concerned officer and, if necessary, call upon him to furnish the relevant records:</p> <p>♦ Provided that where any records have been called for by the Authority in any case, such records shall, as soon as possible, be returned to the said concerned officer.</p>
<p>Admit or reject application [Sec. 98(2)]</p>	<p>The Authority may, after examining the application and the records called for and after hearing the applicant or his authorised representative and the concerned officer or his authorised representative, by order, either admit or reject the application:</p> <p>♦ Provided that the Authority shall not admit the application where the question raised in the application is already pending or decided in any proceedings in the case of an applicant under any of the provisions of this Act:</p>

	<p>♦ Provided further that no application shall be rejected under this sub-section unless an opportunity of hearing has been given to the applicant:</p> <p>♦ Provided also that where the application is rejected, the reasons for such rejection shall be specified in the order.</p>
Copy of Order [Sec. 98(3)]	A copy of every order made under sub-section (2) shall be sent to the applicant and to the concerned officer.
Pronounce of advance ruling [Sec. 98(4)]	Where an application is admitted under sub-section (2), the Authority shall, after examining such further material as may be placed before it by the applicant or obtained by the Authority and after providing an opportunity of being heard to the applicant or his authorised representative as well as to the concerned officer or his authorised representative, pronounce its advance ruling on the question specified in the application.
Different opinion between member of authority [Sec. 98(5)]	Where the members of the Authority differ on any question on which the advance ruling is sought, they shall state the point or points on which they differ and make a reference to the Appellate Authority for hearing and decision on such question.
Time limit for advance ruling decision [Sec.98(6)]	The Authority shall pronounce its advance ruling in writing within ninety days from the date of receipt of application.
Sending of copy of advance ruling pronouncement [Sec. 98(7)]	<p>A copy of the advance ruling pronounced by the Authority duly signed by the members and certified in such manner as may be prescribed shall be sent to the applicant, the concerned officer and the jurisdictional officer after such pronouncement.</p> <p>Certification of copies of advance rulings pronounced by the Authority. [Rule 105 of Advance Ruling]</p> <p>A copy of the advance ruling shall be certified to be a true copy of its original by any member of the Authority for Advance Ruling.</p>

APPELLATE AUTHORITY FOR ADVANCE RULING [SEC. 99]

Subject to the provisions of this Chapter, for the purposes of this Act, the Appellate Authority for Advance Ruling constituted under the provisions of a **State** Goods and Services Tax Act or a Union Territory Goods and **Services Tax Act** shall be deemed to be the Appellate Authority in respect of that State or Union territory.

APPEAL TO APPELLATE AUTHORITY [SEC. 100]

Aggrieved party may appeal [Sec. 100(1)]	The concerned officer, the jurisdictional officer or an applicant aggrieved by any advance ruling pronounced under sub-section (4) of section 98, may appeal to the Appellate Authority.
Time limit for appeal [Sec. 100(2)]	Every appeal under this section shall be filed within a period of thirty days from the date on which the ruling sought to be appealed against is communicated to the concerned officer, the jurisdictional officer and the applicant: ♦ Provided that the Appellate Authority may, if it is satisfied that the appellant was prevented by a sufficient cause from presenting the appeal within the said period of thirty days, allow it to be presented within a further period not exceeding thirty days .
Forms, fees etc. [Sec. 100(3)]	Every appeal under this section shall be in such form, accompanied by such fee and verified in such manner as may be prescribed.

FORM AND MANNER OF APPEAL TO THE APPELLATE AUTHORITY FOR ADVANCE RULING [RULE 106 OF CGST RULES, 2017]

Appeal against Advance Ruling by applicant [Rule 106(1)]	An appeal against the advance ruling issued under subsection (6) of section 98 shall be made by an applicant on the common portal in FORM GST ARA-02 and shall be accompanied by a fee of ten thousand rupees , to be deposited in the manner specified in section 49.
Appeal against Advance Ruling by concerned/ jurisdictional officer [Rule 106(2)]	An appeal against the advance ruling issued under subsection (6) of section 98 shall be made by the concerned officer or the jurisdictional officer referred to in section 100 on the common portal in FORM GST ARA-03 and no fee shall be payable by the said officer for filing the appeal.
Signature on Appeal [Rule 106(3)]	<p>The appeal referred to in sub-rule (1) or sub-rule (2), the verification contained therein and all the relevant documents accompanying such appeal shall be signed, -</p> <p>(a) in the case of the concerned officer or jurisdictional officer, by an officer authorised in writing by such officer; and</p> <p>(b) in the case of an applicant, in the manner specified in rule 26.</p>

ORDER OF APPELLATE AUTHORITY [SEC. 101]

Order by Appellate Authority [Sec. 101(1)]	The Appellate Authority may, after giving the parties to the appeal or reference an opportunity of being heard, pass such order as it thinks fit, confirming or modifying the ruling appealed against or referred to.
Time limit for order [Sec. 101(2)]	The order referred to in sub-section (1) shall be passed within a period of ninety days from the date of filing of the appeal under section 100 or a reference under sub-section (5) of section 98.
Different opinion between member of authority [Sec. 101(3)]	Where the members of the Appellate Authority differ on any point or points referred to in appeal or reference, it shall be deemed that no advance ruling can be issued in respect of the question under the appeal or reference.

<p>Sending of copy of advance ruling pronouncement [Sec. 101(4)]</p>	<p>A copy of the advance ruling pronounced by the Appellate Authority duly signed by the Members and certified in such manner as may be prescribed shall be sent to the applicant, the concerned officer, the jurisdictional officer and to the Authority after such pronouncement.</p> <p>Certification of copies of the advance rulings pronounced by the Appellate Authority [Rule 107 of CGST Rules, 2017]</p> <p>A copy of the advance ruling pronounced by the Appellate Authority for Advance Ruling and duly signed by the Members shall be sent to-</p> <ul style="list-style-type: none"> (a) the applicant and the appellant; (b) the concerned officer of central tax and State or Union territory tax; (c) the jurisdictional officer of central tax and State or Union territory tax; and (d) the Authority, in accordance with the provisions of sub-section (4) of section 101 of the Act.
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RECTIFICATION OF ADVANCE RULING [SEC. 102]

The Authority or the Appellate Authority **may amend** any order passed by it under section 98 or section 101, so as to rectify any error **apparent** on the face of the record, if such error is noticed by the Authority or the Appellate Authority on its own accord, or is brought to its notice by the concerned officer, the jurisdictional officer, the applicant or the appellant within a period of **six months** from the date of the order:

♦ **Provided** that no rectification which has the effect of **enhancing the tax liability** or **reducing** the amount of admissible **input tax credit** shall be made unless the applicant or the appellant has been given an opportunity of being heard.

APPLICABILITY OF ADVANCE RULING [SEC. 103]

Binding of advance ruling [Sec. 103(1)]	<p>The advance ruling by the Authority or the Appellate Authority shall be binding only—</p> <p>(a) on the applicant who had sought it in respect of any matter referred to in sub-section (2) of section 97 for advance ruling;</p> <p>(b) on the concerned officer or the jurisdictional officer in respect of the applicant.</p>
No binding in case of some changes in law, facts or circumstances [Sec. 103(2)]	<p>The advance ruling referred to in sub-section (1) shall be binding unless the law, facts or circumstances supporting the original advance ruling have changed.</p>

ADVANCE RULING TO BE VOID IN CERTAIN CIRCUMSTANCES [SEC. 104]

Ruling to be Void ab initio [Sec. 104(1)]	<p>Where the Authority or the Appellate Authority finds that advance ruling pronounced by it under sub-section (4) of section 98 or under sub-section (1) of section 101 has been obtained by the applicant or the appellant by fraud or suppression of material facts or misrepresentation of facts, it may, by order, declare such ruling to be void ab-initio and thereupon all the provisions of this Act or the rules made thereunder shall apply to the applicant or the appellant as if such advance ruling had never been made:</p> <p>♦ Provided that no order shall be passed under this sub-section unless an opportunity of being heard has been given to the applicant or the appellant.</p> <p>Explanation.—The period beginning with the date of such advance ruling and ending with the date of order under this sub-section shall be excluded while computing the period specified in sub-sections (2) and (10) of section 73 or sub-sections (2) and (10) of section 74.</p>
Copy of order [Sec. 104(2)]	<p>A copy of the order made under sub-section (1) shall be sent to the applicant, the concerned officer and the jurisdictional officer.</p>

POWERS OF AUTHORITY AND APPELLATE AUTHORITY [SEC. 105]

Power of authority [Sec. 105(1)]	<p>The Authority or the Appellate Authority shall, for the purpose of exercising its powers regarding—</p> <p>(a) discovery and inspection;</p> <p>(b) enforcing the attendance of any person and examining him on oath;</p> <p>(c) issuing commissions and compelling production of books of account and other records,</p> <p>have all the powers of a civil court under the Code of Civil Procedure, 1908.</p>
Deemed to be judicial proceeding [Sec. 105(2)]	<p>The Authority or the Appellate Authority shall be deemed to be a civil court for the purposes of section 195, but not for the purposes of Chapter XXVI of the Code of Criminal Procedure, 1973, and every proceeding before the Authority or the Appellate Authority shall be deemed to be a judicial proceedings within the meaning of sections 193 and 228, and for the purpose of section 196 of the Indian Penal Code.</p>

PROCEDURE OF AUTHORITY AND APPELLATE AUTHORITY [SEC. 106]

The Authority or the Appellate Authority shall, subject to the provisions of this Chapter, have power to regulate its **own procedure**.

CHAPTER 25

Appeals And revision

APPEALS TO APPELLATE AUTHORITY [SEC. 107]

Appeal by aggrieved person [Sec. 107(1)]	<p>Any person aggrieved</p> <ul style="list-style-type: none"> ♦ by any decision or order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act by an adjudicating authority ♦ may appeal to such Appellate Authority as may be prescribed ♦ within three months from the date on which the said decision or order is communicated to such person. <p>Rule 108(1) of CGST Rules, 2017</p> <p>An appeal to the Appellate Authority under sub-section (1) of section 107 shall be filed in FORM GST APL-01, along with the relevant documents, either electronically or otherwise as may be notified by the Commissioner, and a provisional acknowledgement shall be issued to the appellant immediately.</p> <p>Rule 108(2) of CGST Rules, 2017</p> <p>The grounds of appeal and the form of verification as contained in FORM GST APL-01 shall be signed in the manner specified in rule 26.</p>
	<p>Rule 108(3) of CGST Rules, 2017</p> <p>A certified copy of the decision or order appealed against shall be submitted within</p> <ul style="list-style-type: none"> ♦ seven days of filing the appeal under sub-rule (1) ♦ and a final acknowledgement, indicating appeal number shall be issued thereafter in FORM GST APL-02 ♦ by the Appellate Authority or an officer authorised by him in this behalf:

	<p>Provided that where</p> <ul style="list-style-type: none"> ◆ the certified copy of the decision or order is submitted within seven days from the date of filing the FORM GST APL-01, the date of filing of the appeal shall be the date of issue of the provisional acknowledgement and ◆ where the said copy is submitted after seven days, the date of filing of the appeal shall be the date of the submission of such copy. <p>Explanation.—For the provision of this rule, the appeal shall be treated as filed only when the final acknowledgement, indicating the appeal number is issued.</p>
<p>Appeal by department [Sec. 107(2)]</p>	<p>The Commissioner may,</p> <ul style="list-style-type: none"> ◆ on his own motion, or ◆ upon request from the Commissioner of State tax or the Commissioner of Union territory tax, ◆ call for and examine the record of any proceedings in which an adjudicating authority has passed any decision or order under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, ◆ for the purpose of satisfying himself as to the legality or propriety of the said decision or order and may, by order, ◆ direct any officer subordinate to him to apply to the Appellate Authority ◆ within six months from the date of communication of the said decision or order for the determination of such points arising out of the said decision or order as may be specified by the Commissioner in his order. <p>Rule 109(1) of CGST Rules, 2017</p> <p>An application to the Appellate Authority under sub-section (2) of section 107 shall be made in FORM GST APL-03, along with the relevant documents, either electronically or otherwise as may be notified by the Commissioner.</p>

	<p>Rule 109(2) of CGST Rules, 2017</p> <p>A certified copy of the decision or order appealed against shall be submitted within seven days of the filing the application under sub-rule (1) and an appeal number shall be generated by the Appellate Authority or an officer authorised by him in this behalf.</p>
<p>Authorised officer shall be treated as a appellant [Sec. 107(3)]</p>	<p>Where, in pursuance of an order under sub-section (2),</p> <ul style="list-style-type: none"> ◆ the authorised officer makes an application to the Appellate Authority, ◆ such application shall be dealt with by the Appellate Authority as if it were an appeal made against the decision or order of the adjudicating authority and ◆ such authorised officer were an appellant and the provisions of this Act relating to appeals shall apply to such application.
<p>Extension of time limit of appeal by one month [Sec. 107(4)]</p>	<p>The Appellate Authority may, if he is satisfied that, the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of three months or six months, as the case may be, allow it to be presented within a further period of one month.</p>
<p>Forms, fees etc. [Sec. 107(5)]</p>	<p>Every appeal under this section shall be in such form and shall be verified in such manner as may be prescribed.</p>
<p>Payment of tax, interest etc. [Sec. 107(6)]</p>	<p>No appeal shall be filed under sub-section (1), unless the appellant has paid—</p> <p>(a) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and</p> <p>(b) a sum equal to ten per cent of the remaining amount of tax in dispute arising from the said order, in relation to which the appeal has been filed.</p>
<p>Stay of demand for balance amount [Sec. 107(7)]</p>	<p>Where the appellant has paid the amount under sub-section (6), the recovery proceedings for the balance amount shall be deemed to be stayed.</p>

Opportunity of being heard [Sec. 107(8)]	<p>The Appellate Authority shall give an opportunity to the appellant of being heard.</p>
Adjourn of hearing not more than three times [Sec. 107(9)]	<p>The Appellate Authority may, if sufficient cause is shown at any stage of hearing of an appeal, grant time to the parties or any of them and adjourn the hearing of the appeal for reasons to be recorded in writing:</p> <p>♦ Provided that no such adjournment shall be granted more than three times to a party during hearing of the appeal.</p>
Add any Ground of appeal while hearing [Sec. 107(10)]	<p>The Appellate Authority may,</p> <p>♦ at the time of hearing of an appeal,</p> <p>♦ allow an appellant to add any ground of appeal not specified in the grounds of appeal,</p> <p>♦ if it is satisfied that the omission of that ground from the grounds of appeal was not wilful or unreasonable.</p>
Order of Appellate Authority [Sec. 107(11)]	<p>The Appellate Authority shall,</p> <p>♦ after making such further inquiry as may be necessary, pass such order, as it thinks just and proper,</p> <p>♦ confirming, modifying or annulling the decision or order appealed against but</p> <p>♦ shall not refer the case back to the adjudicating authority that passed the said decision or order:</p> <p>Provided that</p> <p>♦ an order enhancing any fee or penalty or fine in lieu of confiscation or confiscating goods of greater value or</p> <p>♦ reducing the amount of refund or input tax credit</p> <p>♦ shall not be passed unless the appellant has been given a reasonable opportunity of showing cause against the proposed order:</p>

	<p>Provided further that</p> <ul style="list-style-type: none"> ◆ where the Appellate Authority is of the opinion that ◆ any tax has not been paid or short-paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised, ◆ no order requiring the appellant to pay such tax or input tax credit shall be passed unless the appellant is given notice to show cause against the proposed order and ◆ the order is passed within the time limit specified under section 73 or section 74. <p>Rule 113(1) of CGST Rules, 2017</p> <p>The Appellate Authority shall, along with its order under sub-section (11) of section 107, issue a summary of the order in FORM GST APL-04 clearly indicating the final amount of demand confirmed.</p> <p>Rule 113(2) of CGST Rules, 2017</p> <p>The jurisdictional officer shall issue a statement in FORM GST APL-04 clearly indicating the final amount of demand confirmed by the Appellate Tribunal.</p>
<p>Mention reason for decision in order [Sec. 107(12)]</p>	<p>The order of the Appellate Authority disposing of the appeal</p> <ul style="list-style-type: none"> ◆ shall be in writing and ◆ shall state the points for determination, ◆ the decision thereon and ◆ the reasons for such decision.
<p>Time limit for order [Sec. 107(13)]</p>	<p>The Appellate Authority shall, where it is possible to do so, hear and decide every appeal within a period of one year from the date on which it is filed:</p> <ul style="list-style-type: none"> ◆ Provided that where the issuance of order is stayed by an order of a court or Tribunal, the period of such stay shall be excluded in computing the period of one year.

communicate of order [Sec. 107(14)]	On disposal of the appeal, the Appellate Authority shall communicate the order passed by it to the appellant, respondent and to the adjudicating authority.
Copy of order to specified authority [Sec. 107(15)]	A copy of the order passed by the Appellate Authority shall also be sent to <ul style="list-style-type: none"> ♦ the jurisdictional Commissioner or the authority designated by him in this behalf and ♦ the jurisdictional Commissioner of State tax or Commissioner of Union Territory Tax or an authority designated by him in this behalf.
Final and binding order [Sec. 107(16)]	Every order passed under this section shall, subject to the provisions of <ul style="list-style-type: none"> ♦ section 108 (Power of Revisional Authority) or ♦ section 113 (Orders of Appellate Tribunal) or ♦ section 117 (Appeal to High Court) or ♦ section 118 (Appeal to Supreme Court) be final and binding on the parties.

POWERS OF REVISIONAL AUTHORITY [SEC. 108]

Revision of order by Authority [Sec. 108(1)]	<p>Subject to the provisions of section 121 and any rules made thereunder,</p> <ul style="list-style-type: none"> ◆ the Revisional Authority may, ◆ on his own motion, ◆ or upon information received by him or ◆ on request from the Commissioner of State tax, or the Commissioner of Union territory tax, ◆ call for and examine the record of any proceedings, and ◆ if he considers that any decision or order passed under this Act or under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act by any officer subordinate to him ◆ is erroneous in so far as it is prejudicial to the interest of revenue and ◆ is illegal or improper or has not taken into account certain material facts, whether available at the time of issuance of the said order or not or ◆ in consequence of an observation by the Comptroller and Auditor General of India, he may, if necessary, ◆ stay the operation of such decision or order for such period as he deems fit and after giving the person concerned an opportunity of being heard and ◆ after making such further inquiry as may be necessary, pass such order, as he thinks just and proper, including enhancing or modifying or annulling the said decision or order.
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<p>Not to exercise any power for revision [Sec. 108(2)]</p>	<p>The Revisional Authority shall not exercise any power under sub-section (1), if—</p> <p>(a) the order has been subject to an appeal under</p> <ul style="list-style-type: none"> ◆ section 107 (Appeals to Appellate Authority) or ◆ section 112 (Appeals to Appellate Tribunal) or ◆ section 117 (Appeal to High Court) or ◆ section 118; (Appeal to Supreme Court) or <p>(b) the period specified under</p> <ul style="list-style-type: none"> ◆ sub-section (2) of section 107 has not yet expired (Appeals to Appellate Authority by department) ◆ or more than three years have expired after the passing of the decision or order sought to be revised; or <p>(c) the order has already been taken for revision under this section at an earlier stage; or</p> <p>(d) the order has been passed in exercise of the powers under sub-section (1):</p> <p>Provided that</p> <ul style="list-style-type: none"> ◆ the Revisional Authority may pass an order ◆ under sub-section (1) on any point which has not been raised and decided in an appeal referred to in clause (a) of sub-section (2), ◆ before the expiry of a period of <ul style="list-style-type: none"> ■ one year from the date of the order in such appeal or ■ before the expiry of a period of three years referred to in clause (b) of that sub-section, <p>whichever is later.</p>
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Final and binding order [Sec. 108(3)]	<p>Every order passed in revision under sub-section (1) shall, subject to the provisions of</p> <ul style="list-style-type: none"> ◆ section 113 (Orders of Appellate Tribunal) or ◆ section 117 (Appeal to High Court) or ◆ section 118 (Appeal to Supreme Court) be final and binding on the parties.
Time excluding in computing the period of limitation [Sec. 108(4)]	<p>If the said decision or order</p> <ul style="list-style-type: none"> ◆ involves an issue on which ◆ the Appellate Tribunal or the High Court has given its decision in some other proceedings and ◆ an appeal to the High Court or the Supreme Court against such decision of the Appellate Tribunal or the High Court is pending, ◆ the period spent between the date of the decision of the Appellate Tribunal and the date of the decision of the High Court or the date of the decision of the High Court and the date of the decision of the Supreme Court ◆ shall be excluded in computing the period of limitation referred to in clause (b) of sub-section (2) where proceedings for revision have been initiated by way of issue of a notice under this section.
Stay period exclude for time limit of order [Sec. 108(5)]	<p>Where the issuance of an order under sub-section (1) is stayed by the order of a court or Appellate Tribunal, the period of such stay shall be excluded in computing the period of limitation referred to in clause (b) of sub-section (2).</p>
Definition of record and decision [Sec. 108(6)]	<p>For the purposes of this section, the term,—</p> <p>(i) “record” shall include all records relating to any proceedings under this Act available at the time of examination by the Revisional Authority;</p> <p>(ii) “decision” shall include intimation given by any officer lower in rank than the Revisional Authority.</p>

CONSTITUTION OF APPELLATE TRIBUNAL AND BENCHES THEREOF [SEC. 109]

Constitution of Appellate Tribunal [Sec. 109(1)]	<p>The Government shall, on the recommendations of the Council, by notification,</p> <ul style="list-style-type: none"> ◆ constitute with effect from such date as may be specified therein, ◆ an Appellate Tribunal known as the Goods and Services Tax Appellate Tribunal for hearing appeals ◆ against the orders passed by the Appellate Authority or the Revisional Authority.
National bench, regional bench and area bench [Sec. 109(2)]	<p>The powers of the Appellate Tribunal shall be exercisable by the</p> <ul style="list-style-type: none"> ◆ National Bench and Benches thereof (hereinafter in this Chapter referred to as "Regional Benches"), ◆ State Bench and Benches thereof (hereafter in this Chapter referred to as "Area Benches").
Location of National Bench [Sec. 109(3)]	<p>The National Bench of the Appellate Tribunal</p> <ul style="list-style-type: none"> ◆ shall be situated at New Delhi ◆ which shall be presided over by the ◆ President and shall consist of one Technical Member (Centre) and one Technical Member (State).
No. of Regional Bench [Sec. 109(4)]	<p>The Government shall, on the recommendations of the Council, by notification,</p> <ul style="list-style-type: none"> ◆ constitute such number of Regional Benches as may be required and ◆ such Regional Benches shall consist of <ul style="list-style-type: none"> ■ a Judicial Member, ■ one Technical Member (Centre) and ■ one Technical Member (State).

Hearing of appeal [Sec. 109(5)]	<p>The National Bench or Regional Benches of the Appellate Tribunal</p> <ul style="list-style-type: none"> ♦ shall have jurisdiction to hear appeals ♦ against the orders passed by the Appellate Authority or the Revisional Authority ♦ in the cases where one of the issues involved relates to the place of supply.
Constitution of State Bench and Area Bench in states [Sec. 109(6)]	<p>The Government shall, by notification, specify for each State or Union territory a Bench of the Appellate Tribunal (hereafter in this Chapter, referred to as “State Bench”) for exercising the powers of the Appellate Tribunal within the concerned State or Union territory:</p> <ul style="list-style-type: none"> ♦ Provided further that the Government shall, on receipt of a request from any State Government, constitute such number of Area Benches in that State, as may be recommended by the Council: ♦ Provided also that the Government may, on receipt of a request from any State, or on its own motion for a Union territory, notify the Appellate Tribunal in a State to act as the Appellate Tribunal for any other State or Union territory, as may be recommended by the Council, subject to such terms and conditions as may be prescribed.
Hearing of appeal [Sec. 109(7)]	<p>The State Bench or Area Benches shall have jurisdiction to hear appeals against the orders passed by the Appellate Authority or the Revisional Authority in the cases involving matters other than those referred to in sub-section (5).</p>
Power of president [Sec. 109(8)]	<p>The President and the State President shall, by general or special order, distribute the business or transfer cases among Regional Benches or, as the case may be, Area Benches in a State.</p>
Members of State Bench and Area Benches [Sec. 109(9)]	<p>Each State Bench and Area Benches of the Appellate Tribunal shall consist of</p> <ul style="list-style-type: none"> ♦ a Judicial Member, ♦ one Technical Member (Centre) and ♦ one Technical Member (State) and ♦ the State Government may designate the senior most Judicial Member in a State as the State President.

<p>Hearing by bench if members are two or one [Sec. 109(10)]</p>	<p>In the absence of a Member in any Bench due to vacancy or otherwise, any appeal may, with the approval of the President or, as the case may be, the State President, be heard by a Bench of two Members:</p> <p>Provided that any appeal where</p> <ul style="list-style-type: none"> ♦ the tax or ♦ input tax credit involved or ♦ the difference in tax or input tax credit involved or ♦ the amount of fine, fee or penalty determined in any order appealed against, <p>does not exceed five lakh rupees and which does not involve any question of law may,</p> <ul style="list-style-type: none"> ♦ with the approval of the President ♦ subject to such conditions as may be prescribed on the recommendations of the Council, and ♦ be heard by a bench consisting of a single member.
<p>Procedure in case of difference in opinion between members [Sec. 109(11)]</p>	<p>If the Members of the</p> <ul style="list-style-type: none"> ♦ National Bench, ♦ Regional Benches, ♦ State Bench or ♦ Area Benches <p>differ in opinion on any point or points,</p> <ul style="list-style-type: none"> ♦ it shall be decided according to the opinion of the majority, if there is a majority, ♦ but if the Members are equally divided, ♦ they shall state the point or points on which they differ, and ♦ the case shall be referred by the President or as the case may be, State President for hearing on such point or points to

	<ul style="list-style-type: none"> ♦ one or more of the other Members of the <ul style="list-style-type: none"> ■ National Bench, ■ Regional Benches, State Bench or ■ Area Benches and ♦ such point or points shall be decided according to the opinion of the majority of Members who have heard the case, ♦ including those who first heard it.
Transfer of members one bench to other Regional bench [Sec. 109(12)]	<p>The Government, in consultation with the President may, for the administrative convenience, transfer—</p> <p>(a) any Judicial Member or a Member Technical (State) from</p> <ul style="list-style-type: none"> ♦ one Bench to another Bench, ♦ whether National or Regional; or <p>(b) any Member Technical (Centre) from</p> <ul style="list-style-type: none"> ♦ one Bench to another Bench, ♦ whether National, Regional, State or Area.
Transfer of member State Bench [Sec. 109(13)]	<p>The State Government, in consultation with the State President may, for the administrative convenience, transfer</p> <ul style="list-style-type: none"> ♦ a Judicial Member or a Member Technical (State) from one Bench to another Bench within the State.
Valid order even if constitution of bench is defective/ existence of any vacancy [Sec. 109(14)]	<p>No act or proceedings of the Appellate Tribunal shall be questioned or shall be invalid merely on the ground of the existence of any vacancy or defect in the constitution of the Appellate Tribunal.</p>

PRESIDENT AND MEMBERS OF APPELLATE TRIBUNAL, THEIR QUALIFICATION, APPOINTMENT, CONDITIONS OF SERVICE, ETC [SEC. 110]

<p>Qualification of President and members [Sec. 110(1)]</p>	<p>A person shall not be qualified for appointment as—</p> <p>(a) the President, unless</p> <ul style="list-style-type: none"> ◆ he has been a Judge of the Supreme Court, or ◆ is or has been the Chief Justice of a High Court, or ◆ is or has been a Judge of a High Court for a period not less than five years; <p>(b) a Judicial Member, unless he—</p> <p>(i) has been a Judge of the High Court; or</p> <p>(ii) is or has been a District Judge qualified to be appointed as a Judge of a High Court; or</p> <p>(iii) is or has been a Member of Indian Legal Service and has held a post not less than Additional Secretary for three years;</p> <p>(c) a Technical Member (Centre) unless</p> <ul style="list-style-type: none"> ◆ he is or has been a member of Indian Revenue (Customs and Central Excise) Service, Group A, and ◆ has completed at least fifteen years of service in Group A; <p>(d) a Technical Member (State) unless</p> <ul style="list-style-type: none"> ◆ he is or has been an officer of the State Government not below the rank of Additional Commissioner of Value Added Tax or the State goods and services tax or ◆ such rank as maybe notified by the concerned State Government on the recommendations of the Council with at least three years of experience in the administration of an existing law or the State Goods and Services Tax Act or in the field of finance and taxation.
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<p>Appointment of National/Regional Benches President and Judicial members [Sec. 110(2)]</p>	<p>The President and the Judicial Members of the National Bench and the Regional Benches shall be appointed by the Government after consultation with the Chief Justice of India or his nominee:</p> <p>♦ Provided that in the event of the occurrence of any vacancy in the office of the President by reason of his death, resignation or otherwise, the senior most Member of the National Bench shall act as the President until the date on which a new President, appointed in accordance with the provisions of this Act to fill such vacancy, enters upon his office:</p> <p>♦ Provided further that where the President is unable to discharge his functions owing to absence, illness or any other cause, the senior most Member of the National Bench shall discharge the functions of the President until the date on which the President resumes his duties.</p>
<p>Appointment of National/Regional Benches Technical members centre/ state [Sec. 110(3)]</p>	<p>The Technical Member (Centre) and Technical Member (State) of the National Bench and Regional Benches shall be appointed by the Government on the recommendations of a Selection Committee consisting of such persons and in such manner as may be prescribed.</p>
<p>Appointment of State/Area Benches Judicial members [Sec. 110(4)]</p>	<p>The Judicial Member of the State Bench or Area Benches shall be appointed by the State Government after consultation with the Chief Justice of the High Court of the State or his nominee.</p>
<p>Appointment of State/Area Benches Technical members- Central/State [Sec. 110(5)]</p>	<p>The Technical Member (Centre) of the State Bench or Area Benches shall be appointed by the Central Government and Technical Member (State) of the State Bench or Area Benches shall be appointed by the State Government in such manner as may be prescribed.</p>
<p>Appointment is valid even if defect in selection committee [Sec. 110(6)]</p>	<p>No appointment of the Members of the Appellate Tribunal shall be invalid merely by the reason of any vacancy or defect in the constitution of the Selection Committee.</p>

<p>President/Members should not have financial or other interest [Sec. 110(7)]</p>	<p>Before appointing any person as the President or Members of the Appellate Tribunal, the Central Government or, as the case may be, the State Government, shall satisfy itself that such person does not have any financial or other interests which are likely to prejudicially affect his functions as such President or Member.</p>
<p>Rules prescribed for remuneration for all [Sec. 110(8)]</p>	<p>The salary, allowances and other terms and conditions of service of the President, State President and the Members of the Appellate Tribunal shall be such as may be prescribed:</p> <p>♦ Provided that neither salary and allowances nor other terms and conditions of service of the President, State President or Members of the Appellate Tribunal shall be varied to their disadvantage after their appointment.</p>
<p>Time limit to hold office by president [Sec. 110(9)]</p>	<p>The President of the Appellate Tribunal shall hold office for a term of</p> <p>♦ three years from the date on which he enters upon his office, or until he attains the age of seventy years, whichever is earlier and</p> <p>♦ shall be eligible for reappointment.</p>
<p>Time limit to hold office by Judicial member [Sec. 110(10)]</p>	<p>The Judicial Member of the Appellate Tribunal and the State President shall hold office for a term of</p> <p>♦ three years from the date on which he enters upon his office, or until he attains the age of sixty-five years, whichever is earlier and</p> <p>♦ shall be eligible for reappointment.</p>
<p>Time limit to hold office by Technical member [Sec. 110(11)]</p>	<p>The Technical Member (Centre) or Technical Member (State) of the Appellate Tribunal shall hold office for a term of</p> <p>♦ five years from the date on which he enters upon his office, or until he attains the age of sixty-five years, whichever is earlier and</p> <p>♦ shall be eligible for reappointment.</p>

<p>Resignation procedure [Sec. 110(12)]</p>	<p>The President, State President or any Member may, by notice in writing under his hand addressed to the Central Government or, as the case may be, the State Government resign from his office:</p> <ul style="list-style-type: none"> ◆ Provided that the President, State President or Member shall continue ◆ to hold office until the expiry of three months from the date of receipt of such notice by the Central Government, or, as the case may be, the State Government, or ◆ until a person duly appointed as his successor enters upon his office, or ◆ until the expiry of his term of office, whichever is the earliest.
<p>Removal by CG [Sec. 110(13)]</p>	<p>The Central Government may,</p> <ul style="list-style-type: none"> ◆ after consultation with the Chief Justice of India, in case of the President, Judicial Members and Technical Members of the National Bench, Regional Benches or Technical Members (Centre) of the State Bench or Area Benches, and the State Government may, ◆ after consultation with the Chief Justice of High Court, in case of the State President, Judicial Members, Technical Members (State) of the State Bench or Area Benches, ◆ may remove from the office such President or Member, who— <p>(a) has been adjudged an insolvent; or</p> <p>(b) has been convicted of an offence which, in the opinion of such Government involves moral turpitude; or</p> <p>(c) has become physically or mentally incapable of acting as such President, State President or Member; or</p> <p>(d) has acquired such financial or other interest</p> <p>as is likely to affect prejudicially his functions as such President, State President or Member; or</p> <p>(e) has so abused his position as to render his continuance in office prejudicial to the public interest:</p>

	<p>Provided that the President, State President or the Member shall not be removed on any of the grounds specified in clauses (d) and (e), unless he has been informed of the charges against him and has been given an opportunity of being heard.</p>
<p>Misbehavior or incapacity [Sec. 110(14)]</p>	<p>Without prejudice to the provisions of sub-section (13),—</p> <p>(a) the President or a Judicial and Technical Member of the National Bench or Regional Benches, Technical Member (Centre) of the State Bench or Area Benches shall not be removed from their office except</p> <ul style="list-style-type: none"> ♦ by an order made by the Central Government on the ground of proved misbehavior or incapacity after an inquiry made by a Judge of the Supreme Court nominated by the Chief Justice of India on a reference made to him by the Central Government and ♦ of which the President or the said Member had been given an opportunity of being heard; <p>(b) the Judicial Member or Technical Member (State) of the State Bench or Area Benches shall not be removed from their office except</p> <ul style="list-style-type: none"> ♦ by an order made by the State Government on the ground of proved misbehavior or incapacity after an inquiry made by a Judge of the concerned High Court nominated by the Chief Justice of the concerned High Court on a reference made to him by the State Government and ♦ of which the said Member had been given an opportunity of being heard.
<p>Suspend from office by Central Government [Sec. 110(15)]</p>	<p>The Central Government, with the concurrence of the Chief Justice of India, may suspend from office,</p> <ul style="list-style-type: none"> ♦ the President or ♦ a Judicial or ♦ Technical Members of the National Bench or the Regional Benches or ♦ the Technical Member (Centre) of the State Bench or Area Benches ♦ in respect of whom a reference has been made to the Judge of the Supreme Court under sub-section (14).

<p>Suspend from office by State Government [Sec. 110(16)]</p>	<p>The State Government, with the concurrence of the Chief Justice of the High Court, may suspend from office,</p> <ul style="list-style-type: none"> ◆ a Judicial Member or ◆ Technical Member (State) of the State Bench or Area Benches ◆ in respect of whom a reference has been made to the Judge of the High Court under sub-section (14).
<p>Appear, Act or plead not allowed in certain cases [Sec. 110(17)]</p>	<p>Subject to the provisions of article 220 of the Constitution,</p> <ul style="list-style-type: none"> ◆ the President, ◆ State President or ◆ other Members, ◆ on ceasing to hold their office, ◆ shall not be eligible to appear, act or plead before the National Bench and the Regional Benches or the State Bench and the Area Benches thereof where he was the President or, as the case may be, a Member.

PROCEDURE BEFORE APPELLATE TRIBUNAL [SEC. 111]

<p>Appellate Tribunal not bound for Code of Civil procedure [Sec. 111(1)]</p>	<p>The Appellate Tribunal</p> <ul style="list-style-type: none"> ◆ shall not, while disposing of any proceedings before it or an appeal before it, be bound by the procedure laid down in the Code of Civil Procedure, 1908, ◆ but shall be guided by the principles of natural justice and subject to the other provisions of this Act and the rules made thereunder, ◆ the Appellate Tribunal shall have power to regulate its own procedure.
<p>Power of Appellate Tribunal [Sec. 111(2)]</p>	<p>The Appellate Tribunal shall,</p> <ul style="list-style-type: none"> ◆ for the purposes of discharging its functions under this Act, ◆ have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 while trying a suit in respect of the following matters, namely:— <p>(a) summoning and enforcing the attendance of any person and examining him on oath;</p>

	<p>(b) requiring the discovery and production of documents;</p> <p>(c) receiving evidence on affidavits;</p> <p>(d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872, requisitioning any public record or document or a copy of such record or document from any office;</p> <p>(e) issuing commissions for the examination of witnesses or documents;</p> <p>(f) dismissing a representation for default or deciding it ex parte;</p> <p>(g) setting aside any order of dismissal of any representation for default or any order passed by it ex parte; and</p> <p>(h) any other matter which may be prescribed.</p>
<p>Order made shall be treated as decree [Sec. 111(3)]</p>	<p>Any order made by the Appellate Tribunal may be enforced by it in the same manner as if it were a decree made by a court in a suit pending therein, and it shall be lawful for the Appellate Tribunal to send for execution of its orders to the court within the local limits of whose jurisdiction,—</p> <p>(a) in the case of an order against a company, the registered office of the company is situated; or</p> <p>(b) in the case of an order against any other person, the person concerned voluntarily resides or carries on business or personally works for gain.</p>
<p>Deemed to be judicial proceeding [Sec. 111(4)]</p>	<p>All proceedings before the Appellate Tribunal shall be deemed to be judicial proceedings within the meaning of</p> <ul style="list-style-type: none"> ♦ sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code, and ♦ the Appellate Tribunal shall be deemed to be civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

APPEALS TO APPELLATE TRIBUNAL [SEC. 112]

Time limit for appeal [Sec. 112(1)]	<p>Any person aggrieved</p> <ul style="list-style-type: none"> ◆ by an order passed against him under section 107 or section 108 of this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act ◆ may appeal to the Appellate Tribunal against such order within three months from the date on which the order sought to be appealed against is communicated to the person preferring the appeal. <p>Rule 110(1) of CGST Rules, 2017</p> <p>An appeal to the Appellate Tribunal under sub-section (1) of section 112 shall be filed along with the relevant documents either electronically or otherwise as may be notified by the Registrar, in FORM GST APL-05, on the common portal and a provisional acknowledgement shall be issued to the appellant immediately.</p> <p>Rule 110(4) of CGST Rules, 2017</p> <p>A certified copy of the decision or order appealed against along with fees as specified in sub-rule (5)</p> <ul style="list-style-type: none"> ◆ shall be submitted to the Registrar within seven days of the filing of the appeal under sub-rule (1) and ◆ a final acknowledgement, indicating the appeal number shall be issued thereafter in FORM GST APL-02 by the Registrar: <p>Provided that where</p> <ul style="list-style-type: none"> ◆ the certified copy of the decision or order is submitted within seven days from the date of filing the FORM GST APL-05, the date of filing of the appeal shall be the date of the issue of the provisional acknowledgement and ◆ where the said copy is submitted after seven days, the date of filing of the appeal shall be the date of the submission of such copy.
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	<p><i>Explanation.</i> —For the purposes of this rule, the appeal shall be treated as filed only when the final acknowledgement indicating the appeal number is issued.</p> <p>Rule 110(5) of CGST Rules, 2017</p> <p>The fees for filing of appeal or restoration of appeal shall be one thousand rupees for every one lakh rupees of tax or input tax credit involved or the difference in tax or input tax credit involved or the amount of fine, fee or penalty determined in the order appealed against, subject to a maximum of twenty five thousand rupees.</p> <p>Rule 110(6) of CGST Rules, 2017</p> <p>There shall be no fee for application made before the Appellate Tribunal for rectification of errors referred to in sub-section (10) of section 112.</p>
<p>Discretion power to refuse or admit appeal where disputed amount not exceed Rs. 50,000 [Sec. 112(2)]</p>	<p>The Appellate Tribunal may, in its discretion, refuse to admit any such appeal where the tax or input tax credit involved or the difference in tax or input tax credit involved or the amount of fine, fee or penalty determined by such order, does not exceed fifty thousand rupees.</p>
<p>Appeal by Commissioner through subordinate to Appellate Tribunal [Sec. 112(3)]</p>	<p>The Commissioner may,</p> <ul style="list-style-type: none"> ◆ on his own motion, ◆ or upon request from the Commissioner of State tax or Commissioner of Union territory tax, ◆ call for and examine the record of any order passed by the Appellate Authority or the Revisional Authority under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act ◆ for the purpose of satisfying himself as to the legality or propriety of the said order and may, by order, ◆ direct any officer subordinate to him to apply to the Appellate Tribunal ◆ within six months from the date on which the said order has been passed for determination of such points arising out of the said order as may be specified by the Commissioner in his order.

	<p>Rule 111(1) of CGST Rules, 2017</p> <p>An application to the Appellate Tribunal under sub-section (3) of section 112 shall be made electronically or otherwise, in FORM GST APL-07, along with the relevant documents on the common portal.</p> <p>Rule 111(2) of CGST Rules, 2017</p> <p>A certified copy of the decision or order appealed against shall be submitted within seven days of filing the application under sub-rule (1) and an appeal number shall be generated by the Registrar.</p>
<p>Authorised officer shall deemed to be a appellant [Sec. 112(4)]</p>	<p>Where in pursuance of an order under sub-section (3)</p> <ul style="list-style-type: none"> ◆ the authorised officer makes an application to the Appellate Tribunal, ◆ such application shall be dealt with by the Appellate Tribunal as if it were an appeal made against the order ◆ under sub-section (11) of section 107, or ◆ under sub-section (1) of section 108 <p>and the provisions of this Act shall apply to such application, as they apply in relation to appeals filed under sub-section (1).</p>
<p>Memorandum of cross-objection by party against whom appeal has filed. [Sec. 112(5)]</p>	<p>On receipt of notice that an appeal has been preferred under this section, the party against whom the appeal has been preferred may, notwithstanding that he may not have appealed against such order or any part thereof, file, within forty-five days of the receipt of notice, a memorandum of cross-objections, verified in the prescribed manner, against any part of the order appealed against and such memorandum shall be disposed of by the Appellate Tribunal, as if it were an appeal presented within the time specified in sub-section (1).</p> <p>Rule 110(2) of CGST Rules, 2017</p> <p>A memorandum of cross-objections to the Appellate Tribunal under sub-section (5) of section 112 shall be filed either electronically or otherwise as may be notified by the Registrar, in FORM GST APL-06.</p> <p>Rule 110(3) of CGST Rules, 2017</p> <p>The appeal and the memorandum of cross objections shall be signed in the manner specified in rule 26.</p>

Extension of time limit of appeal or memorandum of cross-objection [Sec. 112(6)]	<p>The Appellate Tribunal may admit an appeal within three months after the expiry of the period referred to in sub-section (1), or permit the filing of a memorandum of cross-objections within forty-five days after the expiry of the period referred to in sub-section (5) if it is satisfied that there was sufficient cause for not presenting it within that period.</p>
Forms. Fees etc. [Sec. 112(7)]	<p>An appeal to the Appellate Tribunal shall be in such form, verified in such manner and shall be accompanied by such fee, as may be prescribed.</p>
Payment of full amount on demand accepted and 20% on disputed demand [Sec. 112(8)]	<p>No appeal shall be filed under sub-section (1), unless the appellant has paid—</p> <p>(a) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him, and</p> <p>(b) a sum equal to twenty per cent of the remaining amount of tax in dispute, in addition to the amount paid under sub-section (6) of section 107, arising from the said order, in relation to which the appeal has been filed.</p>
80% of disputed demand will be stayed [Sec. 112(9)]	<p>Where the appellant has paid the amount as per sub-section (8), the recovery proceedings for the balance amount shall be deemed to be stayed till the disposal of the appeal.</p>
Fees deposit in some cases [Sec. 112(10)]	<p>Every application made before the Appellate Tribunal,—</p> <p>(a) in an appeal for rectification of error or for any other purpose; or</p> <p>(b) for restoration of an appeal or an application, shall be accompanied by such fees as may be prescribed.</p>

PRODUCTION OF ADDITIONAL EVIDENCE BEFORE THE APPELLATE AUTHORITY OR THE APPELLATE TRIBUNAL [RULE 112 OF CGST RULES, 2017]

<p>Production of evidence [Rule 112(1)]</p>	<p>The appellant shall not be allowed to produce</p> <ul style="list-style-type: none"> ♦ before the Appellate Authority or the Appellate Tribunal any evidence, whether oral or documentary, ♦ other than the evidence produced by him during the course of the proceedings before the adjudicating authority or, as the case may be, the Appellate Authority, ♦ except in the following circumstances, namely - <ul style="list-style-type: none"> (a) where the adjudicating authority or, as the case may be, the Appellate Authority has refused to admit evidence which ought to have been admitted; or (b) where the appellant was prevented by sufficient cause from producing the evidence which he was called upon to produce by the adjudicating authority or, as the case may be, the Appellate Authority; or (c) where the appellant was prevented by sufficient cause from producing before the adjudicating authority or, as the case may be, the Appellate Authority any evidence which is relevant to any ground of appeal; or (d) where the adjudicating authority or, as the case may be, the Appellate Authority has made the order appealed against without giving sufficient opportunity to the appellant to adduce evidence relevant to any ground of appeal.
<p>Record the reason for admission of new evidence [Rule 112(2)]</p>	<p>No evidence shall be admitted under sub-rule (1) unless the Appellate Authority or the Appellate Tribunal records in writing the reasons for its admission.</p>

Reasonable opportunity to adjudicating authority [Rule 112(3)]	<p>The Appellate Authority or the Appellate Tribunal shall not take any evidence produced under sub-rule (1) unless the adjudicating authority or an officer authorised in this behalf by the said authority has been allowed a reasonable opportunity -</p> <p>(a) to examine the evidence or document or to cross-examine any witness produced by the appellant;</p> <p>or</p> <p>(b) to produce any evidence or any witness in rebuttal of the evidence produced by the appellant under sub-rule (1).</p>
Power of Appellate Authority [Rule 112(4)]	<p>Nothing contained in this rule shall affect the power of the Appellate Authority or the Appellate Tribunal to direct the production of any document, or the examination of any witness, to enable it to dispose of the appeal.</p>

ORDERS OF APPELLATE TRIBUNAL [SEC. 113]

Passing of order[Sec. 113(1)]	<p>The Appellate Tribunal may,</p> <ul style="list-style-type: none"> ◆ after giving the parties to the appeal an opportunity of being heard, ◆ pass such orders thereon as it thinks fit, ◆ confirming, modifying or annulling the decision or order appealed against or may refer the case back to the Appellate Authority, or the Revisional Authority or to the original adjudicating authority, ◆ with such directions as it may think fit, for a fresh adjudication or decision after taking additional evidence, if necessary.
Adjournment of hearing -Not more than three times [Sec. 113(2)]	<p>The Appellate Tribunal may, if sufficient cause is shown, at any stage of hearing of an appeal, grant time to the parties or any of them and adjourn the hearing of the appeal for reasons to be recorded in writing:</p> <ul style="list-style-type: none"> ◆ Provided that no such adjournment shall be granted more than three times to a party during hearing of the appeal.

Rectification of order [Sec. 113(3)]	<p>The Appellate Tribunal may amend any order passed by it under sub-section (1) so as to rectify any error</p> <p>♦ apparent on the face of the record, if such error is noticed by it on its own accord, or is brought to its notice by the Commissioner or the Commissioner of State tax or the Commissioner of the Union territory tax or the other party to the appeal</p> <p>♦ within a period of three months from the date of the order:</p> <p>Provided that no amendment which has the effect of enhancing an assessment or reducing a refund or input tax credit or otherwise increasing the liability of the other party, shall be made under this sub-section, unless the party has been given an opportunity of being heard.</p>
Time limit for hearing Sec. 113(4)]	<p>The Appellate Tribunal shall, as far as possible, hear and decide every appeal within a period of one year from the date on which it is filed.</p>
Copy of order [Sec. 113(5)]	<p>The Appellate Tribunal shall send a copy of every order passed under this section to the Appellate Authority or the Revisional Authority, or the original adjudicating authority, as the case may be, the appellant and the jurisdictional Commissioner or the Commissioner of State tax or the Union territory tax.</p>
Final and binding [Sec. 113(6)]	<p>Save as provided in</p> <p>♦ section 117 (Appeal to High Court), or</p> <p>♦ section 118 (Appeal to Supreme Court), or</p> <p>♦ orders passed by the Appellate Tribunal on an appeal shall be final and binding on the parties.</p>

FINANCIAL AND ADMINISTRATIVE POWERS OF PRESIDENT [SEC. 114]

The President shall exercise such financial and administrative powers over the National Bench and Regional Benches of the Appellate Tribunal as may be **prescribed**:

♦ **Provided** that the President shall have the authority to delegate such of his financial and administrative powers as he may think fit to any other Member or any officer of the National Bench and Regional Benches, subject to the condition that such Member or officer shall, while exercising such delegated powers, continue to act under the direction, control and supervision of the President.

INTEREST ON REFUND OF AMOUNT PAID FOR ADMISSION OF APPEAL [SEC. 115]

Where an amount paid by the appellant under

- ♦ sub-section (6) of section 107 (Amount deposited while appeal to Appellate Authority), or
- ♦ sub-section (8) of section 112 (Amount deposited while appeal to Appellate Tribunal)

is required to be **refunded** consequent to any order of the Appellate Authority or of the Appellate Tribunal, interest at the rate specified under section 56 shall be payable in respect of such refund from the date of payment of the amount till the date of refund of such amount.

APPEARANCE BY AUTHORISED REPRESENTATIVE [SEC. 116]

Appointment of authorised representative [Sec. 116(1)]	Any person who is entitled or required to appear before an officer appointed under this Act, or the Appellate Authority or the Appellate Tribunal in connection with any proceedings under this Act, may, otherwise than when required under this Act to appear personally for examination on oath or affirmation, subject to the other provisions of this section, appear by an authorised representative.
Who can be Authorised Representative [Sec. 116(2)]	<p>For the purposes of this Act, the expression "authorised representative" shall mean a person authorised by the person referred to in sub-section (1) to appear on his behalf, being—</p> <ul style="list-style-type: none"> (a) his relative or regular employee; or (b) an advocate who is entitled to practice in any court in India, and who has not been debarred from practicing before any court in India; or (c) any chartered accountant, a cost accountant or a company secretary, who holds a certificate of practice and who has not been debarred from practice; or (d) a retired officer of the Commercial Tax Department of any State Government or Union territory or of the Board who, during his service under the Government, had worked in a post not below the rank than that of a Group-B Gazetted officer for a period of not less than two years: ♦ Provided that such officer shall not be entitled to appear before any proceedings under this Act for a period of one year from the date of his retirement or resignation; or (e) any person who has been authorised to act as a goods and services tax practitioner on behalf of the concerned registered person.

	<p>Rule 116 of CGST Rules, 2017 - Disqualification for misconduct of an authorised representative</p> <p>Where an authorised representative, other than those referred to in clause (b) or clause (c) of sub-section (2) of section 116 is found, upon an enquiry into the matter, guilty of misconduct in connection with any proceedings under the Act, the Commissioner may, after providing him an opportunity of being heard, disqualify him from appearing as an authorised representative.</p>
<p>Person not qualified [Sec. 116(3)]</p>	<p>No person,—</p> <p>(a) who has been dismissed or removed from Government service; or</p> <p>(b) who is convicted of an offence connected with any proceedings under this Act, the State Goods and Services Tax Act, the Integrated Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, or under the existing law or under any of the Acts passed by a State Legislature dealing with the imposition of taxes on sale of goods or supply of goods or services or both; or</p> <p>(c) who is found guilty of misconduct by the prescribed authority; or</p> <p>(d) who has been adjudged as an insolvent,</p> <p>shall be qualified to represent any person under sub-section (1)</p> <p>(i) for all times in case of persons referred to in clauses (a), (b) and (c);</p> <p>and</p> <p>(ii) for the period during which the insolvency continues in the case of a person referred to in clause (d).</p>
<p>Deeming disqualification [Sec. 116(4)]</p>	<p>Any person who has been disqualified under the provisions of the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act shall be deemed to be disqualified under this Act.</p>

APPEAL TO HIGH COURT [SEC. 117]

Question of Law' [Sec. 117(1)]	<p>Any person aggrieved</p> <ul style="list-style-type: none"> ◆ by any order passed by the State Bench or Area Benches of the Appellate Tribunal ◆ may file an appeal to the High Court ◆ and the High Court may admit such appeal, ◆ if it is satisfied that the case involves a substantial question of law. <p>Rule 114(1) of CGST Rules, 2017</p> <p>An appeal to the High Court under sub-section (1) of section 117 shall be filed in FORM GST APL-08.</p> <p>Rule 114(2) of CGST Rules, 2017</p> <p>The grounds of appeal and the form of verification as contained in FORM GST APL-08 shall be signed in the manner specified in rule 26.</p>
Time limit for appeal [Sec. 117(2)]	<p>An appeal under sub-section (1) shall be filed within a period of one hundred and eighty days from the date on which the order appealed against is received by the aggrieved person and it shall be in such form, verified in such manner as may be prescribed:</p> <ul style="list-style-type: none"> ◆ Provided that the High Court may entertain an appeal after the expiry of the said period if it is satisfied that there was sufficient cause for not filing it within such period.
Formulation of question of law [Sec. 117(3)]	<p>Where the High Court is satisfied that</p> <ul style="list-style-type: none"> ◆ a substantial question of law is involved in any case, ◆ it shall formulate that question and the appeal shall be heard only on the question so formulated, ◆ and the respondents shall, at the hearing of the appeal, be allowed to argue that the case does not involve such question: <p>Provided that nothing in this sub-section shall be deemed to take away or abridge the power of the court to hear, for reasons to be recorded, the appeal on any other substantial question of law not formulated by it, if it is satisfied that the case involves such question.</p>

Decision of question of law [Sec. 117(4)]	The High Court shall decide the question of law so formulated and deliver such judgment thereon containing the grounds on which such decision is founded and may award such cost as it deems fit.
Determination any Issue not/ wrongly determined by state/ area bench on question of law [Sec. 117(5)]	The High Court may determine any issue which— (a) has not been determined by the State Bench or Area Benches; or (b) has been wrongly determined by the State Bench or Area Benches, by reason of a decision on such question of law as herein referred to in sub-section (3).
Majority of judges [Sec. 117(6)]	Where an appeal has been filed before the High Court, it shall be heard by a Bench of not less than two Judges of the High Court, and shall be decided in accordance with the opinion of such Judges or of the majority , if any, of such Judges.
Procedure in case of different opinion [Sec. 117(7)]	Where there is no such majority, ♦ the Judges shall state the point of law upon which they differ and the case shall, ♦ then, be heard upon that point only, by one or more of the other Judges of the High Court and ♦ such point shall be decided according to the opinion of the majority of the Judges who have heard the case including those who first heard it.
Certified copy of judgement [Sec. 117(8)]	Where the High Court delivers a judgment in an appeal filed before it under this section, effect shall be given to such judgment by either side on the basis of a certified copy of the judgment.
Code of civil procedure apply [Sec. 117(9)]	Save as otherwise provided in this Act, the provisions of the Code of Civil Procedure, 1908, relating to appeals to the High Court shall, as far as may be, apply in the case of appeals under this section.

DEMAND CONFIRMED BY THE COURT [RULE 115 OF CGST RULES, 2017]

The jurisdictional officer shall issue a statement in **FORM GST APL-04** clearly indicating the final amount of demand confirmed by the High Court or, as the case may be, Supreme Court.

APPEAL TO SUPREME COURT [SEC. 118]

General Provision [Sec. 118(1)]	An appeal shall lie to the Supreme Court— (a) from any order passed by the National Bench or Regional Benches of the Appellate Tribunal; or (b) from any judgment or order passed by the High Court in an appeal made under section 117 in any case which, on its own motion or on an application made by or on behalf of the party aggrieved, immediately after passing of the judgment or order, the High Court certifies to be a fit one for appeal to the Supreme Court
Code of civil procedure apply [Sec. 118(2)]	The provisions of the Code of Civil Procedure, 1908, relating to appeals to the Supreme Court shall, so far as may be, apply in the case of appeals under this section as they apply in the case of appeals from decrees of a High Court.
Effect of Supreme Court [Sec. 118(3)]	Where the judgment of the High Court is varied or reversed in the appeal, effect shall be given to the order of the Supreme Court in the manner provided in section 117 in the case of a judgment of the High Court.

SUMS DUE TO BE PAID NOTWITHSTANDING APPEAL, ETC. [SEC. 119]

Notwithstanding that

- ♦ an appeal has been preferred to the High Court or the Supreme Court, or
- ♦ sums due to the Government as a result of an order passed by the National or Regional Benches of the Appellate Tribunal under sub-section (1) of section 113, or
- ♦ an order passed by the State Bench or Area Benches of the Appellate Tribunal under sub-section (1) of section 113, or
- ♦ an order passed by the High Court under section 117, as the case may be, shall be payable in accordance with the order so passed.

APPEAL NOT TO BE FILED IN CERTAIN CASES [SEC. 120]

- (1) The Board may, on the recommendations of the Council, from time to time,
- ❖ issue orders or instructions or directions fixing such monetary limits, as it may deem fit,
 - ◆ for the purposes of regulating the filing of appeal or application by the officer of the central tax under the provisions of this Chapter.
- (2) Where, in pursuance of the orders or instructions or directions issued under sub-section (1),
- ◆ the officer of the central tax has not filed an appeal or application against any decision or order passed under the provisions of this Act,
 - ◆ it shall not preclude such officer of the central tax from filing appeal or application in **any other case** involving the same or similar issues or questions of law.
- (3) Notwithstanding the fact that
- ◆ no appeal or application has been filed by the officer of the central tax pursuant to the orders or instructions or directions issued under sub-section (1),
 - ◆ no person, being a party in appeal or application
 - ◆ shall contend that the officer of the central tax has acquiesced in the decision on the disputed issue by not filing an appeal or application.
- (4) The Appellate Tribunal or court hearing such appeal or application shall have regard to the circumstances under which appeal or application was not filed by the officer of the central tax in pursuance of the orders or instructions or directions issued under sub-section (1).

NON- APPEALABLE DECISIONS AND ORDERS [SEC. 121]

Notwithstanding anything to the contrary in any provisions of this Act, no appeal shall lie against any decision taken or order passed by an officer of central tax if such decision taken or order passed relates to any one or more of the following matters, namely:—

- (a) an order of the Commissioner or other authority empowered to direct transfer of proceedings from one officer to another officer, or
- (b) an order pertaining to the seizure or retention of books of account, register and other documents; or
- (c) an order sanctioning prosecution under this Act; or
- (d) an order passed under section 80.

CHAPTER 26

Offences and penalties

PENALTY FOR CERTAIN OFFENCES [SEC. 122]

Penalty for certain offences [Sec. 122(1)]	<p>Where a taxable person who—</p> <p>(i) supplies any goods or services or both without issue of any invoice or issues an incorrect or false invoice with regard to any such supply;</p> <p>(ii) issues any invoice or bill without supply of goods or services or both in violation of the provisions of this Act or the rules made thereunder;</p> <p>(iii) collects any amount as tax but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due;</p> <p>(iv) collects any tax in contravention of the provisions of this Act but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due;</p> <p>(v) fails to deduct the tax in accordance with the provisions of sub-section (1) of section 51, or deducts an amount which is less than the amount required to be deducted under the said sub-section, or where he fails to pay to the Government under sub-section (2) thereof, the amount deducted as tax;</p> <p>(vi) fails to collect tax in accordance with the provisions of sub-section (1) of section 52, or collects an amount which is less than the amount required to be collected under the said sub-section or where he fails to pay to the Government the amount collected as tax under sub-section (3) of section 52;</p>
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	<p>(vii) takes or utilises input tax credit without actual receipt of goods or services or both either fully or partially, in contravention of the provisions of this Act or the rules made thereunder;</p> <p>(viii) fraudulently obtains refund of tax under this Act;</p> <p>(ix) takes or distributes input tax credit in contravention of section 20, or the rules made thereunder;</p> <p>(x) falsifies or substitutes financial records or produces fake accounts or documents or furnishes any false information or return with an intention to evade payment of tax due under this Act;</p> <p>(xi) is liable to be registered under this Act but fails to obtain registration;</p> <p>(xii) furnishes any false information with regard to registration particulars, either at the time of applying for registration, or subsequently;</p> <p>(xiii) obstructs or prevents any officer in discharge of his duties under this Act;</p> <p>(xiv) transports any taxable goods without the cover of documents as may be specified in this behalf;</p> <p>(xv) suppresses his turnover leading to evasion of tax under this Act;</p> <p>(xvi) fails to keep, maintain or retain books of account and other documents in accordance with the provisions of this Act or the rules made thereunder;</p> <p>(xvii) fails to furnish information or documents called for by an officer in accordance with the provisions of this Act or the rules made thereunder or furnishes false information or documents during any proceedings under this Act;</p> <p>(xviii) supplies, transports or stores any goods which he has reasons to believe are liable to confiscation under this Act;</p> <p>(xix) issues any invoice or document by using the registration number of another registered person;</p> <p>(xx) tampers with, or destroys any material evidence or document;</p>
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	<p>(xxi) disposes off or tampers with any goods that have been detained, seized, or attached under this Act,</p> <p>he shall be liable to pay a penalty of</p> <p>(a) ten thousand rupees</p> <p>or</p> <p>(b) an amount equivalent to the tax evaded or the tax not deducted under section 51 or short deducted or deducted but not paid to the Government or tax not collected under section 52 or short collected or collected but not paid to the Government or input tax credit availed of or passed on or distributed irregularly, or the refund claimed fraudulently,</p> <p>whichever is higher.</p>
<p>Short payment of tax/tax erroneously refund [Sec. 122(2)]</p>	<p>Any registered person who supplies any goods or services or both on which any tax has not been paid or short-paid or erroneously refunded, or where the input tax credit has been wrongly availed or utilised,—</p> <p>(a) for any reason, other than the reason of fraud or any wilful misstatement or suppression of facts to evade tax, shall be liable to a penalty of ten thousand rupees or ten per cent of the tax due from such person, whichever is higher;</p> <p>(b) for reason of fraud or any wilful misstatement or suppression of facts to evade tax, shall be liable to a penalty equal to ten thousand rupees or the tax due from such person, whichever is higher.</p>

<p>Others penalty [Sec. 122(3)]</p>	<p>Any person who-</p> <p>(a) aids or abets any of the offences specified in clauses (i) to (xxi) of sub-section (1);</p> <p>(b) acquires possession of, or in any way concerns himself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner deals with any goods which he knows or has reasons to believe are liable to confiscation under this Act or the rules made thereunder;</p> <p>(c) receives or is in any way concerned with the supply of, or in any other manner deals with any supply of services which he knows or has reasons to believe are in contravention of any provisions of this Act or the rules made thereunder;</p> <p>(d) fails to appear before the officer of central tax, when issued with a summon for appearance to give evidence or produce a document in an inquiry;</p> <p>(e) fails to issue invoice in accordance with the provisions of this Act or the rules made thereunder or fails to account for an invoice in his books of account, shall be liable to a penalty which may extend to twenty-five thousand rupees.</p>
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PROCEDURE FOR COMPOUNDING OF OFFENCES

[RULE 162 OF CGST RULES, 2017]

- (1) An applicant may, either before or after the institution of prosecution, make an application under sub-section (1) of section 138 in FORM GST CPD-01 to the Commissioner for compounding of an offence.
- (2) On receipt of the application, the Commissioner shall call for a report from the concerned officer with reference to the particulars furnished in the application, or any other information, which may be considered relevant for the examination of such application.
- (3) The Commissioner, after taking into account the contents of the said application, may, by order in FORM GST CPD-02, on being satisfied that the applicant has co-operated in the proceedings before him and has made full and true disclosure of facts relating to the case, allow the application indicating the compounding amount and grant him immunity from prosecution or reject such application within ninety days of the receipt of the application.

- (4) The application shall not be decided under sub-rule (3) without affording an opportunity of being heard to the applicant and recording the grounds of such rejection.
- (5) The application shall not be allowed unless the tax, interest and penalty liable to be paid have been paid in the case for which the application has been made.
- (6) The applicant shall, within a period of thirty days from the date of the receipt of the order under sub-rule (3), pay the compounding amount as ordered by the Commissioner and shall furnish the proof of such payment to him.
- (7) In case the applicant fails to pay the compounding amount within the time specified in sub-rule(6), the order made under sub-rule (3) shall be vitiated and be void.
- (8) Immunity granted to a person under sub-rule (3) may, at any time, be withdrawn by the Commissioner, if he is satisfied that such person had, in the course of the compounding proceedings, concealed any material particulars or had given false evidence. Thereupon such person may be tried for the offence with respect to which immunity was granted or for any other offence that appears to have been committed by him in connection with the compounding proceedings and the provisions the Act shall apply as if no such immunity had been granted.

PENALTY FOR FAILURE TO FURNISH INFORMATION RETURN [SEC. 123]

If a person who is required to furnish an information return under section 150 fails to do so within the period specified in the notice issued under sub-section (3) thereof, the proper officer may direct that such person shall be liable to pay a penalty of **one hundred rupees for each day** of the period during which the failure to furnish such return continues:

♦ **Provided** that the penalty imposed under this section shall not exceed **five thousand rupees**.

FINE FOR FAILURE TO FURNISH STATISTICS [SEC. 124]

If any person required to furnish any information or return under section 151,—

- (a) without reasonable cause fails to furnish such information or return as may be required under that section, or
- (b) wilfully furnishes or causes to furnish any information or return which he knows to be false,
- he shall be punishable with a fine which may extend to **ten thousand rupees** and in case of a continuing offence to a further fine which may extend to **one hundred rupees** for each day after the first day during which the offence continues subject to a **maximum limit of twenty-five thousand rupees**.

GENERAL PENALTY [SEC. 125]

Any person, who contravenes **any** of the provisions of this Act or any rules made thereunder for which no penalty is separately provided for in this Act, shall be liable to a penalty which may extend to **twenty-five thousand rupees**.

GENERAL DISCIPLINES RELATED TO PENALTY [SEC. 126]

Minor breach [Sec. 126(1)]	<p>No officer under this Act shall impose any penalty for minor breaches of tax regulations or procedural requirements and in particular, any omission or mistake in documentation which is easily rectifiable and made without fraudulent intent or gross negligence.</p> <p>Explanation.—For the purpose of this sub-section,—</p> <p>(a) a breach shall be considered a 'minor breach' if the amount of tax involved is less than five thousand rupees;</p> <p>(b) an omission or mistake in documentation shall be considered to be easily rectifiable if the same is an error apparent on the face of record.</p>
Penalty depend on facts and circumstances [Sec. 126(2)]	<p>The penalty imposed under this Act shall depend on the facts and circumstances of each case and shall be commensurate with the degree and severity of the breach.</p>
Opportunity of being heard [Sec. 126(3)]	<p>No penalty shall be imposed on any person without giving him an opportunity of being heard.</p>
Nature of breach shall specify in order [Sec. 126(4)]	<p>The officer under this Act shall while imposing penalty in an order for a breach of any law, regulation or procedural requirement, specify the nature of the breach and the applicable law, regulation or procedure under which the amount of penalty for the breach has been specified.</p>
Voluntarily disclosure [Sec. 126(5)]	<p>When a person voluntarily discloses to an officer under this Act the circumstances of a breach of the tax law, regulation or procedural requirement prior to the discovery of the breach by the officer under this Act, the proper officer may consider this fact as a mitigating factor when quantifying a penalty for that person.</p>
Provision not applicable [Sec. 126(6)]	<p>The provisions of this section shall not apply in such cases where the penalty specified under this Act is either a fixed sum or expressed as a fixed percentage.</p>

POWER TO IMPOSE PENALTY IN CERTAIN CASES [SEC. 127]

Where the proper officer is of the view that a person is liable to a penalty and the same is **not covered** under any proceedings under section 62 or section 63 or section 64 or section 73 or section 74 or section 129 or section 130, he may issue an order levying such penalty after giving a reasonable opportunity of being heard to such person.

POWER TO WAIVE PENALTY OR FEE OR BOTH [SEC. 128]

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

DETENTION, SEIZURE AND RELEASE OF GOODS AND CONVEYANCES IN TRANSIT [SEC. 129]

<p>Penalty on owner or transporter [Sec. 129(1)]</p>	<p>Notwithstanding anything contained in this Act, where any person transports any goods or stores any goods while they are in transit in contravention of the provisions of this Act or the rules made thereunder, all such goods and conveyance used as a means of transport for carrying the said goods and documents relating to such goods and conveyance shall be liable to detention or seizure and after detention or seizure, shall be released,--</p> <p>(a) on payment of the applicable tax and penalty equal to one hundred per cent of the tax payable on such goods and, in case of exempted goods, on payment of an amount equal to two per cent of the value of goods or twenty-five thousand rupees, whichever is less, where the owner of the goods comes forward for payment of such tax and penalty;</p> <p>(b) on payment of the applicable tax and penalty equal to the fifty per cent of the value of the goods reduced by the tax amount paid thereon and, in case of exempted goods, on payment of an amount equal to five per cent of the value of goods or twenty-five thousand rupees, whichever is less, where the owner of the goods does not come forward for payment of such tax and penalty;</p>
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	<p>(c) upon furnishing a security equivalent to the amount payable under clause (a) or clause (b) in such form and manner as may be prescribed:</p> <p>♦ Provided that no such goods or conveyance shall be detained or seized without serving an order of detention or seizure on the person transporting the goods.</p>
<p>Released of goods on provisional basis [Sec. 129(2)]</p>	<p>The provisions of sub-section (6) of section 67 shall, <i>mutatis mutandis</i>, apply for detention and seizure of goods and conveyances.</p>
<p>Passing of order [Sec. 129(3)]</p>	<p>The proper officer detaining or seizing goods or conveyances shall issue a notice specifying the tax and penalty payable and thereafter, pass an order for payment of tax and penalty under clause (a) or clause (b) or clause (c).</p>
<p>Opportunity of being heard [Sec. 129(4)]</p>	<p>No tax, interest or penalty shall be determined under sub-section (3) without giving the person concerned an opportunity of being heard.</p>
<p>Payment of Amount [Sec. 129(5)]</p>	<p>On payment of amount referred in sub-section (1), all proceedings in respect of the notice specified in sub-section (3) shall be deemed to be concluded.</p>
<p>Effect on failure to pay amount [Sec. 129(6)]</p>	<p>Where the person transporting any goods or the owner of the goods fails to pay the amount of tax and penalty as provided in sub-section (1) within seven days of such detention or seizure, further proceedings shall be initiated in accordance with the provisions of section 130:</p> <p>♦ Provided that where the detained or seized goods are perishable or hazardous in nature or are likely to depreciate in value with passage of time, the said period of seven days may be reduced by the proper officer.</p>

CONFISCATION OF GOODS OR CONVEYANCES AND LEVY OF PENALTY [SEC. 130]

<p>General Provision [Sec. 130(1)]</p>	<p>Notwithstanding anything contained in this Act, if any person—</p> <ul style="list-style-type: none"> (i) supplies or receives any goods in contravention of any of the provisions of this Act or the rules made thereunder with intent to evade payment of tax; or (ii) does not account for any goods on which he is liable to pay tax under this Act; or (iii) supplies any goods liable to tax under this Act without having applied for registration; or (iv) contravenes any of the provisions of this Act or the rules made thereunder with intent to evade payment of tax; or (v) uses any conveyance as a means of transport for 1 carriage of goods in contravention of the provisions of this Act or the rules made thereunder unless the owner of the conveyance proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the conveyance, then, all such goods or conveyances shall be liable to confiscation and the person shall be liable to penalty under section 122.
<p>Fine in lieu of confiscation [Sec. 130(2)]</p>	<p>Whenever confiscation of any goods or conveyance is authorised by this Act, the officer adjudging it shall give to the owner of the goods an option to pay in lieu of confiscation, such fine as the said officer thinks fit:</p> <p>Provided that such fine leviable shall not exceed the market value of the goods confiscated, less the tax chargeable thereon:</p> <p>Provided further that the aggregate of such fine and penalty leviable shall not be less than the amount of penalty- leviable under sub-section (1) of section 129:</p> <p>Provided also that where any such conveyance is used for the carriage of the goods or passengers for hire, the owner of the conveyance shall be given an option to pay in lieu of the confiscation of the conveyance a fine equal to the tax payable on the goods being transported thereon.</p>

In addition to fine also pay tax, penalty and charges payable [Sec. 130(3)]	Where any fine in lieu of confiscation of goods or conveyance is imposed under sub-section (2), the owner of such goods or conveyance or the person referred to in sub-section (1), shall, in addition , be liable to any tax, penalty and charges payable in respect of such goods or conveyance.
Opportunity of being heard [Sec. 130(4)]	No order for confiscation of goods or conveyance or for imposition of penalty shall be issued without giving the person an opportunity of being heard.
Title of goods [Sec. 130(5)]	Where any goods or conveyance are confiscated under this Act, the title of such goods or conveyance shall thereupon vest in the Government.
Take or hold possession of things [Sec. 130(6)]	The proper officer adjudging confiscation shall take and hold possession of the things confiscated and every officer of Police, on the requisition of such proper officer, shall assist him in taking and holding such possession.
Sale of confiscated goods [Sec. 130(7)]	The proper officer may, after satisfying himself that the confiscated goods or conveyance are not required in any other proceedings under this Act and after giving reasonable time not exceeding three months to pay fine in lieu of confiscation, dispose of such goods or conveyance and deposit the sale proceeds thereof with the Government.

CONFISCATION OR PENALTY NOT TO INTERFERE WITH OTHER PUNISHMENTS. PUNISHMENT FOR CERTAIN OFFENCES [SEC. 131]

Without prejudice to the provisions contained in the Code of Criminal Procedure, 1973, no confiscation made or penalty imposed under the provisions of this Act or the rules made thereunder shall prevent the infliction of any other punishment to which the person affected thereby is liable under the provisions of this Act or under any other law for the time being in force.

PUNISHMENT FOR CERTAIN OFFENCES [SEC. 132]

<p>General Provision</p> <p>[Sec. 132(1)]</p>	<p>Whoever commits any of the following offences, namely:—</p> <p>(a) supplies any goods or services or both without issue of any invoice, in violation of the provisions of this Act or the rules made thereunder, with the intention to evade tax;</p> <p>(b) issues any invoice or bill without supply of goods or services or both in violation of the provisions of this Act, or the rules made thereunder leading to wrongful availment or utilisation of input tax credit or refund of tax;</p> <p>(c) avails input tax credit using such invoice or bill referred to in clause (b),</p> <p>(d) collects any amount as tax but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due;</p> <p>(e) evades tax, fraudulently avails input tax credit or fraudulently obtains refund and where such offence is not covered under clauses (a) to (d);</p> <p>(f) falsifies or substitutes financial records or produces fake accounts or documents or furnishes any false information with an intention to evade payment of tax due under this Act;</p> <p>(g) obstructs or prevents any officer in the discharge of his duties under this Act.</p> <p>(h) acquires possession of, or in any way concerns himself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner deals with, any goods which he knows or has reasons to believe are liable to confiscation under this Act or the rules made thereunder;</p> <p>(i) receives or is in any way concerned with the supply of, or in any other manner deals with any supply of services which he knows or has reasons to believe are in contravention of any provisions of this Act or the rules made thereunder;</p>
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	<p>(j) tampers with or destroys any material evidence or documents;</p> <p>(k) fails to supply any information which he is required to supply under this Act or the rules made thereunder or (unless with a reasonable belief, the burden of proving which shall be upon him, that the information supplied by him is true) supplies false information; or</p> <p>(l) attempts to commit, or abets the commission of any of the offences mentioned in clauses (a) to (k) of this section, shall be punishable-</p> <p>(i) in cases where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds five hundred lakh rupees, with imprisonment for a term which may extend to five years and with fine;</p> <p>(ii) in cases where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds two hundred lakh rupees but does not exceed five hundred lakh rupees, with imprisonment for a term which may extend to three years and with fine;</p> <p>(iii) in the case of any other offence where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds one hundred lakh rupees but does not exceed two hundred lakh rupees, with imprisonment for a term which may extend to one year and with fine;</p> <p>(iv) in cases where he commits or abets the commission of an offence specified in clause (f) or clause (g) or clause (j), he shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.</p>
<p>Convicted again [Sec. 132(2)]</p>	<p>Where any person convicted of an offence under this section is again convicted of an offence under this section, then, he shall be punishable for the second and for every subsequent offence with imprisonment for a term which may extend to five years and with fine.</p>

Absence of Special & Adequate reason [Sec. 132(3)]	The imprisonment referred to in clauses (i), (ii) and (iii) of sub-section (1) and sub-section (2) shall, in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the Court, be for a term not less than six months.
Non-cognizable offence [Sec. 132(4)]	Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act, except the offences referred to in sub-section (5) shall be non- cognizable and bailable.
Cognizable and non-bailable [Sec. 132(5)]	The offences specified in clause (a) or clause (b) or clause (c) or clause (d) of sub-section (1) and punishable under clause (i) of that sub-section shall be cognizable and non-bailable.
Sanction by commissioner [Sec. 132(6)]	<p>A person shall not be prosecuted for any offence under this section except with the previous sanction of the Commissioner.</p> <p>Explanation.—For the purposes of this section, the term "tax" shall include the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or refund wrongly taken under the provisions of this Act, the State Goods and Services Tax Act, the Integrated Goods and Services Tax Act or the Union Territory Goods and Services Tax Act and cess levied under the Goods and Services Tax (Compensation to States) Act.</p>

LIABILITY OF OFFICERS AND CERTAIN OTHER PERSONS [SEC. 133]

General provision [Sec. 133(1)]	<p>Where any person engaged in</p> <ul style="list-style-type: none"> ◆ connection with the collection of statistics under section 151 or ◆ compilation or computerisation thereof or ◆ if any officer of central tax having access to information specified under sub-section (1) of section 150, or ◆ if any person engaged in connection with the provision of service on the common portal or ◆ the agent of common portal, wilfully discloses any information or
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	<p>♦ the contents of any return furnished under this Act or rules made thereunder</p> <p>otherwise than in execution of his duties under the said sections or for the purposes of prosecution for an offence under this Act or under any other Act for the time being in force, he shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to twenty-five thousand rupees, or with both.</p>
<p>Sanction by prescribed authority</p> <p>[Sec. 133(2)]</p>	<p>Any person—</p> <p>(a) who is a Government servant shall not be prosecuted for any offence under this section except with the previous sanction of the Government;</p> <p>(b) who is not a Government servant shall not be prosecuted for any offence under this section except with the previous sanction of the Commissioner.</p>

COGNIZANCE OF OFFENCES [SEC. 134]

No court shall take cognizance of any offence punishable under this Act or the rules made thereunder except with the previous sanction of the Commissioner, and no court inferior to that of a Magistrate of the First Class, shall try any such offence.

PRESUMPTION OF CULPABLE MENTAL STATE [SEC. 135]

In any prosecution for an offence under this Act which requires a culpable mental state on the part of the accused, the court shall presume the existence of such mental state but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution.

Explanation.—For the purposes of this section,-

- (i) the expression “culpable mental state” includes intention, motive, knowledge of a fact, and belief in, or reason to believe, a fact;
- (ii) a fact is said to be proved only when the court believes it to exist beyond reasonable doubt and not merely when its existence is established by a preponderance of probability.

RELEVANCY OF STATEMENTS UNDER CERTAIN CIRCUMSTANCES [SEC. 136]

A statement made and signed by a person **on appearance** in response to any summons issued under section 70 during the course of any inquiry or proceedings under this Act shall be relevant, for the purpose of proving, in any prosecution for an offence under this Act, the truth of the facts which it contains,-

- (a) when the person who made the statement is dead or cannot be found, or is incapable of giving evidence, or is kept out of the way by the adverse party, or whose presence cannot be obtained without an amount of delay or expense which, under the circumstances of the case, the court considers unreasonable; or
- (b) when the person who made the statement is examined as a witness in the case before the court and the court is of the opinion that, having regard to the circumstances of the case, the statement should be admitted in evidence in the interest of justice.

OFFENCES BY COMPANIES [SEC. 137]

Liability of officer and Company [Sec. 137(1)]	Where an offence committed by a person under this Act is a company, every person who, at the time the offence was committed was in charge of, and was responsible to , the company for the conduct of business of the company, as well as the company , shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.
No liability in some cases [Sec. 137(2)]	Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any negligence on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
Liability of partnership firm, LLP, HUF, trust [Sec. 137(3)]	Where an offence under this Act has been committed by a taxable person being a partnership firm or a Limited Liability Partnership or a Hindu Undivided Family or a trust, the partner or karta or managing trustee shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly and the provisions of sub-section (2) shall, mutatis mutandis, apply to such persons.

Mo liability in some cases [Sec. 137(4)]	<p>Nothing contained in this section shall render any such person liable to any punishment.</p> <p>Provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.</p>
<p>Explanation.—For the purposes of this section,-</p> <p>(i) "company" means a body corporate and includes a firm or other association of individuals; and</p> <p>(ii) "director", in relation to a firm, means a partner in the firm.</p>	

COMPOUNDING OF OFFENCES [SEC. 138]

Compounded of offence [Sec. 138(1)]	<p>Any offence under this Act may,</p> <ul style="list-style-type: none"> ♦ either before or after the institution of prosecution, ♦ be compounded by the Commissioner on payment, ♦ by the person accused of the offence, ♦ to the Central Government or the State Government, as the case be, ♦ of such compounding amount in such manner as may be prescribed: <p>Provided that nothing contained in this section shall apply to</p> <p>(a) a person who has been allowed to compound once in respect of any of the offences specified in clauses (a) to (f) of sub-section (1) of section 132 and the offences specified in clause (I) which are relatable to offences specified in clauses (a) to (f) of the said sub-section;</p> <p>(b) a person who has been allowed to compound once in respect of any offence, other than those in clause (a), under this Act or under the provisions of any State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act or the Integrated Goods and Services Tax Act in respect of supplies of value exceeding one crore rupees;</p> <p>(c) a person who has been accused of committing an offence under this Act which is also an offence under any other law for the time being in force;</p>
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	<p>(d) a person who has been convicted for an offence under this Act by a court;</p> <p>(e) a person who has been accused of committing an offence specified in clause (g) or clause (j) or clause (k) of sub-section (1) of section 132; and</p> <p>(f) any other class of persons or offences as may be prescribed:</p> <p>Provided further that any compounding allowed under the provisions of this section shall not affect the proceedings, if any, instituted under any other law:</p> <p>Provided also that compounding shall be allowed only after making payment of tax, interest and penalty involved in such offences.</p>
<p>Compounding Fees [Sec. 138(2)]</p>	<p>The amount for compounding of offences under this section shall be such as may be prescribed, subject to the minimum amount not being less than ten thousand rupees or fifty per cent of the tax involved, whichever is higher, and the maximum amount not being less than thirty thousand rupees or one hundred and fifty per cent of the tax, whichever is higher.</p>
<p>No further proceeding [Sec. 138(3)]</p>	<p>On payment of such compounding amount as may be determined by the Commissioner, no further proceedings shall be initiated under this Act against the accused person in respect of the same offence and any criminal proceedings, if already initiated in respect of the said offence, shall stand abated.</p>

CHAPTER 27

TRANSITIONAL PROVISIONS

MIGRATION OF EXISTING TAXPAYERS

Explain the provisions relating to Migration of existing taxpayers.

Ans: Migration of existing taxpayers [Section 139]:

(1) Provisional Registration to registered person under existing laws [Section 139(1)]: On and from the appointed day i.e. 1-7-2017, —

- every person registered under any of the existing laws, and
- having a valid Permanent Account Number,
- shall be issued a certificate of registration on provisional basis,
- subject to such conditions and in such form and manner as may be prescribed.

Such provisional registration certificate unless replaced by a final certificate of registration under section 139(2) shall be liable to be cancelled if the conditions so prescribed are not complied with.

(2) Final Registration certificate [Section 139(2)] : The final certificate of registration shall be granted in such form and manner and subject to such conditions as may be prescribed.

(3) Cancellation of provisional registration [Section 139(3)]: The certificate of registration issued to a person under section 139(1) shall be deemed to have not been issued if the said registration is cancelled in pursuance of an application filed by such person that he was not liable to registration u/s 22 or section 24.

TRANSITIONAL ARRANGEMENTS FOR INPUT TAX CREDIT

Explain the transitional provisions relating to transfer of closing balance of CENVAT credit as reflected in the CENVAT return as Input tax credit under GST law.

Ans: The relevant provisions are discussed as under —

(1) Transfer of closing balance of CENVAT Credit as reflected in return [Section 140(1)]: A registered person, other than a person opting to pay tax under composition levy under section 10, shall be entitled to take, in his electronic credit ledger, the amount of CENVAT credit carried forward in the return relating to the period ending with the day immediately preceding the appointed day i.e. 01-07-2017, furnished by him under the existing law in such manner as may be prescribed.

(2) Conditions when credit will not be allowed : The registered person shall not be allowed to take credit in the following circumstances, namely: —

- (i) where the said amount of credit is not admissible as input tax credit under this Act; or
- (ii) where he has not furnished all the returns required under the existing law for the period of 6 months immediately preceding the appointed date; or
- (iii) where the said amount of credit relates to goods manufactured and cleared under such exemption notifications as are notified by the Government.

Explain the transitional provisions relating to transfer of unavailed CENVAT Credit on capital goods as Input tax credit under GST law.

Ans: The transitional provisions relating to transfer of unavailed CENVAT Credit on capital goods as Input tax credit under GST law are discussed as under :

(1) Transfer of unavailed credit of capital goods [Section 140(2)] : A registered person, other than a person opting to pay tax under section 10, shall be entitled to take, in his electronic credit ledger, credit of the unavailed CENVAT credit in respect of capital goods, not carried forward in a return, furnished under the existing law by him, for the period ending with the day immediately preceding the appointed day in such manner as may be prescribed.

(2) Transfer allowed when credit admissible under earlier law as well as in CGST law : The registered person shall not be allowed to take credit unless the said credit was admissible as CENVAT credit under the existing law and is also admissible as input tax credit under this Act.

(3) Meaning of "unavailed CENVAT credit" [Explanation]: "Unavailed CENVAT credit" means the amount that remains after subtracting the amount of CENVAT credit already availed in respect of capital goods by the taxable person under the existing law from the aggregate amount of CENVAT credit to which the said person was entitled in respect of the said capital goods under the existing law.

Illustration 1 - Eligibility to claim unavailed credit: Mr. X, an existing Central Excise Assessee, has obtained provisional Registration under CGST Act, 2017. He has following credit balance as on 30-06-2017. Determine eligible credit to be taken by him provided all the conditions specified in Section 140 of CGST Act, 2017 has been complied. The details of credit unavailed are —

(1) CENVAT credit balance in respect of inputs : Rs. 1,25,000 [out of the said inputs (attributable credit involved is Rs. 5,000) are not eligible under CGST Law].

(2) Capital Goods worth Rs. 20,00,000 on which duty paid amounted Rs. 5,00,000 were received in month of April, 2017. Credit taken during month of April, 2017 amounted to Rs. 2,50,000 out of which credit of Rs. 55,000 has been utilised upto 30-06-2017.

(3) CENVAT credit of balance of service tax paid on input services : Rs. 1,40,000 [out of the said inputs services (attributable credit involved is Rs. 14,000) are not eligible under CGST Law].

Given that Mr. X has not opted for composition scheme under Section 10 of CGST Act, 2017.

Solution: As per Section 140(1), a registered person, other than a person opting to pay tax under section 10, shall be entitled to take, in his electronic credit ledger, the amount of CENVAT credit carried forward in the return relating to the period ending with the day immediately preceding the appointed day, furnished by him under the existing law.

	Items	Eligible Credit (Rs.)	Remarks
1.	CENVAT credit balance in respect of inputs	1,20,000	Credit attributable to inputs which are not eligible under CGST Law shall not be transferred under CGST Law.
2.	CENVAT Credit relating to Capital Goods	4,45,000	Unavailed Credit of Capital goods shall be: Total credit in respect of capital goods - Credit utilised upto 30-06-2017. [Rs. 5,00,000 - Rs. 55,000]
3.	CENVAT credit of balance of service tax paid on input services	1,26,000	Credit attributable to input services which are not eligible under CGST Law shall not be transferred under CGST Law.
	Total amount of CENVAT credit to be transferred under CGST Act, 2017	6,91,000	

Illustration 2 - Eligibility to claim Unavailed credit : P Ltd. a existing taxable service provider has obtained provisional Registration under CGST Act, 2017. He has following credit balance as on 30-06-2017. Determine eligible credit to be taken provided all the conditions specified in Section 140(1) of CGST/SGST Act, 2017 has been complied. The details of credit unavailed as per the return for the period ending 30th June, 2017 is as follows:

		Rs.
1.	Central Excise	25,000
2.	Service Tax	1,40,000
3.	Krishi Kalyan Cess	5,000
4.	Additional Duty u/s 3(1) of Customs Tariff Act, 1975	30,000

What will be the amount of opening CGST to be brought forward as per the CGST Act, 2017 as on 01-07-2017?

Solution: The amount of CGST to be brought forward on 01-07-2017 will be calculated as follows :

	Items	Eligible Credit (Rs.)	Remarks
1.	Central Excise	25,000	Eligible : As per Section 140, P Ltd. shall be entitled to take, in his electronic credit ledger, credit of the unavailed CENVAT credit carried forward in return relating to period June, 2017.
2.	Service Tax	1,40,000	Eligible : As per Section 140, P Ltd. shall be entitled to take, in his electronic credit ledger, credit of the unavailed CENVAT credit carried forward in return relating to period June, 2017.
3.	Krishi Kalyan Cess	5,000	Eligible : As per Section 140, P Ltd. shall be entitled to take, in his electronic credit ledger, credit of the unavailed CENVAT credit carried forward in return relating to period June, 2017.
4.	Additional Duty u/ s 3(1) of Customs Tariff Act, 1975	30,000	Eligible : As per Section 140(2), P Ltd. shall be entitled to take, in his electronic credit ledger, credit of the unavailed CENVAT credit carried forward in return relating to period June, 2017.
Total amount of credit to be transferred under CGST Act, 2017		2,00,000	

Explain the transitional provisions relating to transfer of CENVAT Credit of duties and taxes on stock of inputs, inputs contained in semi-finished or finished goods in certain situations.

Ans: The transitional provisions relating to transfer of CENVAT Credit of duties and taxes on stock of inputs, inputs contained in semi-finished or finished goods in certain situations are as under :

(1) Credit of duties and taxes on stock of inputs, inputs contained in semi-finished or finished goods in certain cases [Section 140(3)]: A registered person, —

- who was not liable to be registered under the existing law, or
- who was engaged in the manufacture of exempted goods or provision of exempted services, or
- who was providing works contract service and was availing of the benefit of Notification No. 26/2012-ST, dated 20-6-2012, or
- a first stage dealer, or
- a second stage dealer, or
- a registered importer, or
- a depot of a manufacturer,

shall be entitled to take, in his electronic credit ledger, credit of **eligible duties** in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day.

Eligible duties : "Eligible duties" means —

(i) the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957;

(ii) the additional duty leviable under section 3(1) of the Customs Tariff Act, 1975;

(iii) the additional duty leviable under section 3(5) of the Customs Tariff Act, 1975;

(iv) the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Textile and Textile Articles) Act, 1978;

(v) the duty of excise specified in the First Schedule to the Central Excise Tariff Act, 1985;

(vi) the duty of excise specified in the Second Schedule to the Central Excise Tariff Act, 1985; and

(vii) the National Calamity Contingent Duty leviable under section 136 of the Finance Act, 2001, in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day.

Conditions subject to which Credit shall be allowed: The following conditions must be satisfied namely:-

- (i) such inputs or goods are used or intended to be used for making taxable supplies under this Act;
- (ii) the said registered person is eligible for input tax credit on such inputs under this Act;
- (iii) the said registered person is in possession of invoice or other prescribed documents evidencing payment of duty under the existing law in respect of such inputs;
- (iv) such invoices or other prescribed documents were issued not earlier than 12 months immediately preceding the appointed day; and
- (v) the supplier of services is not eligible for any abatement under this Act.

Allowance of credit at rate prescribed in Rules when duty paying documents not available :

Where a registered person, other than a manufacturer or a supplier of services, is not in possession of an invoice or any other documents evidencing payment of duty in respect of inputs, then, such registered person shall, subject to such conditions, limitations and safeguards as may be prescribed, including that the said taxable person shall pass on the benefit of such credit by way of reduced prices to the recipient, be allowed to take credit at such rate and in such manner as may be prescribed i.e. as per Rule 117(4) of CGST Rules, 2017.

(2) Calculation of credit in prescribed manner [Section 140(10)]: The amount of credit shall be calculated in such manner as may be prescribed.

Illustration 3 - Input tax credit - Work contract service: Mr. X., a registered service provider, provides work contract service. For the same he has availed abatement and wishes to obtain credit of cement and other inputs used in construction of premises which is not yet sold. Determine his eligibility for availing credit.

Ans: As per Section 140(3), any person who was providing works contract service and was availing of the benefit of Notification No. 26/2012, dated 20th June, 2012 shall be entitled to take credit of eligible duties and taxes in respect of inputs held in stock, inputs contained in semi-finished and finished goods held in stock as on the date immediately preceding the appointed date.

In the given case, Mr. X has input contained in premises in stock as on 30-06-2017. Therefore as per above provision, Mr. X is entitled to take credit of input tax paid on cement and other inputs contained in premises in stock provided specified conditions have been complied.

Illustration 4 - Credit of duties on stock of inputs : Mr. X, an importer carrying out business of import and sale of goods obtained registration as importer under Central Excise Act, 1944 and rules made thereunder. At time of import he pays CVD and SAD on the goods. He doesn't take credit of tax paid on such inputs but passes on the credit to his customer by issuing invoice. He has obtained registration under CGST Act, 2017 and has stock of such inputs lying with him on 01-07-2017. Determine whether he is eligible to take credit on such inputs in stock.

Ans: As per Section 140(3), a registered importer shall be entitled to take, in his electronic credit ledger, credit of eligible duties in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day i.e. 1-7-2017 subject to some specified conditions.

In the given case the importer can take credit of CVD and SAD paid on inputs lying in stock provided he must have in possession invoice or document evidencing payment of duty under existing laws on input received.

Explain the transitional provisions relating to transfer of CENVAT Credit under GST Law in respect of stocks of person engaged in the manufacture of taxable as well as exempted goods or provision of taxable as well as exempted services.

Ans: The transitional provisions relating to transfer of CENVAT Credit under GST Law in respect of stocks of person engaged in the manufacture of taxable as well as exempted goods or provision of taxable as well as exempted services are as under :

(1) Credit in respect of stocks of person engaged in the manufacture of taxable as well as exempted goods or provision of taxable as well as exempted services [Section 140(4)]: A registered person, who was engaged in the —

- manufacture of taxable as well as exempted goods under the Central Excise Act, 1944, or
- provision of taxable as well as exempted services under Chapter V of the Finance Act, 1994, but which are liable to tax under this Act, shall be entitled to take, in his electronic credit ledger, -

(a) the amount of CENVAT credit carried forward in a return furnished under the existing law by him in accordance with the provisions of Section 140(1); and

(b) the amount of CENVAT credit of **eligible duties** in respect of inputs held in stock and inputs contained in semifinished or finished goods held in stock on the appointed day, relating to such exempted goods or services, in accordance with the provisions of Section 140(3).

Eligible duties : "Eligible duties" means-

- a. the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957;
- b. the additional duty leviable under section 3(1) of the Customs Tariff Act, 1975;
- c. the additional duty leviable under section 3(5) of the Customs Tariff Act, 1975;
- d. the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Textile and Textile Articles) Act, 1978;
- e. the duty of excise specified in the First Schedule to the Central Excise Tariff Act, 1985;
- f. the duty of excise specified in the Second Schedule to the Central Excise Tariff Act, 1985; and
- g. the National Calamity Contingent Duty leviable under section 136 of the Finance Act, 2001, in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day.

(2) Calculation of credit in prescribed manner [Section 140(10)]: The amount of credit shall be calculated in such manner as may be prescribed.

Explain the transitional provisions relating to transfer of CENVAT Credit in respect of eligible duties and taxes in respect of inputs or input services in transit.

Ans: The transitional provisions relating to transfer of CENVAT Credit in respect of eligible duties and taxes in respect of inputs or input services in transit are as under :

(1) Credit of eligible duties and taxes in respect of inputs or input services in transit on appointed day [Section 140(5)]:

A registered person shall be entitled to take, in his electronic credit ledger, credit of **eligible duties and taxes** in respect of inputs or input services received on or after the appointed day but the duty or tax in respect of which has been paid by the supplier under the existing law, subject to the condition that the invoice or any other duty or tax paying document of the same was recorded in the books of account of such person within a period of 30 days from the appointed day.

Extension - Further 30 days : The period of 30 days may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding 30 days.

Furnishing of statement of credit taken : Registered person shall furnish a statement, in such manner as may be prescribed, in respect of credit that has been taken under this sub-section.

(2) Eligible duties and taxes : "Eligible duties and taxes" means-

- a. the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957;
- b. the additional duty leviable under section 3(1) of the Customs Tariff Act, 1975;
- c. the additional duty leviable under section 3(5) of the Customs Tariff Act, 1975;
- d. the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Textile and Textile Articles) Act, 1978;
- e. the duty of excise specified in the First Schedule to the Central Excise Tariff Act, 1985;
- f. the duty of excise specified in the Second Schedule to the Central Excise Tariff Act, 1985;
- g. the National Calamity Contingent Duty leviable under section 136 of the Finance Act, 2001; and
- h. the service tax leviable under section 66B of the Finance Act, 1994, in respect of inputs and input services received on or after the appointed day.

Illustration 5 - Credit on input service in transit: B Ltd. an event management company entered into an agreement with PQ Ltd. to provide its services for organising conference on 10-07-2017 and for the same invoice was issued and consideration received on 29-06-2017 which has been accounted for in books on 12-07-2017. Determine whether PQ Ltd. can take credit on such input service in transit as on 30-06-2017.

Ans: As per Section 140(5), a registered person shall be entitled to take, in his electronic credit ledger, credit of eligible duties and taxes in respect of input services received on or after the appointed day but the duty or tax in respect of which has been paid by the supplier under the existing law, subject to the condition that the invoice or any document of the same was recorded in the books of account of such person within a period of 30 days from the appointed date.

Hence, PQ Ltd. is eligible to take credit of tax paid on input service of event management on 30-06-2017 as invoice has been accounted for in books of account within 30 days from the appointed date i.e. on 12-07-2017.

Explain the transitional provisions relating to CENVAT Credit of eligible duties and taxes on inputs held in stock to be allowed to a taxable person switching over from composition scheme.

Arts: The transitional provisions relating to CENVAT Credit of eligible duties and taxes on inputs held in stock to be allowed to a taxable person switching over from composition scheme :

(1) **Credit in case of switching from Composition Scheme [Section 140(6)]**: A registered person, who was either paying tax at a fixed rate or paying a fixed amount in lieu of the tax payable under the existing law shall be entitled to take, in his electronic credit ledger, credit of eligible duties in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day.

Conditions subject to which Credit shall be allowed : The credit shall be allowed subject to fulfillment of the following conditions, namely:-

- (i) such inputs or goods are used or intended to be used for making taxable supplies under this Act;
- (ii) the said registered person is not paying tax under section 10;
- (iii) the said registered person is eligible for input tax credit on such inputs under this Act;
- (iv) the said registered person is in possession of invoice or other prescribed documents evidencing payment of duty under the existing law in respect of inputs; and
- (v) such invoices or other prescribed documents were issued not earlier than 12 months immediately preceding the appointed day.

(2) **Eligible duties** : "Eligible duties" means-

- (i) the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957;
 - (ii) the additional duty leviable under section 3(1) of the Customs Tariff Act, 1975;
 - (iii) the additional duty leviable under section 3(5) of the Customs Tariff Act, 1975;
 - (iv) the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Textile and Textile Articles) Act, 1978;
 - (v) the duty of excise specified in the First Schedule to the Central Excise Tariff Act, 1985;
 - (vi) the duty of excise specified in the Second Schedule to the Central Excise Tariff Act, 1985;
- and

- (vii) the National Calamity Contingent Duty leviable under section 136 of the Finance Act, 2001, in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day.

Explain the transitional provisions relating to credit distribution of service tax by Input Service Distributor.

Ans: The transitional provisions relating to credit distribution of service tax by Input Service Distributor are as under :

(1) Distribution of credit on Input service by ISD [Section 140(7)]: Notwithstanding anything to the contrary contained in this Act, the input tax credit on account of any services received prior to the appointed day by an Input Service Distributor shall be eligible for distribution as credit under this Act even if the invoices relating to such services are received on or after the appointed day.

(2) Analysis:

- (i) This provision has an overriding effect over all other provisions under the GST law.
- (ii) This provision is applicable when :
 - (a) The services are received by the Input Service Distributor before the date of applicability of GST and
 - (b) Tax on such services have not yet been distributed by the Input Service Distributor on the date of applicability of GST.
 - (c) Invoices relating to such services are received on or after appointed date.
- (iii) Such services will be eligible for distribution as credit under the GST law.
- (iv) Such provision will be applicable irrespective of the date of receipt of invoice by the Input Service Distributor.

Explain the provision for transfer of unutilized CENVAT Credit by taxable person having centralized registration under the earlier law

Ans: The provision for transfer of unutilized CENVAT Credit by taxable person having centralized registration under the earlier law are discussed as under :

(1) CENVAT Credit in respect of registered person having centralised registration [Section 140(8)] : Where a registered person having centralised registration under the existing law has obtained a registration under this Act, such person shall be allowed to take, in his electronic credit ledger, credit of the amount of CENVAT credit carried forward in a return, furnished under the existing law by him, in respect of the period ending with the day immediately preceding the appointed day in such manner as may be prescribed.

Conditions for transfer of Credit: The following conditions must be fulfilled for transfer of credit—

- **Furnishing of return - within 3 months from appointed date :** If the registered person furnishes his return for the period ending with the day immediately preceding the appointed day within 3 months of the appointed day, such credit shall be allowed subject to the condition that the said return is either an original return or a revised return where the credit has been reduced from that claimed earlier.
- **Credit must be eligible under GST law :** The registered person shall not be allowed to take credit unless the said amount is admissible as input tax credit under this Act.
- **Credit may be transferred to any person having same PAN :** Such credit may be transferred to any of the registered persons having the same Permanent Account Number for which the centralised registration was obtained under the existing law.

(2) Other Aspects: It must be noted that—

- (a) Only those credits which are admissible under GST law will be allowed.
- (b) Credit may be transferred to any registered taxable person having the same PAN for which centralised registration was obtained under existing law.
- (c) This section does not prevent upward revision of credits. However, in respect of downward revision of credits such lower credits alone shall be permitted.
- (d) The provision does not lay down any criteria for such transfer of credit between various locations of the person.

TRANSITIONAL PROVISIONS RELATING TO JOB WORK

Explain the transitional provisions relating to job work.

Ans: Transitional provisions relating to job work [Section 141]:

(1) Transitional provisions relating to inputs sent on job work - No tax payable if inputs received back within 6 months after appointed day [Section 141(1)]: Where any inputs received at a place of business —

- had been removed as such or removed after being partially processed
- to a job worker for further processing, testing, repair, reconditioning or any other purpose in accordance with the provisions of existing law
- prior to the appointed day and
- such inputs are returned to the said place on or after the appointed day,
- no tax shall be payable if such inputs,
- after completion of the job work or otherwise,
- are returned to the said place within 6 months from the appointed day.

Extension by Commissioner for further 2 months : The period of 6 months may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding 2 months.

Recovery of ITC if inputs not received back : If such inputs are not returned within the period specified above, the ITC shall be liable to be recovered in accordance with the provisions of Section 142(8)(a).

(2) Transitional provisions relating to semi-finished goods sent on job work - No tax payable if semi-finished goods received back within 6 months after appointed day [Section 141(2)] :

Where any semi-finished goods had been removed from the place of business to any other premises for carrying out certain manufacturing processes in accordance with the provisions of existing law prior to the appointed day and such goods (hereafter in this section referred to as "the said goods") are returned to the said place on or after the appointed day, no tax shall be payable, if the said goods, after undergoing manufacturing processes or otherwise, are returned to the said place within 6 months from the appointed day.

Extension by Commissioner for further 2 months : The period of 6 months may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding 2 months.

Recovery of ITC if semi-finished goods not received back : If the said goods are not returned within the period specified above, the input tax credit shall be liable to be recovered in accordance with the provisions of Section 142(8)(a).

Transfer of goods from job-workers premises to other registered premises : The manufacturer may, in accordance with the provisions of the existing law, transfer the said goods to the premises of any registered person for the purpose of supplying there from on payment of tax in India or without payment of tax for exports within the period specified in this sub-section.

(3) Transitional provisions relating to excisable goods sent on job work for tests etc. - No tax payable if excisable goods received back within 6 months after appointed day [Section 141(3)]

: Where any excisable goods manufactured at a place of business had been removed without payment of duty for carrying out tests or any other process not amounting to manufacture, to any other premises, whether registered or not, in accordance with the provisions of existing law prior to the appointed day and such goods, are returned to the said place on or after the appointed day, no tax shall be payable if the said goods, after undergoing tests or any other process, are returned to the said place within 6 months from the appointed day.

Extension by Commissioner for further 2 months : The period of 6 months may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding 2 months.

Recovery of ITC if excisable goods not received back : If the said goods are not returned within the period specified above, the input tax credit shall be liable to be recovered in accordance with the provisions of Section 142(8)(a).

Transfer of goods from other premises : The manufacturer may, in accordance with the provisions of the existing law, transfer the said goods from the said other premises on payment of tax in India or without payment of tax for exports within the period specified in this sub-section.

(4) Declaration to be furnished by manufacturer and job worker relating to stock [Section 141(4)]: The tax under sections 141(1),(2) and (3) shall not be payable, only if the manufacturer and the job worker declare the details of the inputs or goods held in stock by the job worker on behalf of the manufacturer on the appointed day in such form and manner and within such time as may be prescribed.

Illustration 6 - Transitional provisions - Job work - Inputs : XYZ Ltd., a manufacturer of excisable goods, had removed inputs worth Rs. 5,00,000, on which CENVAT credit of Rs. 62,500 was availed, on 1st January, 2017 for job work. On 10th December, 2017, the inputs are returned by the job worker. Determine its credit implications. GST being applicable w.e.f. 1-7- 2017. What would your answer be if the said inputs are not received back upto 31-12-2017 and no extension is granted by the Commissioner.

Solution: As per provisions of Section 141, if inputs removed by a Principal to Job Worker's premises are returned to the Principal within 6 months (or within an extended period of further 2 months) no tax shall be payable. However, if the inputs are not returned within 6 months or such extended period of 2 months then the input tax credit availed by the Principal shall be recovered as arrears of tax under CGST Law and no input tax credit of such tax paid shall be allowed.

Since in first case, the inputs are returned within 6 months from the date of applicability of GST, no tax will be payable.

When the inputs are not received back upto 31-12-2017, then the input tax credit shall be liable to be recovered in terms of Section 142(8)(a); i.e., the input tax credit amounting Rs. 62,500 will be recovered from the principal as an arrear of tax under the CGST Act and the amount so recovered shall not be admissible as input tax credit.

Illustration 7 - Transitional provisions - Job work - Semi-finished goods : ABC Ltd. a manufacturer had removed semifinished goods worth Rs. 5,00,000 on 1st January, 2017 for further processing and CENVAT availed thereon was Rs. 62,500. On 10th October, 2017, these goods are returned by the job worker to ABC Ltd. Determine its credit implications. What would your answer be if finished goods are directly supplied for Rs. 8,00,000 from job-workers premises to a registered taxable person on 10th October, 2017. The GST rate on said goods is 12%.

Solution: As per Section 141, if semi-finished goods removed by a Principal to a Job Worker's premises are returned to the Principal within 6 months (or within an extended period of further 2 months) no tax shall be payable. However, if the semifinished goods are not returned within 6 months or such extended period of an additional 2 months then the input tax credit availed by the Principal shall be recovered as arrears of tax under the CGST Law. The manufacturer may, instead of bringing the said goods back to his place of business, transfer the said goods to the premises of any registered person for the purpose of supplying there from to places within India or for exports.

In first case no tax shall be payable on the goods since the goods are returned within 6 months from the date of applicability of GST.

If the goods are directly transferred to a registered taxable person on 10th October, 2017, GST will be payable @ 12% of Rs. 8,00,000 = Rs. 96,000.

MISCELLANEOUS TRANSITIONAL PROVISIONS

Explain the transitional provisions relating to Issue of supplementary invoices, debit or credit notes where the price is revised in pursuance of a contract.

Ans: Supplementary Invoice, Debit Notes, Credit Notes on account of price variations [Section 142(2)]:

(1) Issue of supplementary invoice/ debit note on account of price escalation : Where, in pursuance of a contract entered into prior to the appointed day, the price of any goods or services or both is revised upwards on or after the appointed day, the registered person who had removed or provided such goods or services or both, shall issue to the recipient a supplementary invoice or debit note, containing such particulars as may be prescribed, within 30 days of such price revision and for the purposes of this Act such supplementary invoice or debit note shall be deemed to have been issued in respect of an outward supply made under this Act.

(2) Issue of credit note on account of price reduction: Where, in pursuance of a contract entered into prior to the appointed day, the price of any goods or services or both is revised downwards on or after the appointed day, the registered person who had removed or provided such goods or services or both, may issue to the recipient a credit note, containing such particulars as may be prescribed, within 30 days of such price revision and for the purposes of this Act such credit note shall be deemed to have been issued in respect of an outward supply made under this Act.

Reduction of tax liability of supplier when recipient has reversed ITC : The registered person shall be allowed to reduce his tax liability on account of issue of the credit note only if the recipient of the credit note has reduced his input tax credit corresponding to such reduction of tax liability.

Illustration 8 - Upward price revision : XYZ Ltd., a supplier of services has entered into a contract with ABC Ltd. for supply of maintenance services. It has billed Rs. 10,00,000 on 1st June 2017 and charged service tax on the same. On re-negotiations, this price was revised to Rs. 15,50,000 on 15th July, 2017. Discuss GST implications in hands of XYZ Ltd. on account of renegotiation of price if applicable GST rate is 18%.

Solution: As per Section 142(2), where, in pursuance of a contract entered into prior to the appointed day, the price of any goods or services or both is revised upwards on or after the appointed day, the registered taxable person who had removed or provided such goods or services or both has to issue to the recipient a supplementary invoice or debit note, within 30 days of such price revision. For the purposes of GST Act such supplementary invoice or debit note shall be deemed to have been issued in respect of an outward supply made under this Act.

Thus, in this case, XYZ Ltd. should issue a supplementary invoice/debit note for Rs. 5,50,000 within 30 days of 15th July, 2017 i.e. by 15th August, 2017. This supplementary invoice/debit note shall be deemed to have been issued in respect of an outward supply and the company will be required to charge GST @18% of Rs. 5,50,000 = Rs. 99,000.

Is there any requirement to pay CGST if VAT/ Service tax has already been paid on any transaction.

Ans: The relevant provisions are discussed as under —

(1) CGST not payable to the extent of VAT/ Service tax paid earlier [Section 142(11)]:

(a) Notwithstanding anything contained in Section 12, no tax shall be payable on goods under this Act to the extent the tax was leviable on the said goods under the Value Added Tax Act of the State.

(b) Notwithstanding anything contained in section 13, no tax shall be payable on services under this Act to the extent the tax was leviable on the said services under Chapter V of the Finance Act, 1994.

(c) Where tax was paid on any supply both under the Value Added Tax Act and under Chapter V of the Finance Act, 1994, tax shall be leviable under this Act and the taxable person shall be entitled to take credit of value added tax or service tax paid under the existing law to the extent of supplies made after the appointed day and such credit shall be calculated in such manner as may be prescribed.

(2) Analysis : This transition provision deals with transactions which have suffered tax (Value Added Tax or Service Tax) on the ground that consideration was received under the earlier law, whereas the supply is made after the date of introduction of GST. GST shall not be levied on the supply to the extent Value Added Tax or Service Tax, as the case may be, was leviable on the said supply.

Illustration 9 - GST liability when tax paid in earlier law : XYZ & Co., a service provider has received an advance amounting to Rs. 10,00,000 on 20th June 2017 on which service tax was paid as per Finance Act, 1994. The service was supplied on 15th July 2017. Invoice for such service amounting to Rs. 15,00,000 was raised on 25th July 2017. Determine the extent of GST liability.

Solution: As per provisions of Section 142(11), GST shall not be levied on a supply to the extent Service Tax, as the case may be, was leviable on the said supply. Thus, XYZ & Co. would be liable to pay GST only on Rs. 5,00,000.

Explain the transitional provisions regarding Goods sent on approval basis returned after appointed day.

Ans: Goods sent on approval basis returned after appointed day [Section 142(12)]: Where any goods sent on approval basis, not earlier than 6 months before the appointed day, are rejected or not approved by the buyer and returned to the seller on or after the appointed day, no tax shall be payable thereon if such goods are returned within 6 months from the appointed day.

Extension by Commissioner for further 2 months : The period of 6 months may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding 2 months.

Tax payable by the buyer if goods returned after specified period : The tax shall be payable by the person returning the goods if such goods are liable to tax under this Act, and are returned after a period specified above.

Tax payable by seller where goods not returned : Tax shall be payable by the person who has sent the goods on approval basis if such goods are liable to tax under this Act, and are not returned within a period specified above.

Illustration 10 - Goods sent on approval basis: M/s. X has sold goods to M/s. Y on approval basis on 15-04-2017. Determine the taxability in following case if said goods are returned on :

- 08-10-2017
- 10-03-2018
- Not at all returned.

Solution: As per Section 142(12) of CGST Act, GST is not payable on return of goods by buyer if following conditions are satisfied:

- Goods are sent on approval basis to the buyer during 01-01-2017 to 30-06-2017.
- Goods were rejected by buyer and returned to seller during 01-07-2017 to 31-12-2017. However, the period of returning of the goods can be extended by competent authority for period not exceeding 2 months.
- If goods are returned after extended period, the tax shall be payable by the buyer. If goods are not at all returned then it will be treated as sale and tax shall be paid by seller.

In the given case goods are sent by M/s. X to M/s. Y on approval basis if the same were —

- Returned to M/s. X on 08-10-2017 then no tax shall be payable as goods were returned during 01-07-2017 to 31-12-2017.
- Rejected and returned by M/s. Y on 10-03-2018 then tax shall be payable by M/s. Y as goods were returned after the period of return specified including extended period (01-07-2017 to 28-02-2017).
- Goods were not returned by M/s. Y then it will be considered as sale and tax has to be paid by M/s. X.

CHAPTER 28

JOB WORK PROCEDURE

JOB WORK PROCEDURE

1. What do you mean by Job -Work. Explain the provisions relating to job work under CGST Act, 2017.

Ans: The relevant provisions are discussed as under —

[A] Job work [Section 2(68)] : "Job work" means any treatment or process undertaken by a person on goods belonging to another registered person and the expression "job worker" shall be construed accordingly.

[B] Job work procedure [Section 143]:

(1) Inputs and Capital goods can be sent to job-worker without payment of tax [Section 143(1)] : A registered person (hereafter in this section referred to as the "principal") may under intimation and subject to such conditions as may be prescribed, send any inputs or capital goods, without payment of tax, to a job worker for job work and from there subsequently send to another job worker and likewise, and shall, —

(a) bring back inputs, after completion of job work or otherwise, or capital goods, other than moulds and dies, jigs and fixtures, or tools, within 1 year and 3 years, respectively, of their being sent out, to any of his place of business, without payment of tax;

(b) supply such inputs, after completion of job work or otherwise, or capital goods, other than moulds and dies, jigs and fixtures, or tools, within 1 year and 3 years, respectively, of their being sent out from the place of business of a job worker on payment of tax within India, or with or without payment of tax for export, as the case may be.

Principal to declare job-workers place as additional place of business : The principal shall not supply the goods from the place of business of a job worker in accordance with the above provisions unless the said principal declares the place of business of the job worker as his additional place of business except in a case —

(i) where the job worker is registered under section 25; or

(ii) where the principal is engaged in the supply of such goods as may be notified by the Commissioner.

(2) Principal to keep proper records [Section 143(2)] : The responsibility for keeping proper accounts for the inputs or capital goods shall lie with the principal.

(3) Deemed supply of inputs [Section 143(3)]: Where the inputs sent for job work —

- are not received back by the principal after completion of job work or otherwise in accordance with the provisions of Section 143(1)(a), or
- are not supplied from the place of business of the job worker in accordance with the provisions of Section 143(1)(b)
- within a period of 1 year of their being sent out,
- it shall be deemed that such inputs had been supplied by the principal to the job worker on the day when the said inputs were sent out.

(4) Deemed supply of Capital goods [Section 143(4)] : Where the capital goods, other than moulds and dies, jigs and fixtures, or tools, sent for job work —

- are not received back by the principal in accordance with the provisions of Section 143(1)(a), or
- are not supplied from the place of business of the job worker in accordance with the provisions of Section 143(1)(b) within a period of three years of their being sent out, it shall be deemed that such capital goods had been supplied by the principal to the job worker on the day when the said capital goods were sent out.

(5) Removal of waste and scrap on payment of tax [Section 143(5)]: Notwithstanding anything contained in Sections 143(1) and (2), any waste and scrap generated during the job work—

- may be supplied by the job worker directly from his place of business on payment of tax, if such job worker is registered, or
- by the principal, if the job worker is not registered.

Input includes intermediate goods [Explanation] : For the purposes of job work, input includes intermediate goods arising from any treatment or process carried out on the inputs by the principal or the job worker.

CHAPTER 29

MISCELLANEOUS PROVISIONS

PRESUMPTION AS TO DOCUMENTS IN CERTAIN CASES

Write note on presumption as to documents in certain cases under CGST law.

Ans: Presumption as to documents in certain cases [Section 144]: Where any document —

- (i) is produced by any person under this Act or any other law for the time being in force; or
- (ii) has been seized from the custody or control of any person under this Act or any other law for the time being in force; or
- (iii) has been received from any place outside India in the course of any proceedings under this Act or any other law for the time being in force, and such document is tendered by the prosecution in evidence against him or any other person who is tried jointly with him, the court shall —

(a) unless the contrary is proved by such person, presume —

- (i) the truth of the contents of such document;
- (ii) that the signature and every other part of such document which purports to be in the handwriting of any particular person or which the court may reasonably assume to have been signed by, or to be in the handwriting of, any particular person, is in that person's handwriting, and in the case of a document executed or attested, that it was executed or attested by the person by whom it purports to have been so executed or attested;

(b) admit the document in evidence notwithstanding that it is not duly stamped, if such document is otherwise admissible in evidence.

Write a note on admissibility of micro films, facsimile copies of documents and computer printouts as documents and as evidence.

Ans: Admissibility of micro films, facsimile copies of documents and computer printouts as documents and as evidence [Section 145]:

(1) Micro films, facsimile copies and computer printouts deemed to document and admissible as evidence [Section 145(1)]: Notwithstanding anything contained in any other law for the time being in force, —

(a) a micro film of a document or the reproduction of the image or images embodied in such micro film (whether enlarged or not); or

(b) a facsimile copy of a document; or

(c) a statement contained in a document and included in a printed material produced by a computer, subject to such conditions as may be prescribed; or

(d) any information stored electronically in any device or media, including any hard copies made of such information, shall be deemed to be a document for the purposes of this Act and the rules made thereunder and shall be admissible in any proceedings thereunder, without further proof or production of the original, as evidence of any contents of the original or of any fact stated therein of which direct evidence would be admissible.

(2) Certificate to be evidence [Section 145(2)]: In any proceedings under this Act or the rules made thereunder, where it is desired to give a statement in evidence by virtue of this section, a certificate, —

(a) identifying the document containing the statement and describing the manner in which it was produced;

(b) giving such particulars of any device involved in the production of that document as may be appropriate for the purpose of showing that the document was produced by a computer,

shall be evidence of any matter stated in the certificate and for the purposes of this sub-section it shall be sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it.

Write a note on Common Portal.

Ans: Common Portal [Section 146]: The Government may, —

- on the recommendations of the Council,
- notify the **Common Goods and Services Tax Electronic Portal** for—

facilitating registration, payment of tax, furnishing of returns, computation and settlement of integrated tax, electronic way bill and for carrying out such other functions and for such purposes as may be prescribed.

Notification No. 4/2017-CT dated 19-06-2017 w.e.f 22-06-2017	<p>www.gst.gov.in has been notified as Common Goods and Services Tax Electronic Portal.</p> <p>The Central Government has notified www.gst.gov.in as the Common Goods and Services Tax Electronic Portal for facilitating registration, payment of tax, furnishing of returns, computation and settlement of integrated tax and electronic way bill.</p> <p><i>Explanation :</i> "www.gst.gov.in" means the website managed by the Goods and Services Tax Network, a company incorporated under the provisions of Sec. 8 of the Companies Act, 2013.</p>
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Write a note on Deemed exports.

Ans: Deemed exports [Section 147]: The Government may, on the recommendations of the Council, notify —

- certain supplies of goods as deemed exports,
- where goods supplied do not leave India,
- and payment for such supplies is received either in Indian rupees or in convertible foreign exchange,
- if such goods are manufactured in India.

Write a note on Special procedure for certain processes.

Ans: Special procedure for certain processes [Section 148] : The Government may, on the recommendations of the Council, and subject to such conditions and safeguards as may be prescribed, notify certain classes of registered persons, and the special procedures to be followed by such persons including those with regard to —

- registration,
- furnishing of return,
- payment of tax, and
- administration of such persons.

GOODS AND SERVICES TAX COMPLIANCE RATING

Write a note on Goods and services tax compliance rating.

Ans: Goods and services tax compliance rating [Section 149]:

(1) GST compliance rating score to be assigned to registered person [Section 149(1)] : Every registered person may be assigned a goods and services tax compliance rating score by the Government based on his record of compliance with the provisions of this Act.

(2) GST compliance rating score to be determined on basis of prescribed parameters [Section 149(2)] : The goods and services tax compliance rating score may be determined on the basis of such parameters as may be prescribed.

(3) Periodic updation of GST compliance rating score [Section 149(3)]: The goods and services tax compliance rating score may be updated at periodic intervals and intimated to the registered person and also placed in the public domain in such manner as may be prescribed.

OBLIGATION TO FURNISH INFORMATION RETURN

Write a note on Obligation to furnish information return.

Ans: Obligation to furnish information return [Section 150]:

(1) Specified Persons [Section 150(1)]: The following persons are required to furnish information return —

(a) a taxable person; or

(b) a local authority or other public body or association; or

(c) any authority of the State Government responsible for the collection of value added tax or sales tax or State excise duty or an authority of the Central Government responsible for the collection of excise duty or customs duty; or

(d) an income tax authority appointed under the provisions of the Income-tax Act, 1961; or

(e) a banking company within the meaning of Section 45A(a) of the Reserve Bank of India Act, 1934; or

(f) a State Electricity Board or an electricity distribution or transmission licensee under the Electricity Act, 2003, or any other entity entrusted with such functions by the Central Government or the State Government; or

(g) the Registrar or Sub-Registrar appointed under section 6 of the Registration Act, 1908; or

- (h) a Registrar within the meaning of the Companies Act, 2013; or
- (i) the registering authority empowered to register motor vehicles under the Motor Vehicles Act, 1988; or
- (j) the Collector referred to in Section 3(c) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013; or
- (k) the recognised stock exchange referred to in Section 2(f) of the Securities Contracts (Regulation) Act, 1956; or
- (l) a depository referred to in Section 2(l)(e) of the Depositories Act, 1996; or
- (m) an officer of the Reserve Bank of India as constituted u/s 3 of the Reserve Bank of India Act, 1934; or
- (n) the Goods and Services Tax Network, a company registered under the Companies Act, 2013; or
- (o) a person to whom a Unique Identity Number has been granted under section 25(9); or
- (p) any other person as may be specified, on the recommendations of the Council, by the Government,

who is responsible for maintaining record of registration or statement of accounts or any periodic return or document containing details of payment of tax and other details of—

- (i) transaction of goods or services or both, or
- (ii) transactions related to a bank account or
- (iii) transactions related to consumption of electricity, or
- (iv) transaction of purchase, sale or exchange of goods or property or right or interest in a property under any law for the time being in force.

(2) Information return to be furnished [Section 150(1)]: Such specified persons shall —

- furnish an information return of the aforesaid information,
- in respect of such periods,
- within such time,
- in such form and manner
- to such authority or agency as may be prescribed.

(3) Defective Information return - Notice of defect - Defect to be rectified within 30 days or extended period [Section 150(2)] : Where the Commissioner, or an officer authorised by him in this behalf, —

- considers that the information furnished in the information return is defective,
- he may intimate the defect to the person who has furnished such information return, and
- give him an opportunity of rectifying the defect
- within a period of 30 days from the date of such intimation, or within such further period which, on an application made in this behalf, the said authority may allow.

If defect not rectified - Deemed non submission of return: If the defect is not rectified within the said period of 30 days or, the further period so allowed, then, notwithstanding anything contained in any other provisions of this Act, such information return shall be treated as not furnished and the provisions of this Act shall apply.

(4) Returns not furnished - Prescribed authority may serve notice to furnish return [Section 150(3)]: Where a person who is required to furnish information return has not furnished the same within the time specified in Section 150(1)/(2), the said authority may serve upon him a notice requiring furnishing of such information return within a period not exceeding 90 days from the date of service of the notice and such person shall furnish the information return.

POWER TO COLLECT STATISTICS [SEC. 151]

(1) The Commissioner may, if he considers that it is necessary so to do, by notification, direct that statistics may be collected relating to any matter dealt with by or in connection with this Act.

(2) Upon such notification being issued, the Commissioner, or any person authorised by him in this behalf, may call upon the concerned persons to **furnish such information** or returns, in such form and manner as may be prescribed, relating to any matter in respect of which statistics is to be collected.

BAR ON DISCLOSURE OF INFORMATION [SEC. 152]

(1) **No information** of any individual return or part thereof with respect to any matter given for the purposes of section 150 or section 151 shall, **without the previous consent in writing** of the concerned person or his authorised representative, be **published** in such manner so as to enable such particulars to be identified as referring to a particular person and no such information shall be used for the purpose of any proceedings under this Act.

CHAPTER 30

ANTI-PROFITEERING

ANTI-PROFITEERING MEASURE (SEC 171)

Write a brief note on Background of anti-profiteering measures and need thereof.

Ans: The brief note on Background of anti-profiteering measures and need thereof is as under —

(1) Background of anti-profiteering measures : Anti-profiteering measures have been incorporated under GST laws to control prices of goods and/or services due to implementation of single tax system (GST) in the country.

Since GST is a multi-stage, destination-based value added tax and collected at every stage of supply chain to abolish cascading effect of tax in the newly tax structure in GST regime. The Government has anticipated that during introductory phase the prices of goods and/or services would be increased with implementation of GST with highest peak rate of 28% and with some commodities additional cess of 15% to compensate loss of States revenue. So the Government has proposed precaution in the shape of anti-profiteering provisions under GST Act to control illegal enhancement of prices of goods and/or services by the traders/ entrepreneurs to earn more profit with multiple GST rate structure.

(2) Need for anti-profiteering measures in India : With learning experiences of other countries GST law makers in India has taken extra precaution and incorporated the clause of anti-profiteering measures under GST laws to control rise in prices of goods and/or services after implementation of new tax regime (CGST) in the country.

The very objective of anti-profiteering measures to provide benefit of GST to the consumers in terms of reduced prices and not allow more profit margin to the businessmen in the cost of rise in prices of goods and/ or services resulting inflation in the country. This will also help in instilling confidence in the citizens.

Write a note on Anti-profiteering measure.

Ans: **Anti-profiteering measure [Section 171]:**

(1) Benefit of reduction in tax rates to be passed on to recipients [Section 171(1)] : Any reduction in rate of tax on any supply of goods or services or the benefit of input tax credit shall be passed on to the recipient by way of commensurate reduction in prices.

(2) Constitution of authority [Section 171(2)] : The Central Government may, on recommendations of the Council, by notification, constitute an Authority, or empower an existing Authority constituted under any law for the time being in force, to examine whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.

(3) Powers and functions as prescribed [Section 171(3)] : The Authority referred to in Section 171(2) shall exercise such powers and discharge such functions as may be prescribed.

**NATIONAL ANTI-PROFITEERING AUTHORITY, STANDING COMMITTEE,
"SCREENING COMMITTEE" AND THEIR CONSTITUTION**

With reference to anti profiteering explain the meaning of following terms :

(i) Authority

(ii) Committee

(iii) Interested party

(iv) Screening Committee.

Ans:

(i) Authority: "Authority" means the National Anti-profiteering Authority constituted under rule 122.

(ii) Committee : "Committee" means the Standing Committee on Anti-profiteering constituted by the Council in terms of Rule 123(1) of these rules.

(iii) Interested party: "interested party" includes -

(a) suppliers of goods or services under the proceedings; and

(b) recipients of goods or services under the proceedings.

(iv) Screening Committee : "Screening Committee" means the State level Screening Committee constituted in terms of Rule 123(2) of these rules.

CHAPTER 31

GST COMPENSATION CESS

DEFINITIONS

Briefly discuss Goods and Services Tax (Compensation to States) Act, 2017.

Ans: The relevant provisions are discussed as under—

(1) **Objective** : Goods and Services Tax (Compensation to States) Act, 2017 has been enacted to provide for compensation to the States for loss of revenue arising on account of implementation of the goods and services tax for a period of 5 years.

(2) **Extent**: It extends to the whole of India.

(3) **Commencement**: It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

LEVY AND COLLECTION OF CESS

Explain the provisions relating to levy and collection of GST compensation cess.

Ans: Levy and collection of cess [Section 8]: The relevant provisions are as under—

(1) **Levy of cess on Intra and Inter state supplies or both** [Section 8(1)]:

- **Levy** : GST compensation cess shall be levied on—
 - (i) intra-State supplies of goods or services or both, as provided for in Section 9 of the CGST Act, and
 - (ii) inter-State supplies of goods or services or both as provided for in Section 5 of the IGST Act.

- **Collection** : GST compensation cess shall be collected in such manner as may be prescribed.

Council's recommendation : GST compensation cess shall be levied on the recommendations of the Council.

- **Purpose of levy** : The cess is levied for the purposes of providing compensation to the States for loss of revenue arising on account of implementation of the goods and services tax with effect from the date from which the provisions of the Central Goods and Services Tax Act is brought into force.
- **Period of levy - 5 years** : Cess shall be levied for a period of **5 years** or for such period as may be prescribed on the recommendations of the Council.

- **No cess on composition levy** : No such cess shall be leviable on supplies made by a taxable person who has decided to opt for composition levy under section 10 of the CGST Act, 2017.

(2) Rate of GST compensation cess [Section 8(2)]: The cess shall be levied —

- on such supplies of goods and services as specified in the Schedule below,
- on the basis of value, quantity or on such basis at such rate not exceeding the rate set forth in the Schedule below, as the Central Government may, on the recommendations of the Council, by notification in the Official Gazette, specify:

S. No.	Description of supply of goods or services	Tariff item, heading, subheading, Chapter, or supply of goods or services, as the case may be	The maximum rate at which goods and services tax compensation cess may be collected
(1)	(2)	(3)	(4)
1.	Pan Masala.	2106 90 20	135%
2.	Tobacco and manufactured tobacco substitutes, including tobacco products.	24	Rs. 4,170 per thousand sticks or 290% or a combination thereof, but not exceeding Rs. 4,170 per thousand sticks plus 290%
3.	Coal, briquettes, ovoids and similar solid fuels manufactured from coal, lignite, whether or not agglomerated, excluding jet, peat (including peat litter), whether or not agglomerated.	2701, 2702 or 2703	Rs. 400 per tonne
4.	Aerated waters.	2202 10 10	15%
5.	Motor cars and other motor vehicles principally designed for the transport of persons (other than motor vehicles for the transport of 10 or more persons, including the driver), including station wagons and racing cars.	8703	15%
6.	Any other supplies.		15%

Cess to be levied on imports : The cess on goods imported into India shall be levied and collected in accordance with the provisions of Section 3 of the Customs Tariff Act, 1975, at the point when duties of customs are levied on the said goods under section 12 of the Customs Act, 1962, on a value determined under the Customs Tariff Act, 1975.

PROCEDURAL COMPLIANCES AND OTHER MISCELLANEOUS PROVISIONS

Explain the procedural compliances relating to payment of cess and filing of Returns and claiming of refunds.

Ans: Returns, payments and refunds [Section 9]:

(1) Payment of cess and furnishing of returns [Section 9(1)] : Every taxable person, making a taxable supply of goods or services or both, shall —

- (a) pay the amount of cess as payable under this Act in such manner;
- (b) furnish such returns in such forms, along with the returns to be filed under the Central Goods and Services Tax Act; and
- (c) apply for refunds of such cess paid in such form, as may be prescribed.

(2) CGST ACT provisions applicable for returns and refunds [Section 9(2)]: For —

- all purposes of furnishing of returns and claiming refunds,
- except for the form to be filed,

the provisions of the Central Goods and Services Tax Act and the rules made there-under, shall, as far as may be, apply in relation to the levy and collection of the cess leviable under section 8 on all taxable supplies of goods or services or both, as they apply in relation to the levy and collection of central tax on such supplies under the said Act or the rules made there-under.

Explain provisions relating to Crediting proceeds of cess to Fund.

Ans: Crediting proceeds of cess to Fund [Section 10]:

(1) Proceeds to be credited to GST Compensation fund [Section 10(1)] : The proceeds of the cess leviable under section 8 and such other amounts as may be recommended by the Council, shall be credited to a non-lapsable Fund known as the Goods and Services Tax Compensation Fund, which shall form part of the public account of India and shall be utilised for purposes specified in the said section.

(2) Compensation to be paid out of Fund [Section 10(2)]: All amounts payable to the States under section 7 shall be paid out of the Fund.

(3) Treatment of unutilised Fund [Section 10(3)]: The amount remaining unutilised in the Fund at the end of the transition period shall be transferred as follows —

- 50% shall be transferred to the Consolidated Fund of India as the share of Centre, and
- Balance 50% shall be distributed amongst the States in the ratio of their total revenues from the State tax or the Union territory goods and services tax, as the case may be, in the last year of the transition period.

(4) Audit of Fund by C&AG [Section 10(4)] : The accounts relating to Fund shall be audited by the Comptroller and Auditor-General of India or any person appointed by him at such intervals as may be specified by him and any expenditure in connection with such audit shall be payable by the Central Government to the Comptroller and Auditor- General of India.

(5) Certified accounts and Audit report of Fund to be laid before each House of Parliament [Section 10(5)]: The accounts of the Fund, as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be laid before each House of Parliament.

Which provisions of CGST Act, 2017 and SGST Act, 2017 are applicable to GST compensation Act, 2017.

Ans: **Other provisions relating to cess [Section 11]** : The following provisions of CGST Act, 2017 and SGST Act, 2017 are applicable to GST compensation Act, 2017:

(1) Provisions of CGST Act, 2017 applicable for intra-State supplies [Section 11]: The provisions of the Central Goods and Services Tax Act, and the rules made there-under, including those relating to —

- assessment,
- input tax credit,
- non-levy,
- short-levy,
- interest,
- appeals,
- offences and penalties,

shall, as far as may be, mutatis mutandis, apply, in relation to the levy and collection of the cess leviable under section 8 on the intra-State supply of goods and services, as they apply in relation to the levy and collection of central tax on such intra-State supplies under the said Act or the rules made there-under.

(2) Provisions of IGST Act, 2017 applicable for inter-State supplies [Section 11(2)] : The provisions of the Integrated Goods and Services Tax Act, and the rules made there-under, including those relating to

- assessment,
- input tax credit,
- non-levy,
- short-levy,
- interest,
- appeals,
- offences and penalties,

shall, mutatis mutandis, apply in relation to the levy and collection of the cess leviable under section 8 on the inter-State supply of goods and services, as they apply in relation to the levy and collection of integrated tax on such inter-State supplies under the said Act or the rules made there-under.

Write a note on Power to remove difficulties.

Ans: **Power to remove difficulties [Section 14]:**

(1) Order for removal of difficulties [Section 14(1)]: If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, on the recommendations of the Council, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty.

However, no order shall be made under this section after the expiry of 3 years from the commencement of this Act.

(2) Order to be laid before each house of Parliament [Section 14(2)] : Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

gkj ugh gksh

ygjksl sMjdj ukk ikj ugh gksh
dl'k'k djusokyksdh dHh gjk ugh gksh
ulgh pHh tc nuk yslj pyrh gS
p<rh nhkjks i j l k l kckj Qhl yrh gS
eu dk mRI kg jaksel kgl HjrkgS
p<dj fxjuk fxjdj p<uk u v[kjrk gS
vk[kj ml dh egur cdkj ugh gksh
dl'k'k djusokyksdh dHh gjk ugh gksh
Mcdh; k fl akqesxkck[kj yxkrkgS
Tk tldj [kyh gfk yk/dj vkrkgS
feyrsu lgt gh eksh xgjsi kuh es
c<rk nquk mRI kg bl h gSkuh es
e/Bh ml dh [kyh gj ckj ugh gksh
dl'k'k djusokyksdh dHh gjk ugh gksh
vl Qyrk vlg pqlsh gSml sLohdkj djks
D;k deh jg x;h n[ksvlg l qkj djks
tc rd l Qy u gkuhm psh dh R; kxksrē
l ak'kcdk esku NlM er Hkxksrē
dM fd;sfuk gh t; t; dkj ugh gksh
dl'k'k djusokyksdh dHh gjk ugh gksh

Examination Tips

- ✚ Select good reading material for each subject and then stick to it. Don't go for multiple books, notes and material. You will get confused and will end up wasting time.
- ✚ Prepare own notes in points form for each subject i.e. Theory and Practical. This is to be read at the time of exams.
- ✚ Read and understand theory carefully. It is the base for practical questions and will also ensure the marks of theory questions. Do not under estimate theory of each subject.
- ✚ Use same calculator, pens and pencils in the exam hall, which you are using daily. Changing them will reduce your speed and accuracy.
- ✚ Keep high confidence and morale during exam days. Take a good night sleep and feel fresh during exam hours.
- ✚ Do not waste the time after exams, waiting for the results. Keep your studies on. Time lost is lost forever.
- ✚ Take divorce from T.V. and other non-productive activities. But mild entertainment, physical exercise, regular diet is a must.
- ✚ Make a habit of solving question papers on your own i.e. suggested or Test series, preferably during the same hours in which exam is going to be conducted so that your body and brain gets habituated with this routine.
- ✚ Do not discuss the question paper after the exam. Go home, take food and take a nap.
- ✚ Get up and study for next paper from your brief notes.
- ✚ Prepare a Check list listing all the items to be taken to exam hall viz. Admit Card, Calculator, Pens, Pencils, Eraser, Stapler and pins, ruler, Pad for support etc. Ensure that you are carrying the same.
- ✚ Above all, Believe in yourself and keep faith in God. Go and appear for the exam. Success is yours.

Best of Luck!