

Chapter XIX

Miscellaneous

FAQ's

Job Work procedure (Section 143)

Q1. Who is principal for the purpose of job work?

Ans. A registered taxable person who sends any inputs or capital goods without payment of tax to a job worker for job-work

Q2. Whether goods sent by a taxable person to a Job Worker will be treated as supply and liable to GST? If yes, why?

Ans. It shall be regarded as supply as since it includes all forms of supply such as sale, transfer, etc. and also includes cases where the conditions as specified in section 143 of the CGST Act, 2017 are not met.

However, it shall not be regarded as supply if the conditions as specified in section 143 of CGST Act, 2017 are satisfied. As the deeming provision contained in section 143(3) to treat the goods sent by the principal to job worker as supply is applicable only when the condition of section 143 with respect to receiving back the goods within the stipulated period is not satisfied.

Q3. Does the additionally purchased material by the job-worker, incorporated in the goods received from the principal amount to supply?

Ans. Yes, it amounts to supply in the hands of the job worker as composite supply or otherwise.

Q4. Can a job worker take input credit on the inputs used in the process of job work?

Ans. Yes, the job worker is eligible to claim input tax credit since the processing charges received in respect of labour charges and the supply of additional goods added is taxable in the hands of the job worker.

Q5. Whether the Job worker is liable to pay GST under reverse charge mechanism on the goods or services if notified?

Ans. Yes. In terms of section 9(3) of the CGST Act, 2017 on the specified categories of supply of goods and/or services, the recipient of such goods and/or services is liable to pay GST under reverse charge basis. Further, Section 143 of the CGST Act, 2017 does not provide any exemption to job worker in this regard.

Q6. Can a registered taxable person send goods without payment of tax to his Job Worker?

Ans. Yes. Section 143 of the CGST Act, 2017 provides that the registered taxable person (principal) can send any inputs or capital goods to a job-worker for job-work without payment of tax. He, further can, send the goods from one job-worker to another job-worker and so on subject to certain conditions.

It may be noted that provisions of Section 143 are not applicable if non-taxable or exempted goods are proposed to be sent for job-work.

Q7. Is a job-worker required to take registration?

Ans. Yes, as a Job-worker would be a supplier of services, he would be required to obtain registration if his aggregate turnover exceeds the prescribed threshold limit.

Q8. Whether processing charges charged by the job worker to be shown separately in the invoice and are required to charge GST on the same?

Ans. Yes, if the goods supplied by the principal satisfies the conditions as enumerated in section 143 of CGST Act, 2017, then the job worker will have to show the processing charges separately and charge tax only on the processing charges.

Q9. Whether the goods of principal directly supplied from the job-worker's premises will be included in the aggregate turnover of the Job Worker?

Ans. No. Since the responsibility for accountability of inputs and/or capital goods lies with principal, it will be included in the aggregate turnover of the principal as enumerated in section 143 of the CGST Act, 2017.

Q10. Can the principal supply the goods directly from the premises of the job-worker without bringing it back to his own premises?

Ans. Yes, subject to the condition that the principal should have declared the premises of such job-worker as his additional place of business except where the job-worker is a registered person or where principal is engaged in supply of goods as notified by the Commissioner.

Q11. Under what circumstances can the principal directly supply goods from the premises of Job Worker without declaring it as additional place of business?

Ans. The goods can be supplied directly from the place of business of job-worker without declaring it as additional place of business in two circumstances namely where the job-worker is a registered taxable person or where the principal is engaged in supply of goods as may be notified in this behalf.

Q12. What are the provisions relating to availment of input tax credit by the principal in respect of inputs sent to a Job Worker?

Ans. In the CGST Act 2017, aspects relating to availment of input tax credit in respect of inputs sent for job-work have been specifically dealt with in Section 19, which provides that the principal shall be entitled to avail credit of inputs sent to a job-worker if the said

inputs, after completion of job-work or otherwise are received back within a period of one year from the date of being sent to a job worker. In case the inputs are sent directly to the job-worker, the date shall be counted from the date of receipt of inputs by job-worker. Further, if such inputs are not received back within a period of one year then it shall be deemed that such inputs have been supplied by the principal to the job worker on the day when the said inputs were sent out.

Q13. What are the provisions concerning availment of input tax credit by the principal in respect of capital goods sent to a Job Worker?

Ans. In the CGST Act 2017, aspects relating to availment of input tax credit in respect of capital goods sent for job-work have been specifically dealt in Section 19, which provides that the principal shall be entitled to avail the credit of taxes paid capital goods if the said capital goods, other than moulds & dies, jigs & fixtures, or tools, after completion of job-work or otherwise are received back within a period of three years from the date of being sent to the job worker. In case, the capital goods are sent directly to the job-worker, the date shall be counted from the date of receipt of capital goods by job-worker. Further if such capital goods, other than moulds & dies, jigs & fixtures, or tools, are not received back within a period of three year then it shall be deemed that such capital goods have been supplied by the principal to the job worker on the day when the said capital goods were sent out.

Q14. If the conditions specified in section 143 in respect of receiving back the inputs within stipulated time are not satisfied what is the implications in the hands of principal?

Ans. In terms of section 143(3), if the said inputs are not received back within the stipulated time, then it shall be deemed that the said inputs had been supplied by the principal to the job-worker on the day when the said inputs were sent out.

Q15. If the conditions specified in section 143 in respect of receiving back the inputs within stipulated time are not satisfied what is the implications in the hands of job worker?

Ans. In terms of section 143(3), if the said inputs are not received back within the stipulated time, then it shall be deemed that the said inputs had been supplied by the principal to the job-worker on the day when the said inputs were sent out. Accordingly, such goods will become the inputs of the job-worker and he can avail the input credit of tax on the same if the principal issue a tax invoice and the same is declared in the return of the principal in terms of section 37 and by the job worker in terms of section 38 of the CGST Act, 2017. Further the value of such goods will be included in the computation of aggregate turnover of the principal.

Q16. If the conditions specified in section 143 in respect of receiving back the capital goods within stipulated time are not satisfied what is the implications in the hands of principal?

Ans. In terms of section 143(4), if the said capital goods, other than moulds & dies, jigs & fixtures, or tools, sent for job work are not received back within the stipulated time, then

it shall be deemed that the said capital goods had been supplied by the principal to the job-worker on the day when the said capital goods were sent out.

Q17. Can the job worker take input credit of goods in case the goods sent to job worker is deemed as supply in terms of section 143(3)?

Ans. Yes, job-worker can take the input credit subject to section 37 of the CGST Act, 2017. Further, such credit shall not be allowed after furnishing of return under section 38 for the month of September following the end of the financial year to which such details pertain or furnishing of the annual return, whichever is earlier.

Please note that for the above purpose, the relevant date is the date on which the goods are sent to job-work by the principal and not the date on which the period for receiving back the goods from job-worker expires.

Q18. How is the movement of goods to be made to job worker? Whether invoice is to be raised?

Ans. The principal can move the goods to a job-worker place under the cover of a delivery challan containing the details as specified in rule 55 of the CGST Rules, 2017 only if the goods are removed in terms of section 143 of the CGST Act, 2017.

Q19. Whether the principal is required to raise a taxable invoice in case of goods sent to job worker is deemed as supply in terms of section 143(3)/143(4)?

Ans. Yes, the principal is required to raise a taxable invoice on the day immediately after the expiry of the one year or three years period for inputs or capital goods as the case may be.

Q20. How the GST is to be discharged on the goods which fails to satisfy the condition of receiving back within stipulated period from job-worker?

Ans. If the principal does not receive the goods within one year or three years period for inputs or capital goods (other than moulds & dies, jigs & fixtures, or tools) as the case may be, then it will be considered as supply in terms of section 143. In such cases the principal has to declare it as an outward supply and pay the GST along with interest calculated from the date of such goods sent to job-worker.

Q21. Can the principal avail the input credits on the goods directly sent to job worker's place?

Ans. Yes, in terms of section 19(2) of CGST Act, 2017 the principal shall be eligible to take credit of input tax on inputs even if the inputs are directly sent to a job worker for job work without their being first brought to his place of business.

Q22. Whether ITC can be taken in respect of moulds & dies, jigs & fixtures, or tools sent to a Job Worker?

Ans. Yes. Further, there is no time limit prescribed to receive back such goods from job worker, as Section 143(4) specifically excludes moulds & dies, jigs & fixtures, or tools.

- Q23. Can the job worker sell directly any waste and scrap generated during the job work?
- Ans. Yes, job worker can sell the waste and scrap subject to payment of tax and if job worker is registered, otherwise principal has to discharge the tax liability.
- Q24. Can an unregistered person take the benefit of section 143?
- Ans. No, section 143 allows only a registered taxable person to send goods without payment of duty.
- Q25. Whether the job worker will have to be compulsorily registered?
- Ans. No. Section 143 of the CGST Act, 2017 does not prescribe any such condition. Hence, the threshold benefit of registration is equally applicable even in case of a job worker.
- Q26. Whether intermediate goods can also be sent for job work?
- Ans. Yes. The term inputs, for the purpose of job work, includes intermediate goods arising from any treatment or process carried out on the inputs by the principal or job worker.
- Q27. Is it compulsory that job work provisions should be followed by the principal?
- Ans. No. The principal can send the inputs or capital goods after payment of GST without following the special procedure. In such a case, the job-worker would take the input tax credit and supply back the processed goods (after completion of job-work) on payment of GST.
- Q28. Should job worker and principal be located in same State or Union territory?
- Ans. No, this is not necessary as provisions relating to job work have been adopted in the IGST Act as well as in UTGST Act and therefore job-worker and principal can be located either in same State or in same Union Territory or in different States or Union Territories.
- Q.29. Whether any details of goods sent by the Principal to the job worker are required to be intimated?
- Ans. The details of challans in respect of goods dispatched to a job worker or received from a job worker during a quarter shall be furnished by the Principal in **FORM GST ITC-04** for that period on or before the twenty-fifth day of the month succeeding the said quarter.
- Q.30. If goods are sent by one job worker to another and so on, then whether such details will be required to be furnished?
- Ans. The details of challans in respect of goods sent from one job worker to another during a quarter shall be included in **FORM GST ITC-04**

Presumption as to documents in certain cases (Section 144)

- Q31. What does the provisions relating to presumption of documents meant for?
- Ans. The provisions relating to presumption as to documents specifies that the production of the documents by the prosecution against an assessee would be presumed to be true in

so far as the contents of such documents are concerned. Accordingly, if any of the following documents are tendered as evidence by prosecution, then the Court shall presume that contents of such document are truthful and is signed or handwritten by the particular person or is executed or attested by the person who is supposed to execute so:

1. Documents produced by any person under the Act;
2. Documents seized from the custody or control of any person under the Act; and
3. Documents received from outside India during the course of proceedings.

However, the onus of proving the contrary is on the assessee i.e. the assessee has to prove that the documents provided by prosecution are not proper evidence.

Admissibility of micro films, facsimile copies of documents and computer print-outs as documents and as evidence (Section 145)

Q32. What are the documents and evidence deemed to be documents and evidence for the purpose of proceedings?

Ans. In terms of Section 145, the following shall be deemed to be documents and evidences for the purpose of any proceedings:

1. a micro film of a document or the reproduction of the image or images embodied in such micro film (whether enlarged or not); or
2. a facsimile copy of a document; or
3. 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
4. any information stored electronically in any device or media, including any hard copies made of such information,

Q33. Whether in any proceedings the copies of the above documents (deemed documents) can be relied upon?

Ans. Section 145 specifies that the deemed documents shall be admissible in any proceedings without further proof of production of the original. As such, the deemed documents may be placed on record and which shall be considered as valid evidence in concluding any proceedings under the Act.

Common Portal (Section 146)

Q34. What is the meaning of Common Portal?

Ans. Section 2 (26) of the CGST Act, 2017 defines Common portal as common goods and service tax electronic portal referred to in Section.146.

Q35. Why is common portal required?

Ans. The emphasis in GST is on self-compliance, which is sought to be achieved through information technology assets. Common portal is the chief information technology asset through which information is uploaded. Common portal facilitates 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.

Q36. Who will notify the Common portal?

Ans. The Government may, on the recommendations of the Council, notify the Common Goods and Services Tax Electronic Portal. The portal so notified is called as GST portal.

Deemed Exports (Section 147)

Q37. What is the objective of treating certain supplies as deemed exports?

Ans. The objective is to provide a level playing field to domestic manufacturers in certain specified areas, as may be decided by the government from time to time.

Q38. What is the meaning of Deemed Exports?

Ans. Section 2(39) of the CGST Act defines deemed exports as such supplies of goods as may be notified by Section.147.

Q39. Whether supply of services are covered under the ambit of deemed exports?

Ans. Section 147 is the provision relating to deemed supplies. As per Section147, provision of deemed supplies apply only to goods and not to services.

Q40. Whether all goods are covered under the scope and ambit of deemed export?

Ans. As per Section147, the provision of deemed export applies only to goods notified by the Central Government upon the recommendations of the GST Council.

Q41. What are the conditions for a supply to be treated as deemed exports?

Ans. Following are the conditions to be satisfied before a supply could be treated as deemed exports:

1. The Supply must be a supply of goods.
2. The goods so supplied must be notified by the Central Government, upon the recommendations of the GST Council
3. The goods must be manufactured in India
4. The payment for such supplies is received either in Indian rupees or in convertible foreign exchange.

Q42. Is there any condition that consideration must be received in foreign currency for deemed export goods?

Ans. There is no condition that consideration for goods notified as deemed exports must be received in convertible foreign exchange. The consideration may be received in Indian Rupees also.

Q43. Whether imported goods, supplied 'as such' qualify for deemed exports?

Ans. Only goods manufactured in India, which are notified by Central Government qualify to be treated as deemed exports. Thus goods notified u/s 147, if imported do not qualify as deemed exports, if they are supplied 'as such'.

Q44. Whether goods notified u/s 147, if manufactured in India from imported goods qualify for the benefit of deemed exports?

Ans. Provisions of Section 147 applies to 'goods manufactured in India'. There is no restriction that raw materials required for manufacture of notified goods must also be manufactured in India. Hence notified goods, if manufactured from imported goods would qualify as deemed exports.

Q45. What could be the possible supplies, which could be notified as deemed exports?

Ans. The Central Government has not yet notified goods, which are to be treated as deemed exports. However supplies of goods listed under Chapter 7 of Foreign Trade Policy 2015-2020 are most likely candidates to be notified as deemed exports u/s 147, since the Foreign Trade policy laid down by Ministry of Commerce u/s 5 of Foreign Trade (Development & Regulation Act), 1992, is implemented by the Ministry of Finance by way of issuing notifications under fiscal laws (GST law & Customs law), in line with policy framework.

Q46. Is CGST payable on deemed exports?

Ans. Deemed export benefit is intended for goods manufactured in India. At present under Central Excise Act, 1944, both terminal exemption benefit and refund of tax paid by purchaser who has paid excise duty on deemed exports is available.

The modus operandi for deemed export i.e. whether terminal exemption benefit would be available on supply of deemed exports is to be awaited. However exemptions are seen as anti-thesis under GST law, since it would break the credit chain, it is expected that GST paid to supplier on deemed exports would be eligible as refund in the hands of the recipients.

The aforesaid line of thought is fortified by Section 54 of the CGST Act, which deals with refunds. Refunds for the purpose of Section 54 has been defined under explanation 1 to Section.54 (14). Refund thereunder includes '*refund of tax on supply of goods regarded as deemed exports*'. Thus it may be safely assumed that GST would be payable on deemed exports but the tax paid on supply of such deemed exports would be eligible as refund in the hands of the recipient who has paid such GST.

Special Procedure for Certain Processes (Section 148)

Q47. What does Section 148 empower the Central Government to do?

Ans. Section 148 empowers the Central Government to notify:

1. Certain classes of registered persons and
2. The special procedures to be followed by such persons, including those with regard to
 - (a) registration,
 - (b) furnishing of return,
 - (c) payment of tax and
 - (d) administration of such persons.

Q48. Who are the persons to whom Section 148 may apply?

Ans. Amongst others, Section 148 may apply to:

1. Composition dealers
2. Input Service Distributors
3. Casual Taxable Person
4. Non-Resident Taxable Person
5. Persons whose supplies are not taxable under GST law but are liable to pay GST under reverse charge
6. Persons who do not make taxable supplies under GST law but are required to deduct tax u/s 51 of CGST Act.
7. Person supplying online information and data base access or retrieval services from a place outside India to a non-taxable online recipient
8. Persons who supplies goods through electronic commerce operator, though their turnover is less than ₹ 20 lakhs.
9. A specialised agency of the United Nations Organisation
10. A Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947
11. Consulate or Embassy of foreign countries

Goods and Service Tax Compliance Rating (Section 149)

Q49. What is GST compliance rating?

Ans. Every registered person would be assigned a goods and services tax compliance rating

score by the Central Government based on his record of compliance of the provisions of GST Act.

Q50. What are the parameters on the basis of which GST compliance rating score would be determined?

Ans. The compliance rating score would be determined on the basis of 'parameters', as may be prescribed. The prescription has not yet been given by the government. However GST compliance rating score may take into consideration the following parameters amongst others:

1. Payment of GST within due date
2. Collection of GST but non-remittance of the same within the due date
3. Filing GST outward supply returns within due date, ratifying the inward returns within due date and uploading the final returns within due date
4. Filing of first return, final return and annual returns
5. Filing of audit report
6. Availment and utilisation of credit in accordance with provisions of the Act
7. Transfer of credit in accordance with provisions of the Act
8. Remittance of TDS within due date by persons prescribed u/s 51
9. Remittance of TCS within due date by persons prescribed u/s 52
10. Pending disputes with the department
11. Arrears of GST revenue
12. Seizure of goods, due to contravention of the provisions of the Act
13. Maintenance of accounts and records in accordance with provisions of the Act

Q51. What would the Central Government do once the GST compliance rating score is compiled?

Ans. The GST compliance rating score would be compiled and updated on a periodic basis and thereafter intimated to the said registered person and also placed in the public domain in such manner as may be prescribed. The GST compliance rating may be placed in public domain through the GST portal.

Q52. How would the GST compliance rating help the trade and industry?

Ans. The GST compliance rating of every supplier and every customer would be available to a person, before entering into transaction with such supplier/ vendor. This will help assist a taxable person choose his vendor carefully since non-remittance of tax by vendor would lead to disallowance of credit in the hands of purchaser.

Obligation to furnish information return (Section 150)

Q53. Who are the person liable to file information return?

Ans. Information return is to be filed by the following persons:

- (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 clause (a) of section 45A 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 clause (c) of section 3 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 clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956; or
- (l) a depository referred to in clause (e) of sub-section (1) of section 2 of the Depositories Act, 1996; or
- (m) an officer of the Reserve Bank of India as constituted under section 3 of the Reserve Bank of India Act, 1934; or
- (n) the Goods and Services Tax Network, a company registered under the Companies Act, 2013; or
- (o) a person to whom a Unique Identity Number has been granted under sub-section (9) of section 25; or
- (p) any other person as may be specified, on the recommendations of the Council, by the Government,

Q54. What is the purpose of seeking information returns from the aforesaid persons?

Ans. As evident from the above, the list of persons who are required to provide information returns are 'depositories' of information. The list of persons include persons who are either statutory authorities or persons who have information about the transactions entered into by the public at large. The linking of the information provided by the aforesaid authorities with the returns uploaded by various persons under GST law (be it on the output side/ input side/ tax deduction at source/ collection at source/ availment and distribution of credit) would help detect:

1. Leakage of tax revenue
2. Suppression of value of taxable supplies
3. Mis-Statement of the transaction details (eg. Taxable supply mis-stated as non-taxable supply)
4. Coherency in the information supplied to GST and to various other departments (eg. Sales information uploaded under GST can be compared with sales information uploaded/ provided to income tax)
5. Synergy in action of the direct, indirect and enforcement departments of the Central Government.
6. Reconciliation of tax data with specific sectors in the economy (eg. Growth in GST paid under construction sector would have a proportional increase in income tax of iron and steel sectors, cement industries, builders and developers etc.)
7. To check the validity of information uploaded under GST (eg. RBI data/ bank data of actual foreign inward remittance and value of service claimed as export)

The above example is only illustrative and not exhaustive.

Q55. What is the time limit, form and manner to file information return?

Ans. The time, form and manner and the authority to which the information return has to be filed is yet to be prescribed by the Central Government.

Q56. What is the consequence, if the information returns is not filed in the form and manner prescribed by the Central Government?

Ans. The consequence is that the Commissioner or Officer authorised by commissioner would consider the information return submitted 'defective' and intimate the defect to the person who has furnished such information return and give him an opportunity to 'rectify' the defect within a period of thirty days from the date of such intimation or within such further period which, on an application made in this behalf.

Q57. What if the defect is not rectified within the prescribed period/ further period?

Ans. The Commissioner or Officer authorised by commissioner, notwithstanding anything contained in any other provisions of CGST Act, would treat that 'no information' has

been furnished by the required person. The provisions of the Act for non-furnishing the information would apply to such person.

Q58. What is the next course of action available to Commissioner/ officer authorised by commissioner when information is not provided after prescribed/ extended period?

Ans. The Commissioner or Officer authorised by commissioner, may serve upon such person, a show cause notice requiring him to furnish 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.

Q59. Whether the person who has to file information can claim 'confidentiality' as a ground for not providing the information to GST officer?

Ans. The words used in Section 150 is '*such person shall furnish the information return*'. Since the intent of the provision is to procure information, the words 'shall' be read as mandatory obligation of such person. Hence the person to whom show cause notice is issued shall have to compulsorily provide information to the GST officer.

Q60. Can the GST officer levy penalty on a person, who has not furnished information return? If so, is there any maximum limit for such penalty?

Ans. As per Section 123, if a person who is required to furnish an information return u/s 150 fails to do so within the period specified in the show cause notice, 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. However the maximum penalty that can be imposed is ₹ 5,000/-.

Note: Section 150 is a legacy provision brought forward from the Central Excise Act, 1944. Section 150 is pari materia with Section 15A of Central Excise Act, 1944

Power to collect statistics (Section 151)

Q61. Who has the power to collect statistics? What is the subject matter of the statistics to be collected?

Ans. The Commissioner has the power to collect statistics. The statistics may be collected relating to any matter dealt with by or in connection with this Act. The commissioner may direct the collection of statistics by way of issue of a notification. For example office of every Commissionerate (under Central Excise, Customs and Service Tax) has the statistics of tax revenue collected month on month for the current year, which is compared with tax revenues of previous year. This information is displayed even to the public at the Commissioner's Office.

Q62. How is the statistics collected?

Ans. The Commissioner may direct the collection of statistics by way of issue of a notification. Upon issue of notification, 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. The form and manner of return is yet to be prescribed.

Q63. Can fine be imposed by GST officer for failure to provide statistics/ information?

Ans. As per Section 124, if any person, who is required to furnish information or return under section 151,—

- (a) without reasonable cause fails to furnish such information or return or
- (b) wilfully furnishes or causes to furnish any information or return which he knows to be false

then such person shall be punishable with a fine which may extend to ₹ 10,000/-.

Q64. Is any additional penalty imposable for failure to supply statistics/ information for more than one period?

Ans. As per Section 124, in case of a continuing offence (i.e. where the statistics/ information is not provided for more than one period concurrently), a further fine (i.e. in addition to fine of ₹ 10,000/- supra) may be imposed. The additional fine would be ₹ 100/- for each day after the first day during which the offence continues subject to a maximum limit of ₹ 25,000/-.

Bar on disclosure of information (Section 152)

Q65. Is there is any bar on publication of information collected by GST officer u/s 151/ 152 supra?

Ans. The information collected from an 'individual return', filed u/s 150 or section 151 shall not be published, without the previous consent in writing of the concerned person or his authorised representative, so as to enable such particulars to be identified as referring to a particular person.

E.g. information filed by a taxable person u/s 150 or information provided by an income tax officer u/s 150 of a particular assessee or details of land purchased by a person, provided by a sub-registrar or returns filed by a person u/s 151 to provide statistical information shall not be published in such a manner so as to disclose the turnover of such person/ income (profit) of such person/ land purchased by such person.

Q66. Whether information collected u/s 150 and 151 can be published of a class of taxable persons/ class of transactions?

Ans. Yes. Information collected u/s 150 and 151 can be published for a class of taxable

persons/ class of transactions, if in the opinion of the Commissioner, it is desirable in public information to provide such information.

For example, the details of turnover sourced from individual returns of information technology service providers can be aggregated and the export turnover from information technology, so populated from the aggregate of the return can be published since the information now relates to a class of persons (i.e. information technology service provider)/ class of transactions (export of services).

Q67. Whether information provided u/s 150 or 151 can be used for any proceedings under GST law?

Ans. The information provided u/ 150 or 151 cannot be used by the department under any proceedings under the GST Act except for the purpose of launching prosecution under this Act or any other Act for the time being in force.

Q68. Whether any person not engaged in collection of statistics/ information can have access to the said information?

Ans. A person who is not engaged in the collection of statistics under this Act or compilation or computerisation thereof for the purposes of this Act, shall not be permitted to see or have access to any information or any individual return referred to in section 151.

Q69. Would the GST officers be liable for 'wilful disclosure' of information collected u/s 151 and 152 of the Act?

Ans. Yes. As per Section 133, where:

1. Any person engaged in connection with the collection of statistics u/s 151 or compilation or computerisation thereof or
2. Any officer of central tax having access to information specified u/s 150, or
3. Any person engaged in connection with the provision of service on the common portal or
4. Agent of common portal,

'*wilfully discloses*' any information or the contents of any return furnished under this Act or rules made thereunder:

1. Otherwise than in execution of his duties under the said sections or
2. Otherwise than for the purposes of prosecution for an offence under this Act or under any other Act for the time being in force,

then such person he shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to ₹ 25,000/- or both.

Q70. Is any procedure to be followed before launching prosecution proceedings (i.e. handing over punishment of imprisonment)?

Ans. Yes. Any person—

- (a) who is a Government servant shall not be prosecuted for any offence u/s 133 except with the previous sanction of the Government;
- (b) who is not a Government servant shall not be prosecuted for any offence u/s 133 except with the previous sanction of the Commissioner.

Taking assistance from an expert (Section 153)

Q71. Who can take assistance of an expert? When can assistance be taken? At what stage can the assistance be taken?

Ans. Any officer not below the rank of Assistant Commissioner may, having regard to the nature and complexity of the case and the interest of revenue, take assistance of any expert at any stage of scrutiny, inquiry, investigation or any other proceedings before him. However the term 'expert' has not been defined by the Act.

Power to take samples (Section 154)

Q72. Who can take samples?

Ans. The Commissioner or any person authorised by him may take samples of goods from the possession of any taxable person, where he considers it necessary, and provide a receipt for any samples so taken.

Q73. From whom can the samples be taken?

Ans. The samples can be taken from any taxable person.

Q74. What is the document to be issued after taking a sample?

Ans. The GST officer must provide a receipt for the samples so taken.

Note: This is a legacy provision from the VAT Acts, which at present empower the VAT officer to take samples. Section 52(1) (i) of Karnataka VAT Act, 2005 is one such example.

Burden of Proof (Section 155)

Q75. Who has to discharge the burden of proof while availing and utilising input tax credit?

Ans. The burden of proof shall lie on the person claiming eligibility to avail and utilise input tax credit.

Note: This is a legacy provision both from the Central Act and State VAT Acts.

The burden to prove that input tax credit has been correctly claimed and deducted (i.e.

availed and utilised) has been cast upon the dealers under the VAT Acts. Section 70 (1) of Karnataka VAT Act, 2005 is one such example.

Rule 9(5) and 9(6) of the Cenvat Credit Rules, 2004 lay down the burden of proof on the manufacturer/ service provider regarding the admissibility of Cenvat Credit on inputs, capital goods and input services.

Persons deemed to be public servants (Section 156)

Q76. What is the status of the persons discharging functions under the CGST Act?

Ans. All persons discharging functions under CGST Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (IPC).

The twelfth clause of Section 21 of IPC is relevant and hence extracted below:

Every person--

- (a) in the service or pay of the Government or remunerated by fees or commission for the performance of any public duty by the Government;
- (b) in the service or pay of a local authority, a corporation established by or under a Central, Provincial or State Act or a Government company as defined in section 617 of the Companies Act, 1956 .

The provisions of IPC, states when acts of public servants would be punishable. The said provisions would mutatis mutandis apply to GST officers.

Protection for action taken under this Act (Section 157)

Q77. Whether any suit/ prosecution can be instituted against persons discharging functions under GST?

Ans. No suit, prosecution or other legal proceedings shall lie against:

1. President, State President, Members, officers or other employees of the Appellate Tribunal or
2. Any other person authorised by the Appellate Tribunal or
3. Any officer appointed or authorised under this Act for

when the action is done under good faith and done while discharging their functions under GST Act or the rules made thereunder.

Thus if any person – taxable or otherwise suffers due to any action of GST officer discharged in the course of their office, the person who has suffered the injury – financial or otherwise would not have legal recourse against the officers appointed under the Act or against the members of the Tribunal. However if the members of the

Tribunal or officers act in a vindictive manner, then such action cannot be said to have been discharged in good faith. The person who has suffered injury – financial or otherwise would have recourse before a court of law, subject to discharge of burden of proof.

Disclosure of information by a public servant (Section 158)

Q78. What are the circumstances when information collected by GST officers can be disclosed?

Ans. The information collected by GST officers can be disclosed:

- (a) For the purpose of initiating prosecution under the Indian Penal Code or the Prevention of Corruption Act, 1988, or any other law for the time being in force; or
- (b) To the Central Government or the State Government or to any person acting in the implementation of this Act, for the purposes of carrying out the objects of this Act; or
- (c) When such disclosure is occasioned by the lawful exercise under GST Act of any process for the service of any notice or recovery of any demand; or
- (d) To a civil court in any suit or proceedings, to which the Government or any authority under this Act is a party, which relates to any matter arising out of any proceedings under this Act or under any other law for the time being in force; or
- (e) To any officer appointed for the purpose of audit of tax receipts or refunds of the tax imposed by this Act; or
- (f) Where such particulars are relevant for the purposes of any inquiry into the conduct of any officer appointed or authorised under this Act, to any person or persons appointed as an inquiry officer under any law for the time being in force; or
- (g) To an officer of the Central Government or of any State Government, as may be necessary for the purpose of enabling that Government to levy or realise any tax or duty; or
- (h) When such disclosure is occasioned by the lawful exercise by a public servant or any other statutory authority; or
- (i) When relevant to any inquiry into a charge of misconduct in connection with any proceedings under this Act against a practising advocate, a tax practitioner, a practising cost accountant, a practising chartered accountant, a practising company secretary to the authority empowered to take disciplinary action against the members practising the profession of a legal practitioner, a cost accountant, a chartered accountant or a company secretary, as the case may be; or

- (j) To any agency appointed for the purposes of data entry on any automated system or for the purpose of operating, upgrading or maintaining any automated system where such agency is contractually bound not to use or disclose such particulars except for the aforesaid purposes; or
- (k) To an officer of the Government as may be necessary for the purposes of any other law for the time being in force; or
- (l) When information relates to any class of taxable persons or class of transactions for publication, if, in the opinion of the Commissioner, it is desirable in the public interest, to publish such information.

Q79. Whether information can be disclosed to any other person/ in any other circumstance than what has been listed above?

Ans. Any information/ data contained in any statement made, return furnished or accounts or documents produced in accordance with CGST Act, or in any record of evidence given in the course of any proceedings under this Act (other than proceedings before a criminal court) shall save not be disclosed, except to the persons and in the circumstances mentioned supra.

Q80. Whether any Court can require any GST officer to produce evidence before it, as per Indian Evidence Act?

Ans. Notwithstanding anything contained in the Indian Evidence Act, 1872, no court shall, save as circumstances listed in question no.1 supra, require any officer appointed or authorised under this Act to produce before it or to give evidence before it in respect of any information/ data contained in any statement made, return furnished or accounts or documents produced in accordance with this Act, or in any record of evidence given in the course of any proceedings under the GST Act.

Publication of information in respect of persons in certain cases (Section 159)

Q81. Who has the authority to publish information?

Ans. Commissioner, or any other officer authorised by him in this behalf are the authorised persons who may publish information.

Q82. Under what circumstance can be published?

Ans. When the Commissioner, or any other officer authorised by him are of the opinion that it is necessary or expedient in the public interest to publish the name of any person and any other particulars relating to any proceedings or prosecution under this Act in respect of such person, then the information relating to such person may be published.

Q83. Can information be published about a person, on whom penalty has been imposed, before the time limit to contest the penalty has lapsed?

Ans. No publication shall be made in relation to any penalty imposed under GST Act until the time for presenting an appeal to the Appellate Authority u/s 107 has expired.

However, if the time limit for filing the appeal has lapsed and such person has not preferred an appeal against the order imposing penalty, then details of such person may be published.

If appeal has been preferred before the Appellate Authority and the Appellate Authority has disposed off such appeal confirming imposition of penalty, then information of the person on whom penalty has been imposed may be published.

Q84. Whether name of partner/ director etc. can be published if information published relates to firm/ company etc.?

Ans. In case information to be published relates to firm, company or other association of persons, the names of the partners of the firm, directors, managing agents, secretaries and treasurers or managers of the company, or the members of the association, as the case may be, may also be published if the circumstances justify publication of their names in the opinion of the Commissioner, or the officer authorised by him.

The circumstances which justify publication of names of partners/ directors has neither been listed by the Act/ nor is there a provision for prescription thereof by way of a notification by the Central Government.

Note: This is a legacy provision from the Central Excise Act, 1944. As per Section 37E, the Central Government had to power to publish name. However under GST the power rests with the Commissioner and not with the Central Government.

Assessment proceedings, etc., not to be invalid on certain grounds (Section 160)

Q85. What are the circumstances when assessment/ adjudication proceedings etc are not be treated as invalid?

Ans. The following proceedings:

1. Assessment
2. Re-assessment
3. Adjudication
4. Review

5. Revision
6. Appeal
7. Rectification
8. Notice
9. Summons or
10. Other proceedings

done, accepted, made, issued, initiated, or purported to have been done, accepted, made, issued, initiated in pursuance of any of the provisions of this Act shall not be invalid or deemed to be invalid merely by reason of any mistake, defect or omission therein, if such assessment, re-assessment, adjudication, review, revision, appeal, rectification, notice, summons or other proceedings are in substance and effect in conformity with or according to the intents, purposes and requirements of this Act or any old law.

Q86. What are the circumstances when service of notice/ order etc shall not be called in question?

Ans. The service of any notice, order or communication shall not be called in question, if the notice, order or communication, as the case may be, has already been acted upon by the person to whom it is issued or where such service has not been called in question at or in the earlier proceedings commenced, continued or finalised pursuant to such notice, order or communication.

Rectification of errors apparent on the face of the record (Section 161)

Q87. Who can rectify a mistake apparent on record?

Ans. Any authority, who has passed or issued any decision or order or notice or certificate or any other document, may rectify any error which is apparent on the face of record in such decision or order or notice or certificate or any other document.

Q88. Who has to bring the mistake apparent on record to the notice of the authority?

Ans. The GST authority:

1. On its own motion or
2. Where such error is brought to its notice by
 - (a) Any officer appointed under CGST Act or
 - (b) An officer appointed under SGST Act or
 - (c) An officer appointed under the UTGST Act or
3. The affected person

can bring the mistake apparent on record to the notice of the respective authority.

Q89. Within what period should the mistake apparent on record be brought to the notice of the authority?

Ans. The mistake apparent on record should be rectified, within a period of three months from the date of issue of such decision or order or notice or certificate or any other document, as the case may be sought to be rectified.

Q90. Whether any extension of time period is granted beyond three months? If so in what circumstances?

Ans. Rectification of mistake apparent on face of record can be made up to a period of six months from the date of issue of such decision or order or notice or certificate or any other document, in all circumstances other than a case where the rectification is purely in the nature of correction of a clerical or arithmetical error, arising from any accidental slip or omission.

Q91. What is the procedure to be followed, where the rectification of mistake adversely affects any person?

Ans. Where rectification of mistake apparent on face of record adversely affects any person, the principles of natural justice shall be followed by the authority carrying out such rectification.

Q92. Is the provision of rectification of mistake apparent on face of record, subject to any other provisions of the GST Act?

Ans. No, the provisions relating to rectification of mistake apparent on face of record not subject to any other provision of the GST Act.

Note: This is a legacy provision brought forward from the VAT Act. One of the example is Section 69 of the Karnataka VAT Act, 2005.

Bar on jurisdiction of Civil Courts (Section 162)

Q93. Whether civil courts have jurisdiction to deal with matter pertaining to GST?

Ans. No civil courts shall have jurisdiction to deal with or decide any question arising from or relating to anything done or purported to be done under the GST act, except the High Courts and the Supreme Court.

Levy of fee (Section 163)

Q94. Whether any fees can be levied for procuring an order etc under GST law?

Ans. Wherever a copy of any order or document is to be provided to any person on an application made by him for that purpose, there shall be paid such fee as may be prescribed. The fees is yet to be prescribed.

Power of Government to make rules (Section 164)

Q95. Who can make rules?

Ans. The Government may, on the recommendations of the Council, by notification, make rules for carrying out the provisions of this Act.

Q96. The Government can make rules with respect to what matters?

Ans. The Government may make rules for all or any of the matters which are required to be prescribed or in respect of which provisions are to be or may be made by rules. Thus the Government would have the power to make rules under all those provisions where the term 'as may be prescribed' has been used.

Q97. Can the government make rules with retrospective effect?

Ans. The Government has been given the power to make rules with retrospective effect, from a date, not earlier than the date on which the provisions of the Act, under which the Rules are made have come into force.

Q98. Does the Government have the power to prescribe penalty amount in the Rules? Can penalty be prescribed when the Rules are given retrospective effect?

Ans. Yes. The government has the power to enact provisions in the rules stating that contravention thereof would be liable to penalty. However the penalty amount has been restricted to ₹ 10,000/-.

However, if the Government has enacted the rules retrospectively, then it does not have the power to impose penalty for the retrospective period, as per the decision of the Supreme Court in *J.K. Spinning & Weaving Mills Ltd & Another V. UOI & Others* [1987 (32) ELT 234 (SC)].

Power to make regulations (Section 165)

Q99. Who can make regulations?

Ans. The Central Board of Excise & Customs has been delegated with the power to make regulations.

Q100. What are the conditions subject to which the Regulations may be made by the Board?

Ans. The Regulations made by the Central Board of Excise & Customs must be consistent not only with the GST Act but also the Rules notified by the Central Government.

Laying of Rules, Regulations and Notifications (Section 166)

Q101. Whether the Rules and Regulations promulgated by the Central Government and Board respectively must be laid before the Parliament?

Ans. Yes, every rule made by the Government, every regulation made by the Board and

every notification issued by the Government under this Act, shall be laid, as soon as may be after it is made or issued, before each House of Parliament.

Q102. When and for what period should the Rules, Regulations and Notification be laid before the Parliament?

Ans. The Rules, Regulations and Notification must be laid before the Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions.

Q103. What if the Parliament makes modification/ annuls the Rules, Regulations and Notifications so laid?

Ans. If, before the expiry of the aforesaid period, both Houses agree in making any modification in the rule or regulation or in the notification, or both Houses agree that the rule or regulation or the notification should not be made, the rule or regulation or notification, shall thereafter have effect only in such modified form or be of no effect.

Q104. What would be the sanctity of anything done/ omitted to be done on the basis of Rules, Regulations or Notifications, which are subsequently modified/ annulled by the Parliament?

Ans. The modification or annulment made by the Parliament shall be without prejudice to the validity of anything previously done under that rule or regulation or notification, as the case may be.

Note: This is a legacy provision from the Central Excise Act, 1944. The provisions are *pari materia* with Section 38 of the Central Excise Act, 1944.

Delegation powers (Section 167)

Q105. Whether the Commissioner has power to delegate work? If so what is the procedure to be followed while delegating such work?

Ans. Yes, the Commissioner, by notification, direct that subject to such conditions, if any, as may be specified in the notification, delegate any power exercisable by any authority or officer under this Act to any other authority or officer as may be specified in such notification.

Power to issue instructions or directions (Section 168)

Q106. To whom can the Board issue directions and under what circumstances?

Ans. The Board may, if it considers it necessary or expedient so to do for the purpose of uniformity in the implementation of this Act, issue such orders, instructions or directions to the central tax officers as it may deem fit. Thereupon all such officers and all other persons employed in the implementation of this Act shall observe and follow such orders, instructions or directions.

Q107. Can the Board issue directions to adjudicate a certain case in a certain manner?

Ans. The Board cannot issue directions to any adjudication officer/ first appellate authority to adjudicate/ decide a specific matter in a specific manner. The adjudication officer/ first appellate authority are quasi-judicial officers, who are required to apply their own mind before deciding a case.

However the Board may issue directions about its interpretation of a particular provision in law. The interpretation of the Board shall be final and binding only upon the adjudication officers but not on the first appellate authority.

Be that as it may, if there is a decision of the High Court or Supreme Court on the interpretation of a particular provision, which is contrary to the directions/ interpretations issued by the Board then the decision of High Court/ Supreme Court has to be followed since law laid down by the Supreme Court is the law of the land as per Article 141 of the Constitution of India. Reliance is placed on CCE V. Ratan Melting & Wire Industries, [2008 (231) ELT 22 (SC)].

Q108. Who is the person in CBEC, who shall exercise the power to issue directions on behalf of the Board?

Ans. The Commissioner or the Joint Secretary posted in the Board shall exercise the power of issuing directions on behalf of the Board. However the direction shall be given by such Commissioner/ Joint Secretary, after the prior approval of the Board.

Note: This is a legacy provision from Central Excise Act, 1994. The above provision is similar to Section 37B of Central Excise Act, 1994.

However the following portion of Section 37B of Central Excise Act, 1994, which specifically states that directions cannot be issued to:

1. Dispose of a particular assessment in a particular manner
2. The Commissioner (Appeals)

is missing under the GST law

Service of Notice in certain circumstances (Section 169)

Q109. What is the method of service of notice, orders etc.?

Ans. Any decision, order, summons, notice or other communication under the GST law or the rules made thereunder shall be served by any one of the following methods:

- (a) By giving or tendering it directly or by a messenger including a courier to the addressee or the taxable person or to his manager or authorised representative or an advocate or a tax practitioner holding authority to appear in the proceedings on behalf of the taxable person or to a person regularly employed by him in connection with the business, or to any adult member of family residing with the taxable person; or

- (b) by registered post or speed post or courier with acknowledgement due, to the person for whom it is intended or his authorised representative, if any, at his last known place of business or residence; or
- (c) by sending a communication to his e-mail address provided at the time of registration or as amended from time to time; or
- (d) by making it available on the common portal; or
- (e) by publication in a newspaper circulating in the locality in which the taxable person or the person to whom it is issued is last known to have resided, carried on business or personally worked for gain; or
- (f) if none of the modes aforesaid is practicable, by affixing it in some conspicuous place at his last known place of business or residence and if such mode is not practicable for any reason, then by affixing a copy thereof on the notice board of the office of the concerned officer or authority who or which passed such decision or order or issued such summons or notice.

Q110. What is the date, the notice/ order etc. is deemed to have been served?

Ans. Every decision, order, summons, notice or any communication shall be deemed to have been served on the date on which it is tendered or published or a copy thereof is affixed in the manner provided supra.

Q111. What if the notice/ order sent through registered post/ speed post is not received by the person to whom it is intended?

Ans. When a decision, order, summons, notice or any communication is sent by registered post or speed post, it shall be deemed to have been received by the addressee at the expiry of the period normally taken by such post in transit unless the contrary is proved.

Note: This is a legacy provision from the Central Excise Act, 1994. The above provision is similar to Section 37C of the Central Excise Act, 1994. However the provision relating to deemed receipt by addressee is not present in Section 37C thereof.

Rounding off of Tax (Section 170)

Q112. To what extent must the taxes, interest etc. be rounded off?

Ans. The tax, interest, penalty, fine or any other sum payable, and the amount of refund or any other sum due, under the provisions of this Act shall be rounded off to the nearest rupee and, for this purpose, where such amount contains a part of a rupee consisting of paise, then, if such part is fifty paise or more, it shall be increased to one rupee and if such part is less than fifty paise it shall be ignored.

Anti-Profiteering Measure (Section 171)

Q113. What does the Anti-Profiteering Measure provision seek to do?

Ans. Anti-Profiteering measure seeks to pass on:

1. Reduction in rate of tax on any supply of goods or service
2. Benefit of input tax credit

received by supplier to the recipient by way of commensurate reduction in prices of goods or services.

Q114. How does the Central Government seek to achieve the goal of Anti-Profiteering?

Ans. 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:

1. Examine whether input tax credits availed by any registered person or
2. The reduction in the tax rate

have actually resulted in a commensurate reduction in the price of the goods or services supplied.

Q115. What is the manner in which the Authority shall discharge its functions?

Ans. The Authority shall exercise such powers and discharge such functions as may be prescribed. The prescription is yet to be notified by the Central Government.

Removal of Difficulties (Section 172)

Q116. What is the way out, if any difficulty arises in giving effect to the provisions of CGST Act?

Ans. If any difficulty arises in giving effect to any provisions of this Act, the Central Government may, on the recommendations of the Council, by a general or a special order published in the Official Gazette, make such provisions, which are consistent with the provisions of the Act, the rules and regulations, as may be necessary or expedient for the purpose of removing the said difficulty.

Q117. Is there any time limit for the Central Government to issue the General Order/ Special Order to remove the difficulty?

Ans. The Central Government has the power to issue General Order/ Special Order to remove the difficulty arising while giving effect to the provisions of this Act, within a period of three years from the date of commencement of the CGST Act.

Q118. Should the General/ Special Order so passed by the Central Government be laid before the Parliament?

Ans. Yes, every General/ Special order shall be laid, as soon as may be, after it is made, before each House of Parliament.

Amendment of Act 32 of 1994 (Section 173)

Q119. What does Section 173 seek to do?

Ans. Section 173, seeks to amend Finance Act, 94 by omitting the provision of Chapter V of the Finance Act, 1994 (i.e. service tax law), save as otherwise provided in the CGST Act.

Repeal and saving (Section 174)

Q120. What Central legislations do Section 174 seeks to repeal?

Ans. Section 174 seeks to repeal, the following Central legislations on and from the date of commencement of CGST Act:

1. The Central Excise Act, 1944 (except as respects goods included in entry 84 of the Union List of the Seventh Schedule to the Constitution)
2. The Medicinal and Toilet Preparations (Excise Duties) Act, 1955
3. The Additional Duties of Excise (Goods of Special Importance) Act, 1957
4. The Additional Duties of Excise (Textiles and Textile Articles) Act, 1978, and
5. The Central Excise Tariff Act, 1985

Q121. In what manner is the service tax law and aforesaid central legislations sought to be omitted/ repealed?

Ans. The service tax law and aforesaid central legislations are sought to be omitted/ repealed by Section 174, in a manner so as not to:

- (a) revive anything not in force or existing at the time of such amendment or repeal; or
- (b) affect the previous operation of the amended Act or repealed Acts and orders or anything duly done or suffered thereunder; or
- (c) affect any right, privilege, obligation, or liability acquired, accrued or incurred under the amended Act or repealed Acts or orders under such repealed or amended Acts.

However any tax exemption granted as an incentive against investment through a notification shall not continue as privilege if the said notification is rescinded on or after the day CGST comes into existence;

- (d) affect any duty, tax, surcharge, fine, penalty, interest as are due or may become due or any forfeiture or punishment incurred or inflicted in respect of any offence or violation committed against the provisions of the amended Act or repealed Acts; or
- (e) affect any investigation, inquiry, verification (including scrutiny and audit), assessment proceedings, adjudication and any other legal proceedings or recovery of arrears or remedy in respect of any such duty, tax, surcharge, penalty, fine, interest, right, privilege, obligation, liability, forfeiture or punishment, as aforesaid, and any such investigation, inquiry, verification (including scrutiny and audit), assessment proceedings, adjudication and other legal proceedings or recovery of arrears or remedy may be instituted, continued or enforced, and any such tax, surcharge, penalty, fine, interest, forfeiture or punishment may be levied or imposed as if these Acts had not been so amended or repealed;
- (f) affect any proceedings including that relating to an appeal, review or reference, instituted before on, or after the appointed day under the said amended Act or repealed Acts and such proceedings shall be continued under the said amended Act or repealed Acts as if this Act had not come into force and the said Acts had not been amended or repealed.

Q122. Does the aforesaid manner in which omission/ repeal is sought to be enforced be subject to Section 6 of the General Clauses Act?

Ans. The aforesaid manner in which omission/ repeal is sought by CGST Act, shall not be prejudicial to Section 6 of the General Clauses Act, 1897 or affect the general application of Section 6 of the General Clauses Act, 1897.

Q123. What is Section 6 of the General Clauses Act?

Ans. Section 6 of the General Clauses Act, 1897 lays down the effect of a legislation after the said legislation has been repealed. Section 6 of General Clauses Act, 1897 is extracted herein below for ready reference:

Effect of repeal — Where this Act, or any Central Act or Regulation made after the commencement of this Act, repeals any enactment hitherto made or hereafter to be made, then, unless a different intention appears, the repeal shall not —

- (a) revive anything not in force or existing at the time at which the repeal takes effect; or
- (b) affect the previous operation of any enactment so repealed or anything duly done or suffered thereunder; or
- (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed; or

- (d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed; or
- (e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if the repealing Act or Regulation had not been passed.

MCQ's

Job Work procedure (Section 143)

Q1. Should the principal referred to in Section 143 be registered?

- (a) Yes
- (b) No

Ans. (a) Yes

Q2. Who is a principal as per Section 143?

- (a) A person who sends inputs and/or capital goods for job-work
- (b) A registered taxable person who sends inputs and/or capital goods for job-work
- (c) A registered taxable person who supplies inputs and/or capital goods for job-work
- (d) A registered person

Ans. (d) *A registered person*

Q3. When will the inputs and/or capital goods sent to job-work become a supply?

- (a) When the inputs and/or capital goods sent to job-worker are not received within 1 year or 3 years respectively
- (b) When the inputs and/or capital goods sent to job-worker are not supplied, with or without payment of tax, from the job-workers place within 1 year or 3 years respectively
- (c) Both under (a) or (b)
- (d) None of the above

Ans. (c) *Both under (a) or (b)*

Q4. From when will the period of one or three years be calculated under Section 143?

- (a) The day when such inputs and/or capital goods sent to job-worker

- (b) The day when the job-worker receives the said goods, in case the job-worker receives the goods directly
- (c) Both (a) and (b)
- (d) None of the above

Ans. (c) *Both (a) and (b)*

Q5. Will a principal who sends moulds, dies, jigs, tools and fixtures to job worker's place liable to pay GST on such removal?

- (a) No, it is not a supply
- (b) Yes, if not received within time limit
- (c) No, as capital goods as referred in section 143 excludes moulds, dies, jigs, tools and fixtures.
- (d) None of the above

Ans. (c) *No, as capital goods as referred in section 143 excludes moulds, dies, jigs, tools and fixtures*

Q6. GST is applicable on__

- (a) Inputs and/or capital goods sent to job-worker (Satisfying conditions u/s 143)
- (b) The job-worker charges and additional material added by the job-worker on the inputs sent by the principal
- (c) Both of the above
- (d) None of the above

Ans. (b) *The job-worker charges and additional material added by the job-worker on the inputs sent by the principal*

Q7. When should a job-worker take registration?

- (a) Always
- (b) Only if his aggregate turnover exceeds the threshold limits specified under Section 22 of the Act.
- (c) Never
- (d) None of the above

Ans. (b) *Only if his aggregate turnover exceeds the threshold limits specified under Section 22 of the Act*

Q8. Can a principal supply inputs and/or capital goods from the job-worker's premises?

- (a) Yes, only when the job-worker is registered

- (b) Yes, even if the job-worker is unregistered by declaring the job-worker's premises as his additional place of business
- (c) Yes, irrespective of whether the job-worker is registered or not, principal is engaged in the supply of goods which are notified by the Commissioner on this behalf
- (d) All of the above

Ans. (d) All of the above

Q9. Mr. X has sent his goods to Mr. Y on job-work on 07-05-2017. From when it will be considered as deemed supply if not received back within one year?

- (a) 06-05-2018
- (b) 07-05-2017
- (c) 03-11-2018
- (d) Not Taxable

Ans. (b) 07-05-2017

Q10. If the inputs are not received back within the prescribed limit by the principal then, who is responsible to pay the GST?

- (a) Job worker
- (b) Principal
- (c) Job worker is responsible when sending such inputs and Principal needs to reverse the ITC taken earlier.
- (d) None of the above

Ans. (b) Principal

Q11. If the inputs or capital goods are considered as deemed supply in the hands of principal then, whether ITC of such output tax charged by the principal can be claimed by the Job worker, if registered?

- (a) Yes
- (b) No

Ans. (a) Yes

Q12. What is the time limit to receive back the tools and dies or jigs and fixtures sent to job-worker's place?

- (a) 1 year
- (b) 3 years
- (c) 5 years

(d) No time limit specified under GST

Ans. (d) *No time limit specified under GST*

Q13. Will the inputs and/or capital goods supplied from the job-worker's premises be considered for calculating the aggregate turnover of the job-worker?

(a) Yes

(b) No

Ans. (b) *No*

Q14. Which section specifies the conditions to be fulfilled for claiming ITC on inputs and/or capital goods sent to job-worker?

(a) 19

(b) 55

(c) 143

(d) 177

Ans. (a) *19*

Q15. Can principal take input tax credit on the inputs and/or capital goods sent directly to job-worker?

(a) Yes

(b) No

(c) Yes subject to section 143

(d) ITC on capital goods sent directly to job-worker's premise is not eligible unless the same is received in the premises of the principal

Ans. (c) *Yes subject to section 143*

Q16. If the job-worker is eligible to claim ITC on the goods received from the principal, is there a time limit within which such ITC shall be availed/claimed by the job-worker?

(a) Within September 30 of following year

(b) Filing the annual return for the period

(c) Option (a) or (b), whichever is earlier

(d) No time limit prescribed to claim such ITC

Ans. (c) *Option (a) or (b), whichever is earlier*

Q17. How can the principal move goods to the job-worker?

(a) Job-work challan

(b) Tax invoice

(c) Delivery challan containing the details as specified in the Tax invoice, credit and debit note rules.

(d) Option (a) or (b)

Ans. (c) *Delivery challan containing the details as specified in the Tax invoice, credit and debit note rules*

Q18. If the inputs and/or capital goods are not received or returned within the prescribed time limit:

(a) It shall be deemed to be a supply on the day such inputs and/or capital goods are sent to job-worker and the principal to discharge the GST along with interest.

(b) No consequences

(c) The job-worker to discharge GST on expiry of the prescribed time limit.

(d) Principal to reverse the input tax credit taken on such inputs and or capital goods.

Ans. (a) *It shall be deemed to be a supply on the day such inputs and/or capital goods are sent to job-worker and the principal to discharge the GST along with interest*

Q19. Who is responsible for accountability for any contravention under this Act?

(a) Principal

(b) Job-worker

(c) Manufacturer

(d) No-body

Ans. (a) *Principal*

Q20. Who should discharge the liability of GST on the scrap generated during job-work?

(a) Job-worker, if registered

(b) Principal, if job-worker is not registered

(c) Always principal

(d) Option (a) or (b)

Ans. (d) *Option (a) or (b)*

Q.21 What is the periodicity of **Form GST ITC-04**?

(a) Daily

(b) Monthly

(c) Quarterly

(d) Yearly

Ans. (c) *Quarterly*

Q.22 Whether the details of goods supplied from job worker's premises need to be included in **Form GST ITC-04**?

- (a) Required for unregistered job worker
- (b) Required for registered job worker
- (c) Not required
- (d) Both (a) & (b)

Ans: (d) Both (a) & (b)

Presumption as to documents in certain cases (Section 144)

Q23. Document includes:

- (a) Written record
- (b) Printed Record
- (c) Electronic
- (d) All of the above

Ans. (d) All of the above

Admissibility of micro films, facsimile copies of documents and computer print-outs as documents and as evidence (Section 145)

Q24. Transfer of business includes

- (a) Sale
- (b) Lease
- (c) License
- (d) All the above

Ans. (d) All the above

Q25. Who is liable to pay the tax in case of transfer of business?

- (a) Transferor
- (b) Transferee
- (c) Both jointly and severally
- (d) Jointly

Ans. (c) Both jointly and severally

Q26. What is 'deemed exports' provisions applicable to?

- (a) Deemed export provision is applicable only to goods

- (b) Deemed export provision is applicable only to services
- (c) Deemed export provision is applicable both to goods and services
- (d) Deemed export provision is applicable when goods and services are supplied to SEZ units/ developers

Ans. (a) *Deemed export provision is applicable only to goods*

Q27. What are the conditions applicable before claiming deemed exports?

- (a) Goods must be manufactured in India
- (b) Goods must not leave India
- (c) Goods must be notified by Central Government
- (d) All the above

Ans. (d) *All the above*

Q28. What special procedures can be notified for certain class of persons u/s 148?

- (a) Registration
- (b) Furnishing of Return
- (c) Payment of Tax
- (d) Administration of such persons
- (e) All of the above

Ans. (e) *All of the above*

Q29. GST compliance rating would be given to whom

- (a) Input Service Distributor
- (b) Supplier of Goods and/ or Services whose value of taxable turnover is greater than 20 lakhs
- (c) Composition Dealer
- (d) Person who is liable to deduct TDS/ collect TCS
- (e) All of the above

Ans. (e) *All of the above*

Q30. Whether GST compliance rating would be placed in public domain?

- (a) Yes – rating would be available to general public
- (b) No – rating would not be available to general public
- (c) Rating disclosed only at the time of entering into transaction
- (d) Rating disclosed only to person to whom the compliance rating belongs

Ans. (a) *Yes – rating available to general public.*

Q31. Who are the persons liable to furnish information return?

- (a) Taxable person
- (b) Income Tax Officer
- (c) Sub Registrar
- (d) Banking Company
- (e) GST Network
- (f) All the above

Ans. (f) *All the above.*

Q32. What is the consequence if information is not filed in the form and manner as required by the Central Government?

- (a) Return will be treated as defective
- (b) Defect has to be rectified within 30 days
- (c) Return treated as not filed
- (d) Refile the return within 30 days
- (e) (a) and (b) above
- (f) (c) and (d) above

Ans. (e) - (a) and (b) above

Q33. Is there any ban on disclosure and use of information collected in the form of information return?

- (a) No. Such information can be used for all GST purposes except publishing such information
- (b) Yes. Such information cannot be used by the department under any proceedings under GST Act.
- (c) Yes. Such information cannot be used by the department under any proceedings under GST Act except for the purpose of launching prosecution proceedings under the Act
- (d) No. Such information can be used to publish information
- (e) Yes. However such information can be used to publish information about a class of persons and class of transactions
- (f) (a) and (d) above
- (g) (c) and (e) above

Ans. (g) – (c) and (e) above

Q34. Who of the following would be liable, when they disclose information collected from information return/ statistics u/s 150 and 151 respectively?

- (a) Departmental officer – when information disclosed while executing duties
- (b) Agent of GST portal – when information disclosed while executing duties
- (c) Person engaged in GST portal - when information disclosed while executing duties
- (d) Person engaged in collection of statistics - when information disclosed while executing duties
- (e) None of the above

Ans. (e) *None of the Above*

Q35. When can assistance of expert be taken?

- (a) Scrutiny
- (b) Inquiry
- (c) Investigation
- (d) Before passing Order
- (e) All the above

Ans. (e) *All the above.*

Q36. Should receipt be given when samples are taken by the department?

- (a) Yes
- (b) No

Ans. (a) *Yes*

Q37. Whether prosecution can be initiated against the following persons?

- (a) Members of Appellate Tribunal, since they did not follow the case law, which was decided by the President, leading to incorrect decision by such members of Appellate Tribunal
- (b) Adjudicating Authority for not following the orders of the Commissioner, when such work was delegated to such Adjudicating Authority
- (c) Vindictive action taken by a departmental officer, while discharging his function. The action was however in the favour of the revenue

Ans. (c) *Vindictive action taken by departmental officer though action taken in favour of the department.*

Q38. What are the circumstances when information collected by GST officer can be disclosed by such GST officer?

- (a) When serving show cause notice to an assessee
- (b) To the authority empowered to take disciplinary action, when inquiry is being

conducted by such disciplinary committee

- (c) To an officer appointed for the purpose of conducting audit
- (d) (b) and (c)
- (e) (a), (b) and (c)

Ans. (e) - (a), (b) and (c)

Q39. Whether validity of service of notice can be called into question when assessee has submitted himself to adjudication proceedings pursuant to such notice?

- (a) Yes
- (b) No
- (c) Depends of the facts of the case

Ans. (b) No

Q40. When can mistake apparent on record be corrected?

- (a) When mistake noticed by authority passing the order
- (b) When mistake pointed out by corresponding officer of SGST
- (c) When mistake pointed by person affected by the order
- (d) All of the above

Ans. (d) All of the above

Q41. Within what period should the mistake apparent on record be brought to the notice of the authority?

- (a) Three Months
- (b) Six Months
- (c) Depends – Three months in case of clerical error or arithmetical error and six months in other case

Ans. (c) *Depends – Three months in case of clerical error or arithmetical error and six months in other case*

Q42. Can government make retrospective rules?

- (a) Yes. But cannot impose penalty for contravention of rules for retrospective period
- (b) Yes and also can impose penalty for contravention of rules for retrospective period
- (c) No

Ans. (a) *Yes. But cannot impose penalty for contravention of rules for retrospective period*

Q43. What is the effect if the parliament annuls the rules/ notifications issued by government?

- (a) It is as good as no rules/ notifications were issued by the government

- (b) The rules/ notifications issued by the government would be effective for the period from the date of issue till the date they were annulled by the parliament
- (c) There would be no sanctity for the action taken by the department/ assessee on the basis of rules/ notification for the period from the date of issue till the date of annulment.
- (d) The action taken by the department/ assessee on the basis of such rules would be void from the date of annulling the rules/ notification.
- (e) (a) and (c)
- (f) (b) and (d)

Ans. (b) and (c)

Q44. What are the methods to serve notice/ order/ documents under GST Act?

- (a) Only by registered post acknowledgement due
- (b) By speed post (acknowledgement due not necessary)
- (c) By courier with acknowledgement due
- (d) Common portal
- (e) E-mail provided at the time of registration
- (f) Publication in newspaper circulating in the locality
- (g) All of the above except (c)
- (h) All of the above except (b)

Ans. (g) All of the above except (b)

Q45. Would notice/ order/ documents be 'deemed as served', though registered post/ speed post is not received by intended person?

- (a) No. Actual service is necessary. There is no concept of deemed service.
- (b) Yes it is deemed to have been received by the addressee at the expiry of the period normally taken by such post, unless the contrary is proved.

Ans. (b) Yes it is deemed to have been received by the addressee at the expiry of the period normally taken by such post, unless the contrary is proved.

Q46. What action should be taken by an assessee to satisfy with anti-profiteering provision?

- (a) Reduce rate of tax on any supply of goods or service, if such assessee has got the benefit of such reduced rate
- (b) Pass on the benefit of input tax credit, if such assessee has got such input tax credit
- (c) Both (a) and (b)

Ans. (c) – Both (a) and (b)