

# Chapter I

## Levy and Collection of Tax

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### FAQ's

#### Levy and collection of Tax (Section 5)

Q 1. What type of tax is levied on inter-State supply?

Ans. In terms of Section 5 of the IGST Act, 2017, inter-State supplies are liable to IGST. The nature of supply (inter-State or intra-State) shall be ascertained based on the provisions prescribed under Section 7 and Section 8 respectively of the IGST Act, 2017.

Further, the IGST on the import of goods shall be levied and collected in accordance with the provisions of Section 3 of the Customs Tariff Act, 1975 on the value determined under the said Act at the point when duties of customs are levied on the said goods under Section 12 of the Customs Act, 1962.

Q 2. How to ascertain the taxable value for levy of IGST?

Ans. In terms of Section 5(1) the IGST Act shall be levied on the value of goods ascertained in terms of Section 15 of the CGST Act, 2017. It is specified that that the value of supply of goods or services or both shall be the transaction value, which is the price actually paid or payable for the said supply of goods or services or both where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply. Further Section 15 provides for certain inclusions which will form part of the value viz., incidental expenses, commission, interest, penalty etc. In case where the supplier and recipient are related persons, the draft Central Goods and Services Tax rules published contains the provisions and method for ascertaining the value of supplies.

Q 3. What is the rate of tax that is applicable on inter-State supplies?

Ans. The applicable rate of tax on inter-state supply of Services has been provided under Notification no. 8/2017 dated 28.06.2017 and rate on inter-state supply of goods has been provided under 01/2017-Integrated Tax (Rate) and 02/2017-Integrated Tax (Rate) dated 28-06-2017. However, the provisions specify that the Government may specify rate of tax which shall not exceed 40%.

Q 4. Who is responsible to pay taxes?

Ans. Generally, the person making taxable supplies is liable to pay taxes. However, following are certain exceptions:

(a) **Reverse charge:** In terms of Section 5(3) of the IGST Act, 2017, supply of goods or services or both, notified by the Government vide notification No. 04/2017-

Integrated tax(Rate) dated 28-06-2017, the tax shall be paid by the recipient of supply under reverse charge; and

- (b) **E-Commerce:** in case of the following two categories of supplies as notified by the Government vide Notification No. 14/2017-Integrated Tax (Rate), dated 28-06-2017 tax shall be paid by the e-commerce operator in terms of Section 5(5) of the IGST Act, 2017.
- (1) services by way of transportation of passengers by a radio-taxi, motor cab, maxicab and motor cycle;
  - (2) services by way of providing accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes, except where the person supplying such service through electronic commerce operator is liable for registration under clause (v) of section 20 of the IGST Act, 2017 read with sub-section (1) of section 22 of the CGST Act.

In the event the e-commerce operator do not have physical presence in the taxable territory, following persons will be liable to pay tax:

- (i) a person who is representing the e-commerce operator in the taxable territory;
- (ii) in the absence of such representative, e-commerce operator should appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.

Q 5. What does the payment of tax under reverse charge mean?

Ans. Section 2(98) of the CGST Act defines the terms reverse charge to mean liability to pay tax by the recipient of supply of goods or services or both instead of the supplier of such goods or services or both.

Q 6. What are the categories of supplies which are liable to tax under reverse charge mechanism?

Ans. In terms of Section 5(3) of the IGST Act, 2017, supply of goods or services or both, as notified by the Government vide Notification No. 04/2017-Integrated Tax (Rate), dated 28-06-2017, the tax shall be paid by the recipient of supply under reverse charge. However, in terms of Section 5(4), it is specified that all registered recipient of goods or services or both is liable to pay tax under reverse charge in the event supplier of goods is not registered.

However, the supplies made by unregistered suppliers to a registered person are exempted if the aggregate value of such supplies does not exceed ₹ 5000 in a day.

Q 7. Whether the tax on inter-State supplies is applicable to every supplies?

Ans. No. Section 5(1) which is the charging provision for levy and collection of tax on intra-State supplies excludes supply of alcoholic liquor for human consumption. Further, in terms of Section 5(2), tax on supply of petroleum crude, high speed diesel, motor spirit, natural gas and aviation turbine fuel shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council.

### Power to grant exemption (Section 6)

Q 8. Whether Council has powers to grant exemption on payment of taxes?

Ans. No. The power to grant exemption is vested with the Government. In other words, the Government by way of issuance of notification on the recommendations of the council may either grant the exemption absolutely or subject certain conditions.

### MCQ's

#### Levy and collection (Section 5 to 6)

Q 1. \_\_\_\_\_ Supply shall attract IGST?

- (a) Intra-State
- (b) Inter-State
- (c) Both

Ans. (b) *Interstate*

Q 2. Is there any ceiling limit prescribed on the rate under IGST?

- (a) 14%
- (b) 40%
- (c) 26%
- (d) 30%

Ans. (b) *40%*

Q 3. What if an e-commerce operator having no physical presence in the taxable territory, does not have a representative in the taxable territory?

- (a) His will have to discharge his tax liability in foreign currency
- (b) He will not be liable to tax
- (c) He has to appoint a person in the taxable territory for the purpose of paying tax on his behalf
- (d) None of the above

Ans. (c) *He has to appoint a person in the taxable territory for the purpose of paying tax on his behalf*

Q 4. Unless and until notified, IGST shall not be levied on the inter-State supply of which of the following:

- (a) Industrial alcohol
- (b) Works contract
- (c) Petroleum
- (d) None of the above

Ans. (c) *Petroleum*

## Chapter II

# Determination of Nature of Supply

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### FAQ's

#### **Supply of goods and / or service in the course of inter-state trade or commerce (Section 7)**

Q 1. When is supply of goods considered as supply in the course of inter-State trade or commerce?

Ans. Supply of goods will be considered as inter-State supply if the location of the supplier and place of supply are in different States or different Union territories or State or Union territory. This is subject to provisions contained in Section 10 of the IGST Act, 2017.

Q 2. When is supply of service considered as supply in the course of inter-State trade or commerce?

Ans. Supply of service will be considered as inter-State supply if the location of the supplier and place of supply are in different States or different Union territories or State or Union territory. This is subject to provisions contained in Section 12 of the IGST Act, 2017.

Q 3. What is the meaning of location of supplier?

Ans. The term location of supplier of goods has not been defined in the IGST Act, 2017. This is not an oversight of the draughtsman but a deliberate intention of the lawmaker to leave it to the facts of each case to determine the 'location of supplier of goods'.

Location of supplier of service is defined under Section 2(15) of the IGST Act, 2017 as under:

- (a) where a supply is made from a place of business for which registration has been obtained, the location of such place of business;
- (b) where a supply is made from a place other than the place of business for which registration has been obtained, that is to say, a fixed establishment elsewhere, the location of such fixed establishment;
- (c) where a supply is made from more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the provision of the supply; and
- (d) in absence of such places, the location of the usual place of residence of the supplier

Q 4. What is the place of supply of goods in the course of import into India?

Ans. Supply of goods in the course of import into territory of India till the goods cross the customs frontiers of India will be treated as inter-State trade or commerce. Further, in terms of Section 11 of the IGST Act, 2017 the place of supply of goods imported into India will be the location of the importer.

Customs frontiers of India means the limits of the area of a customs station as defined in Section 2 of the Customs Act, 1962 (52 of 1962) in which imported goods are ordinarily kept before clearance by customs authorities.

Customs station is defined under Section 2 of the Customs Act, 1962 to mean any customs port, customs airport or land customs station.

Q 5. Whether the goods supplied from custom bonded warehouse is considered as supply in the course of import into India?

Ans. Goods kept in customs bonded ware house would be considered to be kept outside the customs frontiers of the country. [In case of M/s Dempo engineering works and Belapur] Therefore, goods supplied from custom bonded warehouse would not be considered as supply in the course of import into India and will not be treated as inter-State trade or commerce.

Q 6. What is the place of supply of service in the course of import into India? Give Example

Ans. Supply of service in the course of import into the territory of India will be treated as supply in the course of inter-State trade or commerce. Thus, place of supply would be the location of the Importer.

Example – Annual maintenance contract entered by a Company outside India for maintenance of goods located in India.

Q 7. What is the place of supply if the supplier of service is located in Mumbai and the recipient of service being an SEZ unit is in Nagpur?

Ans. The supply of services to a Special Economic Zone will be treated as a supply in the course of inter-State trade or commerce in accordance with section 7(5) (b) of the IGST Act. Therefore, the provisions related to place of supply shall apply accordingly in the given case though supplier and recipient both are located in the same State (i.e. Maharashtra), the place of supply of service to a SEZ unit will be treated as inter-State.

### **Supplies of goods and/or services in the course of intra-State trade or commerce (Section 8)**

Q 8. When is supply of goods considered as supply in the course of intra-State trade or commerce?

Ans. Supply of goods will be considered as intra-State supply if the location of the supplier and place of supply are in the same State or same Union territory. This is subject to provisions contained in Section 10 of the IGST Act, 2017.

Q 9. When is supply of service considered as supply in the course of intra-State trade or commerce?

Ans. Supply of service will be considered as intra-State supply if the location of the supplier and place of supply are in the same State or same Union territory. This is subject to provisions contained in Section 12 of the IGST Act, 2017.

### **Place of Supplies in territorial waters (Section 9)**

Q 10. What is the location of supplier in case of supplier is located in territorial waters?

Ans. The location of supplier in case of supplier is located in territorial waters shall be the costal State or Union territory where the nearest point of the appropriate baseline is located.

Q 11. What is the place of supply in case of supply is in territorial waters?

Ans. The place of supply in case of supply in territorial waters shall be the costal State or Union territory where the nearest point of the appropriate baseline is located.

### **MCQ's**

#### **Supply of goods and / or service in the course of inter-state, intra-state trade or commerce (Section 7 to 9)**

Q 1. Which of the following is an inter-State supply?

- (a) Supplier of goods located in Delhi and place of supply of goods SEZ located in Delhi
- (b) Supplier of goods located in Delhi and place of supply of goods in Jaipur
- (c) Supplier of goods located in Delhi and place of supply of goods SEZ located in Chandigarh
- (d) All the above

Ans. (d) *All the above*

Q 2. Which of the following is an intrastate supply?

- (a) Supplier of goods located in Delhi and place of supply of goods SEZ located in Delhi
- (b) Supplier of goods located in Delhi and place of supply of goods in Jaipur
- (c) Supplier of goods located in Delhi and place of supply of goods in Delhi
- (d) All the above

Ans. (c) *Supplier of goods located in Delhi and place of supply of goods in Delhi*

Q 3. Which of the following transaction is inter-state supply of goods involving movement of goods?

- (a) Location of supplier is in Bangalore and location of recipient is in Mumbai
- (b) Location of supplier is in Bangalore and place of supply is Mumbai
- (c) Location of supplier and place of supply is Bangalore
- (d) None of the above

Ans. (b) *Location of supplier is in Bangalore and place of supply is Mumbai*

Q 4. Supply of goods in the course of import into the territory of India is

- (a) Intrastate supply
- (b) Inter-State supply
- (c) Export
- (d) Neither Export nor Import

Ans. (d) *Inter-State supply*



## Chapter IV

# Refund of Integrated Tax to International Tourist

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### FAQ's

#### Refund of Integrated Tax to International Tourist (Section 15)

Q 1. What is the scope of the Section 15 of IGST Act, 2017?

Ans. Section 15 of the IGST Act, 2017 applies to international tourists. The IGST tax paid by the international tourist on the supply of goods is eligible for refund to the said tourist, subject to such conditions and safeguards as may be prescribed.

Q 2. Define "Tourist".

Ans. Tourist means a person not normally resident in India, who enters India for a stay of not more than six months for legitimate non-immigrant purposes.

Q 3. Supplies made to Tourists are leviable to which tax?

Ans. All the supplies made to tourists are inter-State supplies in accordance with Section 8 of the IGST Act, 2017 and accordingly are leviable to Integrated tax.

Q 4. On what supplies made to him, can the tourist claim refund?

Ans. The tourist can claim refund of integrated tax only on the supply of goods taken out of India. The tourist cannot claim the refund of tax paid on the supply of goods consumed in India or on supply of services.

Q 5. What are the procedures to be followed for claiming refund?

Ans. The procedures for claiming refund by the tourist is yet to be prescribed by the central government.

Q 6. Is the integrated tax paid by tourist on mixed supplies or composite supplies eligible for refund?

Ans. A) In case of Composite Supplies, if the principal supply is of the goods, then same will be eligible for refund, though the element of service could be involved.

B) In case of Mixed Supplies comprising of goods, or goods & services, if the supply of goods attracts highest rate of tax, then same will be eligible for refund. However, if the mixed supply consists of only services, then the same will not be eligible for refund.

Q 7. A tourist has purchased Wine to be taken outside India. Can he claim refund of the tax paid?

Ans. Since there is no levy on the alcoholic liquor for human consumption under GST, the question of refund doesn't arise.

Q 8. Can the crew members of the ship, aircraft or any other conveyance claim refund of tax paid under Section 15?

Ans. Yes, provided they satisfy the conditions as mentioned in Q1 and Q2.

Q 9. Can the NRI's claim refund of tax paid under Section 15?

Ans. Yes, since the NRI's are not normally resident in India they will be treated as tourist if the stay in India is for legitimate non-immigrant purpose for a period of less than 6 months.

## **MCQ's**

### **Refund to International Tourist - IGST Act, 2017 (Section 15)**

Q 1. The Tourist can claim Refund of following taxes paid on

- (a) CGST and SGST/UTGST on supply of Goods and services
- (b) IGST on supply of goods
- (c) Tax paid on the supply of scotch to be taken out of India
- (d) None of the above

Ans. *(b) IGST on supply of goods*

Q 2. Tourist means a person:

- (a) Not normally resident in India
- (b) Stays for not more than 6 months in India
- (c) Stays for legitimate and Non-Immigrant purpose
- (d) All the above

Ans. *(d) All the above*

## Chapter V

# Zero Rated Supply

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### FAQ's

#### Zero Rated Supply (Section 16)

Q 1. What is the meaning of the term "Zero Rated Supply"?

Ans. "Zero Rated Supply" refers to supplies made TO SEZ units / developers or exports of goods or services or both. Zero rated supply doesn't necessarily mean that the above supplies are not leviable to IGST or will be taxed at "0" (Zero) Rate or will be exempt from IGST unconditionally.

Q 2. What is the relevance of zero rated supplies?

Ans. Given that the Exports and SEZ play a pivotal role in the economic growth in India, the registered person will have two options, namely;

- (a) he can make Zero Rated Supplies without payment of IGST under Letter of Undertaking or Bond and claim refund of input tax credit w.r.t to such supplies; or
- (b) he can make Zero Rated Supplies with payment of IGST (either by utilizing Input tax credit or by cash) and claim refund of such tax paid.

However, the registered person will have to abide by the conditions, safeguards and procedures as specified in Rule 96 and 96A of the CGST Rules (refer refund Chapter).

Q 3. Are exports and supplies to SEZ units/Developers out of the ambit of GST?

Ans. No. They are leviable under IGST Act, 2017. However, the tax burden on the same will be neutralized by granting refunds to persons making such supplies.

Q 4. Can SEZ unit / Developers claim refund of IGST charged by his supplier?

Ans. No. The IGST Act, 2017 allows the supplier of SEZ unit / developer to claim refund of IGST paid by him on supplies to SEZ unit / Developers.

Q 5. Are supplies made by SEZ units/Developer are Zero rated supplies?

Ans. No. only the supplies made TO SEZ units/Developer are zero rates supplies. However, Exports made BY SEZ units/Developer will be zero rated supplies.

**MCQ's****Zero Rated Supply (Section 16)**

Q 1. Zero rated supply includes:

- (a) Export of goods and services.
- (b) Supply of goods and services to a SEZ developer or SEZ Unit
- (c) Supply of goods and services by a SEZ developer or SEZ Unit
- (d) Both (a) and (b)

Ans. (d) Both (a) and (b)

Q 2. Is the SEZ developer or SEZ unit receiving zero rated supply eligible to claim refund of IGST paid by the registered taxable person on such supply?

- (a) Yes
- (b) No
- (c) Partially yes

Ans. (b) No

Q 3. A registered taxable person is eligible to claim refund in respect of export of goods and services in the following cases:

- (a) Under bond, without payment of IGST and claim refund of unutilized input tax credit.
- (b) On payment of IGST and claim refund of IGST paid on such goods and services.
- (c) None of the above
- (d) Both (a) and (b)

Ans. (d) Both (a) and (b)

Q 4. The supply of goods to SEZ unit is treated as \_\_\_\_\_ in the hands of the supplier:

- (a) Exempt Supply – Reversal of credit
- (b) Deemed Taxable Supply – No reversal of credit
- (c) Export of Supplies
- (d) Non-Taxable Supply – Outside the Scope of GST

Ans. (c) Export of Supplies

## Chapter VI

# Apportionment of Tax and Settlement of Funds

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### FAQ's

#### Apportionment of Tax and Settlement of Funds (Section 17 to Section 19)

Q 1. What is the need for apportionment of tax collected between Centre and State?

Ans. As we all know, that unlike CST, GST is destination based consumption tax. The State where the goods or services or both are consumed will get the right upon tax paid on the said goods or services or both so as to ensure the flow of input tax credit to the recipient in the consuming State. Further, in the case of inter-State supplies, where the tax is collected and paid by the supplier in the origin State, the burden is borne by the recipient in the consuming State. Hence, the integrated tax collected by the central government needs to be apportioned between center and consuming state in the proportion to CGST and the SGST. In case of consumption in the Union Territories, the entire tax will be retained by the central government though under different account.

Q 2. What is the mechanism of IGST apportionment between Centre and State?

Ans. The IGST paid on the inter-State supplies of goods or services or both TO and Imports by

- (a) An unregistered person;
- (b) Registered Person paying tax under Section 10 of the CGST Act, 2017 (Composition Levy);
- (c) Registered Person who is not eligible for input tax credit on the said supply; and
- (d) Registered Person who does not avail credit within due date of filing annual return

will be first apportioned to the Central Government based on the rate of CGST on similar intra-State supply.

The balance amount of integrated tax will be apportioned to the

- (a) State Government where such supply takes place; and
- (b) Central Government in relation to Union Territories.

Q 3. How will the IGST tax be distributed if the place of supply made by any taxable person cannot be determined?

Ans. Such integrated tax shall be apportioned to each of the States and Central Government in relation to Union Territories, in proportion to the total supplies made by such taxable person to each of such States or Union Territories, as the case may be, in a financial year.

Ex: The following are the taxable supplies made by taxable person from Karnataka to persons specified in Q2

Particulars	Taxable Value	CGST	SGST	IGST
Intra-State Supplies	7,00,000	42,000	42,000	-
Inter-State supplies to:				
- Maharashtra	2,50,000	-	-	30,000
- Tamil Nadu	4,50,000	-	-	54,000
- Chandigarh	3,00,000	-	-	36,000
- Place of Supply Not known	2,25,000	-	-	27,000
Grand Total	19,25,000	42,000	42,000	1,47,000

Note: CGST Rate: 6% ; SGST Rate : 6% ; IGST Rate : 12%

The Apportionment of IGST Tax will be done in the following Manner

Place of Supply in	Apportion to	Tax to be apportioned	Central Government	Maharashtra	Tamil Nadu
	Taxable Value				
- Maharashtra	2,50,000	30,000	15,000	15,000	-
- Tamil Nadu	4,50,000	54,000	27,000	-	27,000
- Chandigarh	3,00,000	36,000	36,000	-	-
- Place of Supply Not known	2,25,000	27,000	8,100	6,750	12,150
Grand Total	12,25,000	1,47,000	86,100	21,750	39,150

Q 4. How will the balance IGST portion after the apportionment to central government be distributed if the taxable person making supplies cannot be identified?

Ans. The balance IGST portion will be distributed to all the States and Central Government in respect of Union Territories based on the amount collected as SGST and UTGST by the respective States / Central Government in respect of Union Territories during the immediately preceding financial year.

Q 5. How will the Penalty, Interest etc paid on IGST be distributed?

Ans. The penalty, interest etc will be distributed in the same manner as the IGST is distributed.

Q 6. How will the IGST be apportioned in case of supplies to Registered Person who utilize the same for the payment of CGST, SGST or UTGST?

Ans. The amount will be distributed to Central Government and appropriate State government to the extent the integrated tax credit is utilized for the payment of CGST/UTGST and SGST respectively on the outward supplies.

Ex: The taxable supplies made by registered person in Karnataka is as follows:

Particulars	Taxable Value	CGST	SGST	IGST
Intra-State Supplies	7,00,000	42,000	42,000	-
Inter-State supplies	7,00,000			84,000
Grand Total	14,00,000	42,000	42,000	84,000

Note: CGST Rate: 6%; SGST Rate: 6%; IGST Rate: 12%

The registered person has only IGST credit of ₹ 1,50,000/-

The utilization of IGST Credit and distribution thereof will as follows:

Particulars	CGST	SGST	IGST	Total
Output Tax payable	42,000	42,000	84,000	1,68,000
Utilization of IGST Credit	42,000	24,000	84,000	1,50,000
Net Tax payable in cash	-	18,000	-	18,000

Out of ₹ 1,50,000/- of IGST Credit,

- ₹ 84,000/- will remain in integrated tax account as the same is utilized for payment of IGST.
- ₹ 42,000/- and ₹ 24,000/- will be distributed to Central Government and Karnataka State Government respectively.

Q 7. What is the remedy to the registered person who has paid IGST by treating an intra-State supply as inter-State supply?

Ans. The IGST so paid will be refunded to the registered person as per Rule 96 and 96A of the CGST Rule 2017.

Further, the registered person will not be required to pay interest on the CGST and SGST / UTGST liability arising subsequently.

Q 8. What is the remedy to the registered person who has paid CGST, SGST/UTGST by treating an inter-State supply as intra-State supply?

Ans. The CGST and SGST/UTGST so paid will be refunded to the registered person in such manner and subject to such conditions as may be prescribed.

Further, the registered person will not be required to pay interest on the IGST liability arising subsequently.

### MCQ's

#### Apportionment of Tax and Settlement of Funds (Section 17 to Section 19)

Q 1. Out of IGST paid to the Central Government, which of the following must be apportioned based on tax rate equivalent to the CGST on similar intra-state supply?

- (a) Interstate supply of goods and services to an unregistered person.
- (b) Interstate supply of goods and services to a taxable person paying tax under sec.10 of the CGST Act, 2017.
- (c) Interstate supply of good and services to taxable person not eligible for input tax credit.
- (d) All of the above.

Ans. (d) *All of the above*

Q 2. Can IGST amount apportioned to a State, if subsequently found refundable to any person and refunded to such person, be reduced from the amount apportioned to such state?

- (a) Yes
- (b) No
- (c) Partially
- (d) None of the above

Ans. (a) *Yes*

Q 3. Out of the IGST paid to the Central Government in respect of import of goods or services, if the registered taxable person does not avail the said credit within the specified period and so remains in the IGST account, what is the treatment?

- (a) Refund it back to the taxable person.
- (b) Can be claimed after the expiry of the specified period.



- (c) Apportion to the Central Government based on rate equivalent to CGST on similar intra-State supply and Apportion to the state where such supply takes place.
- (d) None of the above.

Ans. (c) *Apportion to the Central Government based on rate equivalent to CGST on similar intra-State supply and Apportion to the state where such supply takes place*

Q 4. The provisions of apportionment of tax also apply to

- (a) Apportionment of interest
- (b) Apportionment of penalty
- (c) Compounding amount realized in connection with tax so apportioned.
- (d) All of the above

Ans. (d) *All of the above*

Q 5. The registered person has paid IGST by treating an intra-State supply as inter-State supply. The officer has levied CGST and SGST as the same is intra-State supply. What is the remedy?

- (a) Pay CGST and SGST along with applicable interest
- (b) Pay CGST and SGST and Claim refund of IGST
- (c) Forgo IGST paid
- (d) None of the above

Ans. (b) *Pay CGST and SGST and Claim refund of IGST*

## Chapter VII

# Miscellaneous

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### FAQ's

#### **Application of provisions of the CGST Act (Section 20)**

**(Similar provisions are there in the UTGST Act, 2017 vide Section 21)**

Q 1. What are the provisions of the CGST Act, which have been made applicable to IGST Act by Section 20 of the IGST Act?

Ans. The following provisions of the CGST Act shall *mutatis mutandis* apply, so far as they may be applicable to the IGST Act:

- (i) scope of supply;
- (ii) composite supply and mixed supply;
- (iii) time and value of supply;
- (iv) input tax credit;
- (v) registration;
- (vi) tax invoice, credit and debit notes;
- (vii) accounts and records;
- (viii) returns, other than late fee;
- (ix) payment of tax;
- (x) tax deduction at source;
- (xi) collection of tax at source;
- (xii) assessment;
- (xiii) refunds;
- (xiv) audit;
- (xv) inspection, search, seizure and arrest;
- (xvi) demands and recovery;
- (xvii) liability to pay in certain cases;
- (xviii) advance ruling;
- (xix) appeals and revision;
- (xx) presumption as to documents;
- (xxi) offences and penalties;

- (xxii) job work;
- (xxiii) electronic commerce;
- (xxiv) transitional provisions; and
- (xxv) miscellaneous provisions including the provisions relating to the imposition of interest and penalty,

Q 2. What are the provisions of the CGST Act, which shall apply to IGST Act, but with changes?

Ans. The following provision of the CGST Act shall apply to IGST act, not identically but with the following changes;

1. In case of tax deducted at source, the deductor shall deduct tax at the rate of two per cent. from the payment made or credited to the supplier (instead of one percent under the CGST Act):
2. In case of tax collected at source, the operator shall collect tax at such rate not exceeding two per cent, as may be notified on the recommendations of the Council, of the net value of taxable supplies: (instead of one percent under the CGST Act):
3. The value of a supply shall include any taxes, duties, cesses, fees and charges levied under any law for the time being in force under the CGST Act (*to be read as IGST Act, in the context of IGST Act*), and the Goods and Services Tax (Compensation to States) Act, if charged separately by the supplier
4. In a case where penalty is leviable under the Central Goods and Services Tax Act and the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, the penalty leviable under this Act shall be the sum total of the said penalties (i.e. sum total of penalties under CGST and SGST).

Q 3. Brief out the provisions related to charging of late fee while filling delayed return under which IGST Act?

Ans. The provisions related with charging of late fee while filling the delayed return is applicable under CGST, SGST/UTGST Act. However, there is an exception in section 20 of IGST Act that does not cover provisions related with charging of late fee in case of filling of delayed return.

### **Import of Service made on after the appointed day (i.e. IGST Act has come into effect) (Section 21)**

Q 4. If services are imported after the commencement of the IGST Act, would such service be liable to IGST, though the transaction has been initiated under service tax law (i.e. before the commencement of the IGST Act)?

Ans. Yes. If a service is imported on or after the day IGST has come into force, then such service shall be liable to IGST, regardless of the fact whether the transaction(s) for such

import of services had been initiated before IGST has come into force (i.e. when service tax law was in force)

Q 5. When is a supply of service transaction deemed to be initiated before the commencement of the IGST Act?

Ans. A transaction of supply of service is deemed to have been initiated before the day IGST comes into existence, if either:

1. The invoice relating to such supply or
2. Payment, either in full or in part, has been received or made before IGST Act has come into existence.

Q 6. In the above circumstance, then should tax be paid twice, once under service tax law and secondly under IGST Act?

Ans. No. If service tax on such import of services has already been paid in full under the service tax law, then IGST shall not be payable again at the time of actual import of such service.

Q 7. What if tax is paid only in part under service tax law and part of the tax becomes payable under IGST law?

Ans. In certain cases, part of the consideration for import of service is paid in advance or part of the consideration is paid according to milestone completion method under service tax law. Service tax would not have been paid on the balance consideration since either service would not have been completed or part of the consideration remains payable on the day service tax law is rescinded. In such cases, IGST would be payable on the balance portion of service supplied/ consideration paid under the IGST regime.

### **Power to make Rules (Section 22)**

**(Similar provisions are there in the UTGST Act, 2017 vide Section 22)**

Q 8. Which Section provides the Central Government with the power to make Rules for the IGST Act?

Ans. Section 22 of IGST provides the Central Government with the power to make Rules for the purpose of the IGST Act.

Q 9. What are the matters on which the Central Government may make Rules under the IGST Act?

Ans. The Central Government may make rules for all or any of the matters which under the IGST Act, it is required to prescribe or in respect of which provisions are to be made by way of rules.

Q 10. Can the Central 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.

Q 11. Does 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/-.

### **Power of Board to make Regulations (Section 23)**

**(Similar provisions are there in the UTGST Act, 2017 vide Section 23)**

Q 12. Who can make rules?

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

Q 13. 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 Notification before the Parliament (Section 24)**

**(Similar provisions are there in the UTGST Act, 2017 vide Section 24)**

Q 14. 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.

Q 15. 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.

Q 16. 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.

Q 17. 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.

### **Removal of Difficulties (Section 25)**

**(Similar provisions are there in the UTGST Act, 2017 vide Section 26)**

Q 18. What is the way out, if any difficulty arises in giving effect to the provisions of the 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.

Q 19. 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.

Q 20. 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.

### **MCQ's**

#### **Miscellaneous (Section 20 to 25)**

Q 1. What provisions of CGST have been made applicable to IGST?

- (a) All the provisions
- (b) Only a few provisions
- (c) The provisions of CGST Act as would be applicable to IGST has not been mentioned

- (d) The exact provisions of CGST Act as would be applicable to IGST have not been enumerated. However, a list of items have been mentioned, whose corresponding provisions under CGST would apply to IGST Act.

Ans. (d) *The exact provisions of CGST Act as would be applicable to IGST have not been enumerated. However, a list of items have been mentioned, whose corresponding provisions under CGST would apply to IGST Act.*

Q 2. What would the TDS and TCS rates be under IGST?

- (a) TDS and TCS provisions not applicable to IGST since no such provisions have been incorporated under IGST Act
- (b) At the rates mentioned in CGST Act
- (c) At the rate equal to CGST Act + SGST Act
- (d) At double the rate mentioned in CGST Act

Ans. (d) *At double the rate mentioned in CGST Act*

Q 3. When is a service transaction deemed to have been initiated before commencement of IGST Act?

- (a) When invoice relating to such supply has been received or made before IGST has come into existence
- (b) Payment is made/ received either in part or full before IGST has come into existence
- (c) Both of the Above
- (d) Any one of the Above

Ans. (d) *Any one of the Above*

Q 4. Is IGST payable on services imported after the appointed day, though service tax has actually been paid under service tax regime?

- (a) No.
- (b) Yes. Pay and avail the credit paid of IGST under reverse charge on full value
- (c) Yes. If tax has been paid partially under service tax regime and part of the service/ consideration paid has not suffered service tax under service tax regime

Ans. (c) Yes. If tax has been paid partially under service tax regime and part of the service/ consideration paid has not suffered service tax under service tax regime

Q 5. 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*

Q 6. 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 /assesses 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. (f) - (b) and (d)