



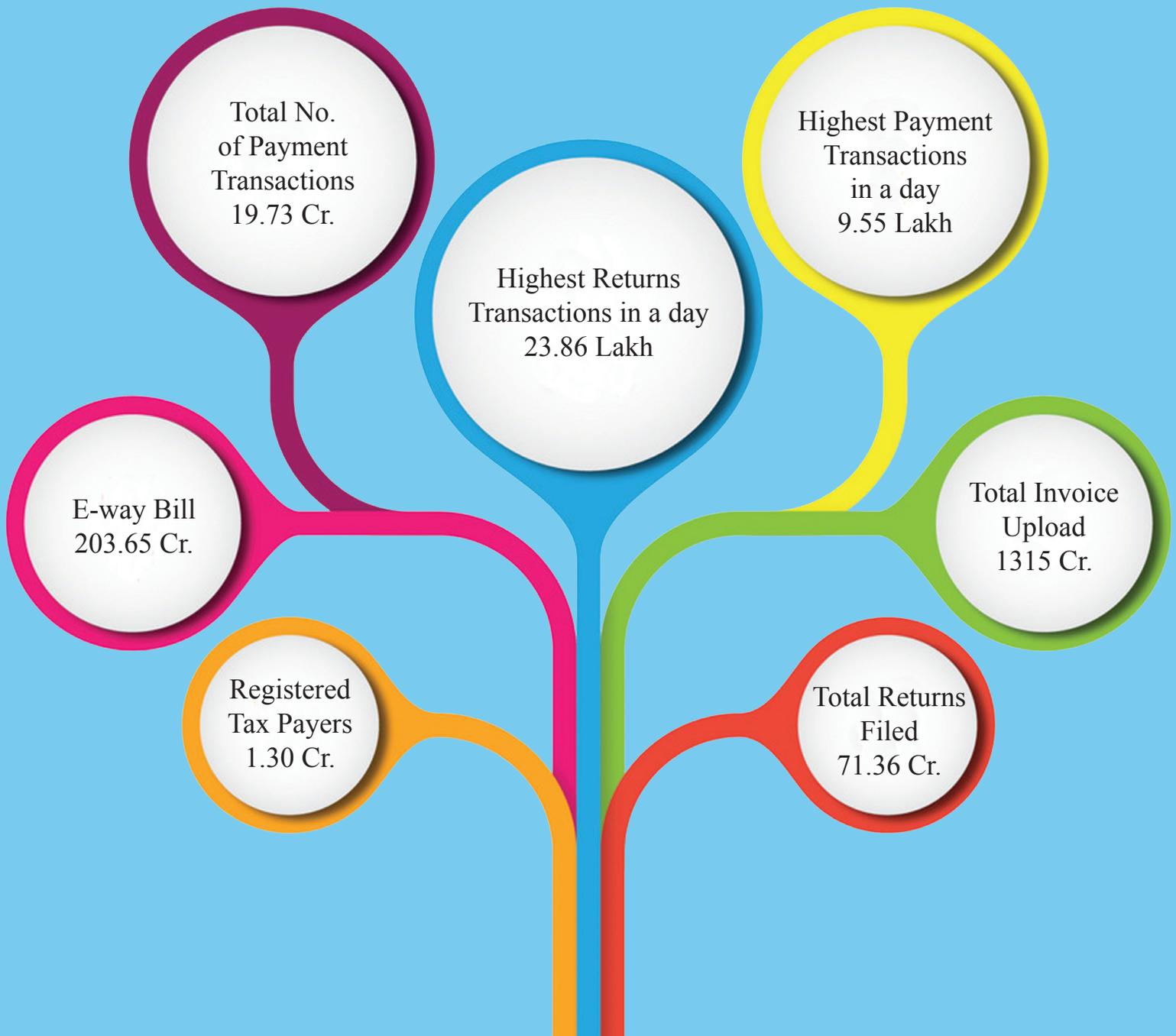
ICAI-GST

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A Newsletter from The Institute of Chartered Accountants of India on GST

4 YEARS OF GST



ICAI - SET UP BY AN ACT OF PARLIAMENT

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President's Communication



Dear Professional Colleagues,

On 1st July 2017, the GST Law came into force, and GST regime in India is now four years old. With a gestation period of more than a decade, GST was introduced in India with the objective of having one nation one tax instead of multiplicity of taxes and rates thereby mitigating the ill effects of cascading of taxes and creating a national market. We all will agree that it would take time to achieve these objectives and reap the real benefits of GST for the economy. However, during its initial journey of four years, GST has been able to streamline the indirect tax compliances which resulted in reduction in number of indirect taxes and also the number of authorities that a taxpayer needs to interact with. Furthermore, e-invoicing has lessened the compliance burden to a large extent and coupled with the mechanism of e-way bill, the same is facilitating in checking evasion and timely collection of revenues which were under-reported earlier. At the same time efforts have been made in improving the issues at the technology front and seamless claiming of input tax credit. However, we must appreciate that GST is one of the most prodigious tax reforms the country has witnessed since independence and that the reform of such a magnitude cannot be without its share of bottlenecks and initial setbacks. I extend my heartfelt wishes to the Government for being very receptive and quick in addressing the various challenges faced by the industry and public concerns by amending the law and issuing necessary clarifications from time to time.

The GST Council recently held its 44th meeting on 12th June, 2021 to exclusively discuss the recommendations made by the Group of Ministers (GoM) which was constituted to examine the GST rates on vaccines, medicines and other items used to fight against COVID-19. The GST rates have been reduced on many items including medicines like remdesivir, ventilators, oxygen concentrators, medical grade oxygen, COVID testing kits, hand sanitizers etc. These rate reductions shall remain in force upto 30th September 2021. Even at its earlier meeting in May, 2021, the GST Council had reduced the GST rates on necessary medicines and medical equipments and provided significant relief to the taxpayers in respect of various compliances under

GST law by reducing rates of interest, waiving off the late fees for delayed furnishing of returns, extending the due dates for filing GSTR-1, IFF (Invoice Furnishing Facility), GSTR-4 and ITC-04 etc. These initiatives helped the taxpayers to worry less about the due dates and focus more on their health and well-being.

The Institute of Chartered Accountants of India (ICAI), through its GST & Indirect Taxes Committee, has been proactively supporting the Government by providing technical inputs on various issues in GST and has also been playing crucial role in GST knowledge dissemination amongst all the stakeholders through its technical publications, GST Newsletter, live webcasts, e-learning, certificate courses, conferences, webinars, and programmes. It gives me immense pleasure to inform you that so far, the Committee has successfully organised 27 batches of Virtual Certificate Course on GST. Further, the Committee has organised 21 Virtual CPE meetings and other CPE programmes on relevant topics of GST since February 2021. I urge you to please visit <https://idtc.icaai.org> to keep yourself abreast with the continuing changes in GST law.

I am also delighted to inform you that on 1st July 2021, the Committee released its much-awaited publication titled "Practical FAQs on Input Tax Credit". This publication is a compilation of practical queries of various stakeholders on the core concept of GST viz., input tax credit. The answers to such queries are drafted by erudite subject experts.

I am happy to introduce the 31st issue of the GST Newsletter prepared by the GST and Indirect Taxes Committee of ICAI and hope that you shall find the same useful. In order to fight this continuing pandemic and reduce its intensity, I request all of you to get yourself vaccinated, focus on building immunity, and follow all COVID related protocols.

Let's stay safe & continue contributing to the society.

With Warm Regards,

CA. Nihar N Jambusaria
President, ICAI

E-WAY BILL : QUESTIONS AND ANSWERS

Q1. An e-way bill is generated in Tamil Nadu for an inter-State supply. Will it be valid all over India?

Ans. As per rule 138 of the CGST Rules, 2017, e-way bill has to be generated both for intra-State and inter-State movement of goods subject to prescribed conditions. Therefore, the e-way bill generated in Tamil Nadu is valid throughout the country and is therefore, valid for movement from place of dispatch to place of destination.

Q2. My door no. is 21 and I am sending 100 laptops to door no.10. Should I generate e-way bill in such a case?

Ans. E-way bill is mandated when the value of consignment exceeds Rs.50,000. Hence, e-way bill must be generated in the above scenario.

Q3. When I am raising one invoice, can I send the goods in lots?

Ans. Yes, goods can be sent in lots. However, a separate e-way bill must be raised for movement of each lot based on the delivery challan along with the corresponding vehicle number.

Q4. I am transferring stock to my branch in Karnataka, should I generate e-way bill for the same?

Ans. An inter-State stock transfer is treated as supply under GST law and tax invoice would be raised in such case. Hence, e-way bill needs to be generated for such supply, if the value of consignment exceeds Rs. 50,000.

Q5. I am sending laptop to my staff to work from home. Do I need to generate e-way bill in such a case?

Ans. If the value crosses the threshold limit, e-way bill is to be generated.

Q6. My client has sent some goods to the other State without raising the e-way bill. The goods have reached destination. Whether I should generate the e-way bill now?

Ans. Rule 138(1) of the CGST Rules, 2017 specifically states that e-way bill is to be raised prior to commencement of movement of goods. It is a documentary proof that goods have physically moved from the supplier to the recipient. In the given case, since the goods have already reached the destination, you cannot generate the e-way bill and are liable to applicable penal proceedings.

Q7. I have generated e-way bill and the vehicle was intercepted by the Roving Squad Officers? Can I now cancel the e-way bill?

Ans. An e-way bill cannot be cancelled if it has been verified in transit in accordance with the provisions of rule 138B of the CGST Rules, 2017.

Q8. I have generated an e-way bill to send the goods to my client in Bangalore. But I have consigned the goods which were not ordered by the client. He has cancelled the e-way bill. How should I bring the goods?

Ans. You will have to issue a credit note on the party and based on the such credit note you will have to generate the e-way bill again and bring back the goods as sales return.

Q9. I have consigned goods worth Rs.1 Lakh to Kerala after generating the e-way bill. During monsoon season there was a lot of rain and due to which the goods could not reach the destination within the validity period of the e-way bill. How can I extend the validity of the e-way bill?

Ans. Proviso to rule 138(10) of the CGST Rules, 2017 provides that where under circumstances of an exceptional nature, including trans-shipment, the goods cannot be transported within the validity period of the e-way bill, the transporter may extend the validity period after updating the details in Part B of FORM GST EWB-01, if required. Further, the validity of the e-way bill may be extended within 8 hours from the time of its expiry.

Q10. I have consigned goods from Mumbai to Pune. During the movement, the vehicle met with an accident and could not move further. How can the goods reach the destination?

Ans. If the vehicle meets with an accident, the transporter sends another vehicle and updates Part B (vehicle number of the new vehicle) in the available e-way bill.

Q11. Our business has a customer in Indore. He has not filed the monthly returns for 3 months. Can I generate e-way bill for movement of goods to such customer?

Ans. As per clause (b) of rule 138E of the CGST Rules, 2017, no person is allowed to furnish the information in Part A of Form GST EWB-01 in respect of a registered person (other than composition taxpayer) who has not filed returns for a consecutive period of two tax periods. Hence, e-way bill cannot be generated in this case.

Q12. Can a customer generate e-way bill for jewellery?

Ans. Jewellery is exempted from the requirement of generation of e-way bill.

Q13. Mr. X is sending goods from Mumbai to Kolkata to customer 'A'. But customer 'A' cancels the e-way bill because the goods are not ordered by him. Another customer 'B' is asking to deliver the goods at Kolkata. What should be done?

Ans. Mr. X should first issue a credit note to customer 'A' at Kolkata. He should then issue the invoice in the name of customer 'B'. In the e-way bill, Mr. X can make the transaction as bill to customer 'B' in Kolkata and ship from customer 'A' in Kolkata.

Q14. How many times can Part B of GST Form EWB-01 be updated?

Ans. Part B of GST Form EWB-01 can be updated any number of times before reaching the destination.

Q15. From 1st January 2021, the distance for which the e-way bill remains valid for a day has been increased from 100 kms to 200 kms per day. Can we generate e-way bill for 120 kms (i.e., from Chennai to Vellore)?

Ans. There is no restriction on voluntary generation of e-way bill for a distance lesser than 200 km.

Contributed by CA. J. Murali

INTEREST & PENALTIES: QUESTIONS AND ANSWERS

Q1. If sufficient cash is deposited in electronic cash ledger but return is filed belatedly, whether interest is applicable in such case?

Ans. As per rule 85(3) of the CGST Rules, 2017 read with section 49 of the CGST Act, 2017, payment of every liability by a registered person as per his return shall be made by debiting the electronic credit ledger or electronic cash ledger and the electronic liability register shall be credited accordingly. Also, as per proviso to section 50(1) of the CGST Act, 2017, interest shall be levied on that portion of the tax that is paid by debiting the electronic cash ledger.

Hence, even if there is a balance in the electronic cash ledger, unless the cash is applied towards the liability by way of debit entry, it would not imply that the tax has been discharged. Accordingly, even if the tax has been paid and credited in the electronic cash ledger on or before the due date and GSTR-3B return is filed after the due date provided under section 39, interest will be applicable under section 50(1) of the CGST Act, 2017 at the rate of 18% p.a.

Q2. Proper officer has issued notice under section 61 of the CGST Act, 2017 in Form ASMT-10, which is admitted and paid by the taxpayer through Form DRC-03 within 30 days and reply made in Form ASMT-11. In this case, whether the proper officer can impose any penalty on the taxpayer?

Ans. Penalty waiver is available even when assessment is made under section 73 of the CGST Act, 2017, if the tax along with interest is paid within 30 days from SCN issued under section 73. In this case, the officer has only made scrutiny of returns under section 61 of the CGST Act, 2017 and not assessment proceedings. As per section 61(3) of the CGST Act, if no explanation is furnished within 30 days (or extended period), proceedings under section 73 or 74 of the CGST Act, 2017 will be initiated. Hence, if the tax liability along with applicable interest is discharged within the said time limits under section 61, there will not be any demand of penalty.

Relevant extract of section 61(3) of the CGST Act, 2017—"In case no satisfactory explanation is furnished within a period of thirty days of being informed by the proper officer or such further period as may be permitted by him or where the taxable person, after accepting the discrepancies, fails to take the corrective measure in his return for the month in

which the discrepancy is accepted, the proper officer may initiate appropriate action including those under section 65 or section 66 or section 67, or proceed to determine the tax and other dues under section 73 or section 74".

Relevant extract of section 73(8) –"Where any person chargeable with tax under sub-section (1) or sub-section (3) pays the said tax along with interest payable under section 50 within thirty days of issue of show cause notice, no penalty shall be payable and all proceedings in respect of the said notice shall be deemed to be concluded".

Q3. What is the interest liability, if payment to vendor is not made and the tax is to be paid under reverse charge mechanism?

Ans. As per second proviso to section 16(2) of the CGST Act, 2017 - "Provided further that where a recipient fails to pay to the supplier of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, the amount towards the value of supply along with tax payable thereon within a period of one hundred and eighty days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be added to his output tax liability, along with interest thereon, in such manner as maybe prescribed".

Thus, the condition of payment within 180 days of the date of supplier's invoice is not applicable on supplies liable to tax under reverse charge mechanism. Hence, there would be no interest liability on account of the same.

Q4. Whether delayed remittance of liability under reverse charge mechanism attracts interest? If so, what is the applicable rate of interest?

Ans. As per section 50(1) of the CGST Act, 2017, "every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, but fails to pay the tax or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, not exceeding eighteen per cent., as may be notified by the Government on the recommendations of the Council".

Further, as per section 2(98) of the CGST Act, 2017, "reverse charge" means "the 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 under section 9(3) or (4), or under section 5(3) or (4) of the Integrated Goods and Services Tax Act”

Accordingly, since reverse charge is a tax liability payable under the Act, any delay in discharge of such liability would attract interest at the rate of 18% p.a.

Q5. When there is an excess refund claim sanctioned by the department, what is the interest and penalty payable?

Ans. The applicants applying for refund must give an undertaking to the effect that the amount of refund sanctioned would be paid back to the Government with interest in case it is found subsequently that the requirements of clause (c) of sub-section (2) of section 16 read with sub-section (2) of section 42 of the CGST Act, 2017 have not been complied with in respect of the amount refunded. This undertaking should be submitted electronically along with the refund claim.

Thus, in the case of refund claim made by the applicant, even though the same has been sanctioned by the department, any excessive / erroneous refund claim shall be paid back along with interest at the rate of 18% p.a under section 50(1). Also, if such erroneous refund is identified by the department and the same is demanded back through a proceeding initiated along with mismatch identified under section 42 of the CGST Act, 2017, then the interest demand would be at the rate of 18% p.a. However, if the mismatch results in undue excess claim under sub-section (10) of section 42, then interest would be at the rate of 24% p.a.

Apart from the interest consequences, where such refund has been fraudulently obtained, then the same would also attract penalty under section 122(1)(viii) of the CGST Act, 2017, which would be Rs.10,000 or 100% of the refund claimed fraudulently, whichever is higher.

However, as per section 122(2), in the case of tax erroneously refunded, even for any reason, other than the reason of fraud or any willful misstatement or suppression of facts to evade tax, the registered person shall be liable to a penalty of ten thousand rupees or 10% of the tax due from such person, whichever is higher.

Q6. If tax liability of April is missed to be reported and is reported later in June, whether interest is payable on such amount, although adequate ITC is available from April till June?

Ans. As per proviso to section 50(1) of the CGST Act, 2017—“Provided that the interest on tax payable in

respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period, shall be levied on that portion of the tax that is paid by debiting the electronic cash ledger”.

Thus, even though the omission of tax invoice can be rectified only by way of including the same in the returns of upcoming period, strictly going by the highlighted wordings of the recently inserted proviso to section 50(1) with retrospective effect from 1st July 2017, interest would be payable at the rate of 18% p.a on such delayed declaration of outward tax liability even when such liability is discharged through balance in electronic credit ledger available during the period for which the outward liability relates to. Such position would hold good for subsequently discharged outward liability made through Form DRC-03 as well.

Q7. In case of reversal of credit due to non-payment to the supplier, whether interest is payable if ITC was not utilised and the credit was available in electronic credit ledger?

Ans. As per rule 37(3) of the CGST Rules, 2017, “the registered person shall be liable to pay interest at the rate notified under subsection (1) of section 50 of the CGST Act, 2017 for the period starting from the date of availing credit on such supplies till the date when the amount added to the output tax liability, as mentioned in sub-rule (2), is paid”.

The Hon’ble Patna High Court in the case of M/s Commercial Steel Engineering Corporation Vs State of Bihar ordered that interest is not payable for input tax credit availed unless it is utilized. Held that ‘Until such time that the statutory authority is able to demonstrate that any tax was recoverable from the petitioner, a reflection in the electronic credit ledger cannot be treated as an ‘availment’.

Accordingly, if the input tax credit has been reversed before utilization by way of debiting the electronic credit ledger, interest is not payable. This shall hold good not only for ITC reversal made under rule 37 of the CGST Rules, 2017 for non-payment to the supplier, but also for ITC reversal made for any other reasons as well.

Q8. Credit note issued by supplier has not been considered while filing returns and hence corresponding ITC has not been reversed. Whether interest on such delayed reversal is payable at the rate of 18% p.a or 24% p.a?

Ans. As per section 50(3) of the CGST Act, 2017, a taxable

person shall pay interest at the rate of 24% p.a only when he makes:

- (a) an undue or excess claim of input tax credit under section 42(10) of the CGST Act; or
- (b) undue or excess reduction in output tax liability under section 43(10) of the CGST Act,

It is important to note that, section 50(3) refers to only scenarios covered under section 42(10) and 43(10) which deal with matching, reversal and reclaim of ITC and output tax liability through Forms GSTR-1, 2 and 3. Since the Forms GSTR-2 and GSTR-3 returns have been deferred, the matching system of Forms GSTR-1, 2 and 3 never saw the light of day. Thus, the applicability of section 50(3) is remote.

However, even if the matching system is interpreted to be implemented through GSTRs-1, 2A, 2B & 3B, the application of 24% rate of interest on any default is not in place. Sections 42 and 43 clearly indicate that if the undue/excess claim of ITC or reduction in output tax liability is not fixed within the time limit prescribed under section 39(9) of the Act, then interest under section 50(3) at the rate of 24% p.a will be applicable. In all other cases mentioned under section 42 and 43 of the Act, interest under section 50(1) @ 18% p.a would be first payable by the recipient under section 42 and supplier under section 43 and later refunded to the electronic cash ledger upon the other party accepting the same in the valid returns within the time limit specified under section 39(9) of the Act. It is also to be noted that the entire mechanism prescribed under sections 42 & 43, beginning from the communication to both supplier & recipient in applicable Forms MIS-1 & MIS-2 until undue reversal specified in sections 42(10) & 43(10) should have been exercised before initiating interest under section 50(3) at the rate of 24% p.a.

It is also interesting to note the following observation made by Hon'ble Madras High Court in the case of

F1 Auto Components P Ltd. Vs The State Tax officer (Madras High Court) (W.P. No. 6631 of 2021 with order dated 09/07/2021 - Para 7 of the order) – ‘The provisions of section 42 can only be invoked in a situation where the mismatch is on account of the error in the database of the revenue or a mistake that has been occasioned at the end of the revenue. In a case, where the claim of ITC by an assessee is erroneous, as in this case, then the question of section 42 does not arise at all, since it is not the case of mismatch, one of wrongful claim of ITC’.

Hence, interest in the case of delayed reversal of ITC beyond the date of credit note issued by the supplier attracts only interest at the rate of 18% p.a under section 50(1) of the CGST Act, 2017 by default, unless the provisions of sections 42 & 43 are specifically invoked and made applicable.

Q9. Kindly explain the latest proposed amendment wherein 200% penalty is to be imposed on detention and seizure of goods.

Ans. Section 129 of the CGST Act, 2017 imposes penalty in the case of detention, seizure and release of goods and conveyances in transit. The said provision has been amended vide the Finance Act 202. However, the same is yet to be notified.

Extracts of section 129 -

“Notwithstanding” anything contained in this Act, where any person transports any goods or stores any goods while they are in transit in contravention of the provisions of this Act or the rules made thereunder, all such goods and conveyance used as a means of transport for carrying the said goods and documents relating to such goods and conveyance shall be liable to detention or seizure and after detention or seizure, shall be released, -upon payment of penalty specified in sub-section (1), which is being amended.

Revision in the applicable penalty with example:

Example: Value of goods Rs.1,00,000 with tax rate of 18% => Tax Rs.18,000	
Existing provision	Amended provision (Yet to be notified)
When owner comes forward for payment of penalty [Sec 129(1)(a)]:	
Taxable goods- Tax + penalty equal to 100% of tax payable 18000 tax + 18000 penalty = Rs.36,000	Taxable goods – Penalty equal to 200% of tax payable = Rs.36,000 penalty
Exempted goods – Lowest of 2% of the value of goods or Rs. 25,000/- = Rs.2,000	Exempted goods – Lowest of 2% of the value of goods or Rs. 25,000/- = Rs.2,000
When owner does not come forward for payment of penalty [Sec 129(1)(b)]:	
Taxable goods– Tax + penalty equal to 50% of value of goods reduced by tax paid. 18000 tax + (50000-18000) penalty = Rs.50,000	Taxable goods – Penalty equal to higher of 50% of value of goods or 200% of the tax payable on such goods. 50,000 or 36,000 WIH = Rs. 50,000 penalty.
Exempted goods – Lowest of 5% of the value of goods or Rs. 25,000/- = Rs.5,000	Exempted goods – Lowest of 5% of the value of goods or Rs. 25,000/- = Rs.5,000

Contributed by CA. Saradha H

GENERAL TOPICS IN GST : SELECT QUESTIONS AND ANSWERS

Q1. A builder engaged in construction of building is having corporate office in Bangalore, Karnataka and also holds registration in the same State. He executes construction services in different States.

Whether he is required to take registration in all States where he is constructing buildings?

Ans. It is advisable to have registration in all States where the builder is doing construction work, because considering the nature of construction services, though all the decisions regarding execution of work at the construction site may be taken at the corporate office in Bangalore, Karnataka, where the 'seat of management and control' is located, those decisions which are taken are being effectively delegated to be carried out by the competent team located at the site with all necessary human and technical resources. Thus, the construction site is characterised with permanence making it a fixed establishment as per section 2(7) of the IGST Act, 2017.

Further, in addition to the above, in a construction project usually the builder will be procuring and storing the construction materials in a particular location and thereafter carries out the construction work at the site. Hence, all those locations will be fulfilling the requirements of place of business as per section 2(85) of the CGST Act, 2017 as it is defined to include 'any other place' where the taxable person stores his goods or supplies or receives goods or services or both. Thus, all the construction sites where the builder is storing goods will be considered as a place of business and he is liable to take registration for such construction sites.

Alternatively, it can also be argued that the builder will not be storing any goods at the construction site and will procure locally and will supply as and when needed. Even in that scenario, going invariably by provisions of fixed establishment concept as per section 2(7) of the IGST Act, 2017, one has to take registration, if a place is characterised by sufficient degree of permanence and suitable structure in terms of human and technical resources to supply services or to receive and use services for its own needs are present. All these requirements will be fulfilled in case of a construction site without which the completion of construction services will not be holistic in a common industry practice. Once the

construction site is treated as fixed establishment, then, it becomes the location of supplier of services and consequentially registration has to be taken for that construction site as per section 22(1) of the CGST Act, 2017 because that location in that State shall be the place from where the taxable supply of service is being made.

Based on the foregoing discussions, on an overall conclusion, it is advisable for the builder to take registration in all States where the construction services are being carried out.

Q2. Can subsidy received under Pradhan Mantri Awas Yojana- Credit Linked Subsidy Scheme (CLSS) be treated as supply under GST?

Ans. The Pradhan Mantri Awas Yojana - Credit Linked Subsidy Scheme was implemented to help the urban poor population by increasing the institutional credit flow to meet their housing needs.

Section 7 of the CGST Act, 2017 provides that the expression "supply" includes all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business.

In terms of section 2(31) of the CGST Act, 2017, any subsidy given by the Central Government or a State Government shall not be included in the definition of consideration.

Further, as per section 15 of the CGST Act, 2017, subsidies provided by the Central Government and the State Governments shall not be included in the value of supply.

In view of the above, subsidy received under CLSS from Central Government shall not fall under the scope of supply.

Q3. A Company gives Diwali gifts to its employees, where the overall cost is in lakhs of rupees but individual employee gift cost does not exceed 50,000/-.

Whether it will constitute supply in terms of entry no. 2 of Schedule I to section 7 of the CGST Act, 2017?

Ans. Schedule I to the CGST Act, 2017 spells out the activities which shall be treated as supply even without consideration.

Entry No. 2 of Schedule I provides that –

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

Provided that gifts not exceeding fifty thousand rupees in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both.”

The Government also vide a Press Release [C.B.E. & C. Press Release No. 73/2017, dated 10.7.2017] clarified that, gifts up to a value of Rs 50,000/- per year by an employer to his employee are outside the ambit of GST.

Therefore, the threshold limit of Rs. 50,000 shall be applicable on per employee basis in a financial year.

In view of the above, as the value of the gift to an individual employee is less than Rs. 50,000/- in the instant case, GST shall not be applicable.

Q4. A supplier is engaged in manufacture and supply of trucks along with refrigerator unit mounted on it.

Whether this would amount to supply of truck or supply of refrigerator unit?

Ans. As per section 2(30) of the CGST Act, 2017, “composite supply” means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply.

A supply would be regarded as composite supply, if the principal supply is identifiable from two or more supplies given together.

In the given example one may argue that these supplies are naturally bundled in the ordinary course of business. However, it is difficult to identify the principal supply.

Section 2(90) of the CGST Act, 2017 states that, “principal supply” means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply, is ancillary.

A refrigerator truck or chiller lorry is a van or truck designed to carry perishable goods at specific temperatures. Buyers choose truck with refrigerator

for dual purposes i.e., for transport of goods as well as to increase the life of perishable goods being transported. So, it is difficult to identify the predominant element in the bundle of two supplies. Hence, this would be treated as mixed supply as per section 2(74) of the CGST Act, 2017.

“Mixed supply” means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply.

The moment a supply is not classified as a composite supply, the same is classified as mixed supply, if single price is charged for all the supplies.

In terms of section 8 of the CGST Act, 2017, a mixed supply comprising of two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax.

Hence, the supply which attracts highest rate of tax shall be treated as a supply for both the supply of truck along with refrigerator unit in the instant case.

Q5. An advertising agency registered in the State of Telangana is dealing with advertisements on hoardings at Hyderabad. It received an order from a Mumbai party for display of advertisement at Hyderabad.

What will be the place of supply and whether IGST or CGST/SGST shall be applicable?

Ans. As per section 7(3) of the IGST Act, 2017, in case of supply of services, where the location of the supplier and the place of supply are in two different States, such supply shall be treated as a supply of services in the course of inter-State trade or commerce.

Further, as per section 5(1) of the IGST Act, 2017, integrated goods and services tax (IGST) shall be levied on all inter-State supplies of goods or services or both.

Place of supply of services, where location of supplier and recipient is in India, is determined by applying the provisions of section 12 of the IGST Act, 2017.

In the above question, location of the supplier of services is fixed i.e., State of Telangana. Now coming to the issue for deciding place of supply in case of hoarding depends on, whether the hoarding is moveable property or immovable property.

a) If the ‘Hoarding’ is treated as immovable property: The place of supply, by virtue of provisions of section

12(3) of the IGST Act, 2017 is where the immovable property is located i.e. Hyderabad. In such case the Hyderabad dealer will charge SGST/CGST in the State of Telangana, being intra-state transaction.

- b) If the 'Hoarding' is treated as movable property: As per Madras High Court's decision in case of *Selve/Advertising Pvt. Ltd.* 89 STC1, the hoardings are treated as moveable property. Due to change in technology, the printed hoardings are removable. The Court observed that hoardings fastened to structures erected on land acquired on lease are moveable. Hoardings are "goods", the definition in the Sale of Goods Act, 1930, could be considered for determining whether the hoardings in question were "goods"

If hoardings are moveable, then the place of supply will be governed by the provisions of section 12(2) of the IGST Act, 2017, where services made to a registered person shall be the location of such person. Location of registered recipient is the location where registration is obtained. In such case, the place of supply will be location of Mumbai dealer, i.e., Mumbai. In this situation, IGST shall be chargeable by the Hyderabad dealer, being an inter-State transaction.

- Q6. A hotel is engaged in supply of residential / lodging accommodation and also restaurant service. Hotel room charges are less than Rs. 1000/- per day. Aggregate receipts from lodging/ accommodation service and restaurant service works out to Rs. 15 lakh p.a. and Rs. 8 lakh p.a. respectively.**

Whether such hotel is required to take registration under GST?

- Ans. As per Sl. No. 14 of Notification No. 12/2017-CTR, if a hotel is engaged in letting a room on hire for residential or lodging purposes, it is exempted from GST, if the value of supply collected is upto Rs. 1000/- per day per room.

Going by this exemption entry, in the given case, since the room charges collected by the hotel is less than Rs. 1000/- per day it is exempted from the levy of GST. However, the restaurant services provided by the hotel are taxable and liable to GST.

As per section 22(1) of the CGST Act, 2017, if a person is engaged in supply of goods and services, the threshold limit for taking registration in a State other than the Special Category States is only Rs. 20 lakh. Special Category States for the purpose of registration under section 22 of the CGST Act,

2017 are Mizoram, Manipur, Nagaland and Tripura. Aggregate turnover as per section 2(6) of the CGST Act, 2017, includes both taxable supply as well as exempt supply.

Thus, in the given case, the aggregate turnover, of hotel works out to Rs. 23 lakh as it includes the receipts from accommodation service of Rs. 15 lakh which is exempt and the restaurant service of Rs. 8 lakh which is taxable. Since the aggregate turnover in a financial year has exceeded the threshold limit of Rs. 20 lakh, the Hotel is liable to take registration as per section 22(1) of the CGST Act, 2017 and discharge the tax liability accordingly on the restaurant services.

- Q7. Mr. X has a two-wheeler service center and decides to expand his business line by introducing the automatic painting division in his workshop. The cost of the automatic spray robot, which he desires to install in his workshop, is Rs. 8.5 lakh.**

M/s. Spray & Spray, one of the suppliers of automatic spray robot, is ready to give the said machine for Rs. 6.5 lakh. However, the condition for such a discounted price was that Mr. X will overhaul, paint and chrome the parts of the vintage bike belonging to the founder of the company.

Mr. X estimated the following cost of repair after observing the said vintage bike:

- A. Cost of spares –Rs. 70,000
- B. Cost of paint –Rs. 20,000
- C. Cost of chrome and nickel – Rs. 45,000
- D. Cost of time spent –Rs. 25,000
- E. Total – Rs. 1,70,000

He feels that even after incurring the above expenses, the total cost of the robot for him will come out to be Rs. 8.2 lakh (6.5 + 1.7) and hence it is a viable option.

Whether the activity provided by Mr. X for getting the discount will be subject to GST?

- Ans. Section 7(1)(a) of the CGST Act, 2017 has explicated the scope of supply, which includes all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business. Thus, it is apparent that the exchange is one of the forms of supply and it is taxable under GST when carried out by a person in the course or furtherance

of business. In other words, there should be an element of express or implied contractual reciprocity of a consideration. In the given query, both the parties had agreed to undertake the commercial activity, and hence the exchange of service for a discount price will constitute supply.

From the above discussion, it is clear that the activity is a supply and will be subject to tax. However, the absence of monetary consideration to the transaction had paved the way for valuation rules. In this scenario, price is not the sole consideration and thus the transaction would be covered under section 15(4) of the CGST Act, 2017. Accordingly, the supply shall be valued as per rule 27 of the CGST Rules, 2017 as reproduced below:

“Rule 27- Value of supply of goods or services where the consideration is not wholly in money”.

Where the supply of goods or services is for a consideration not wholly in money, the value of the supply shall, -

- (a) be the open market value of such supply;
- (b) if the open market value is not available under clause (a), be the sum total of consideration in money and any such further amount in money as is equivalent to the consideration not in money, if such amount is known at the time of supply;
- (c) if the value of supply is not determinable under clause (a) or clause (b), be the value of supply of goods or services or both of like kind and quality;
- (d) if the value is not determinable under clause (a) or clause (b) or clause (c), be the sum total of consideration in money and such further amount in money that is equivalent to consideration not in money as determined by the application of rule 30 or rule 31 in that order.

Illustration:

- (1) Where a new phone is supplied for twenty thousand rupees along with the exchange of an old phone and if the price of the new phone without exchange is twenty four thousand rupees, the open market value of the new phone is twenty four thousand rupees.
- (2) Where a laptop is supplied for forty thousand rupees along with the barter of a printer that is manufactured by the recipient and the value of the printer known at the time of supply is four

thousand rupees but the open market value of the laptop is not known, the value of the supply of the laptop is forty four thousand rupees”.

Accordingly, there are two separate supplies in the given scenarioakin to the illustration provided under rule 27 mentioned above - (1) the supply of (exchanged) repair service from Mr. X and (2) supply of new fixed assets (robot). Both these transactions are in furtherance of business for consideration and hence, both are taxable and the valuation of supply would be made as per rule 27. Therefore, the value of services provided by Mr. X will be determined as per clause (c) of rule 27 of the CGST Rules, 2017.

Q8. Mr. X is engaged in export business of toys. His turnover for the financial year 2020-21 is Rs. 18 lakh.

Whether he is required to obtain GST registration?

Ans. Export of goods or services or both are treated as inter-State supplies as per section 7(5)(a) of the IGST Act, 2017. Hence, as per section 24(i) of the CGST Act, 2017, the person who is engaged in export of goods or services or both are compulsorily required to take registration irrespective of the fact that such export turnover is less than Rs. 20 lakh.

However, by virtue of Notification No. 10/2017IT(R) as amended by Notification No. 3/2019-IT dated 29.01.2019 read with section 20 of the IGST Act, 2017 and section 23(2) of the CGST Act, 2017, the persons making inter-State supply of taxable services are being exempt from taking registration if the aggregate turnover computed on all India basis is less than Rs. 20 lakhs. For example, freelance journalists, software professionals, visiting faculty to foreign universities, etc. who are engaged exclusively in supply of services need not take registration if their aggregate turnover is below the threshold limit of Rs. 20 lakh.

But this exemption from registration is not applicable for the persons who are engaged in export of goods and thus they are mandatorily required to take registration as per section 24(i) of the CGST Act, 2017 since inception of their business.

As per section 16(3) of the IGST Act, 2017, goods and/or services can be exported either without payment of integrated tax under LUT or bond and the refund of such unutilised ITC can be claimed or goods and/or services can be exported with payment of integrated tax and refund can be claimed of such integrated tax paid.

In the case of export of services, when turnover is less than the threshold limit, the GST paid on inward supplies will form part of the cost of output services in case registration is not taken. It is pertinent to mention here that taxpayer can avail the benefit of refund only if he is registered under GST even if his turnover is less than the threshold limit.

Q9. A pharmacy is supplying medicines to a hospital. In the month of March, the pharmacy receives a debit note from the hospital. The value of the debit note exceeds the total sales of the pharmacy in the month of March.

What should be the treatment of such turnover vis-à-vis the debit note in Form GSTR-1?

Ans. As per section 34 of the CGST Act, 2017, credit or debit note shall be raised only by a supplier. The retail chemist (supplier) shall have to raise a credit note corresponding to the debit note from the hospital. This credit note shall be reported in the Form GSTR-1. In Form GSTR-3B, such credit notes shall have to be reduced from the taxable value and net value shall have to be reported.

In the given situation, since the taxable value for March is lesser than the credit note amount, results in negative numbers the same shall not be reported in Form GSTR-3B.

Circular No. 26/26/2017-GST dated 29.12.2017 – Para 4 states: “It may be noted that while making adjustment in the output tax liability or input tax credit, there can be no negative entries in the FORM GSTR-3B. The amount remaining for adjustment, if any, may be adjusted in the return(s) in FORM GSTR-3B of subsequent month(s) and, in cases where such adjustment is not feasible, refund may be claimed.”

In line with the above circular, such negative numbers shall be adjusted against the subsequent period's liability.

Q10. What will be the time of supply in case of works contract service where partial work is completed and invoice is not issued against the same within the stipulated time as provided in section 31 of the CGST Act, 2017?

Ans. As per section 13(2) of the CGST Act, 2017, the time of supply of services shall be the earliest of the following dates, namely: —

- (a) the date of issue of invoice by the supplier, if the invoice is issued within the period

prescribed under section 31 or the date of receipt of payment, whichever is earlier; or

- (b) the date of provision of service, if the invoice is not issued within the period prescribed under section 31 or the date of receipt of payment, whichever is earlier; or
- (c) the date on which the recipient shows the receipt of services in his books of account, in a case where the provisions of clause (a) or clause (b) do not apply:

Explanation.-For the purposes of clauses (a) and (b)—

- (i) the supply shall be deemed to have been made to the extent it is covered by the invoice or, as the case may be, the payment;
- (ii) “the date of receipt of payment” shall be the date on which the payment is entered in the books of account of the supplier or the date on which the payment is credited to his bank account, whichever is earlier.

For example:

A works contractor provided taxable services on 01.12.2020. An invoice towards value of Rs. 2 lakh was issued on 01.12.2020. The payment is received against the same and entered in the books on 10.11.2020. It is realized by bank by 13.11.2020.

In this case,

Date of provision of service: 01.12.2020

Date of invoice: 01.12.2020

Last date of invoice: 30.12.2020 (Not beyond 30 days from the date of provision of service)

Date of receipt of payment-

- Book entry: 10.11.2020
- Credit in bank: 13.11.2020
- Date of receipt of payment – 10.11.2020

Therefore, in case of works contract service where partial work is completed, if no invoice is issued against the same within the time prescribed as per section 31, the time of supply would be determined as per section 13(2)(b) i.e., earliest of date of provision/ completion of service or date when the payment is received.

Accordingly, the time of supply in the instant case will be 10.11.2020 being the earlier of date of invoice or date of receipt of payment.

GST UPDATES

1. Clarification regarding applicability of GST on supply of food in Anganwadis and Schools

It has been clarified that, services provided to an educational institution by way of serving of food (catering including mid-day meals) is exempt from levy of GST irrespective of its funding from Government grants or corporate donations [under entry 66(b)(ii) of Notification No. 12/2017-Central Tax (Rate) dated 28th June, 2017].

As per said entry 66, any catering service provided to an educational institution is exempt from GST. The entry further mentions that such exempt service includes mid-day meal service as specified in the entry. The scope of this entry is thus wide enough to cover any serving of any food to a school, including pre-school.

Further, an Anganwadi inter alia provides pre-school non-formal education. Hence, anganwadi is covered by the definition of educational institution (as pre-school). Hence, serving of food to anganwadi shall also be covered by said exemption, whether sponsored by government or through donation from corporates.

[Circular No. 149/05/2021 dated 17th June, 2021]

2. Clarification regarding applicability of GST on the activity of construction of road where considerations are received in deferred payment (annuity)

It has been clarified that entry 23A of Notification No. 12/2017-CT(R) does not exempt GST on the annuity (deferred payments) paid for construction of roads.

Service falling under heading 9967 (service code), by way of access to a road or a bridge on payment of annuity is exempt vide said entry 23A. Heading 9967 covers "supporting services in transport" under which, code 996742 covers "operation services of National Highways, State Highways, Expressways, Roads & streets; bridges and tunnel operation services". Entry 23 of said notification exempts "service by way of access to a road or a bridge on payment of toll". Together the entries 23 and 23A exempt access to road or bridge, whether the consideration is in the form of toll or annuity [heading 9967].

Services by way of construction of road fall under heading 9954. This heading inter alia covers general construction services of highways, streets, roads railways, airfield runways, bridges and tunnels. Consideration for construction of road service may be paid partially upfront and partially in deferred annual payments (and may be called annuities).

It has been clarified that plain reading of entry 23A makes it clear that it does not cover construction of road services (falling under heading 9954), even if deferred payment is made by way of instalments (annuities).

[Circular No. 150/06/2021 dated 17th June, 2021]

3. Clarification regarding GST on supply of various services by Central and State Boards (such as National Board of Examination)

It has been clarified that:

- (i) GST is exempt on services provided by Central or State Boards (including the boards such as National Board of Examination) by way of conduct of examination for the students, including conduct of entrance examination for admission to educational institution [under S. No. 66 (aa) of Notification No. 12/2017-CT(R)].
- (ii) GST is also exempt on input services relating to admission to, or conduct of examination, such as online testing service, result publication, printing of notification for examination, admit card and questions papers etc., when provided to such Boards [under S. No. 66(b)(iv) of Notification No. 12/2017-CT(R)].
- (iii) GST at the rate of 18% applies to other services provided by such Boards, namely of providing accreditation to an institution or to a professional (accreditation fee or registration fee) so as to authorise them to provide their respective services.

[Circular No. 151/07/2021 dated 17th June, 2021]

4. Clarification regarding rate of tax applicable on construction services provided to a Government Entity, in relation to construction such as of a ropeway on turnkey basis

Works contract service provided by way of construction such as of rope way fall under entry no. 3(xii) of notification 11/2017-CT(R) dated 28th June 2017 and attract GST at the rate of 18%.

[Circular No. 152/08/2021 dated 17th June, 2021]

5. Clarification regarding GST on milling of wheat into flour or paddy into rice for distribution by State Governments under PDS

Issue: Whether composite supply of service by way of milling of wheat into wheat flour, alongwith fortification, by any person to a State Government for distribution of such wheat flour under Public Distribution System is

eligible for exemption under entry No. 3A of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017? If not, then what would be the applicable rate of GST on such milling?

Entry No. 3A exempts “composite supply of goods and services in which the value of supply of goods constitutes not more than 25 percent of the value of the said composite supply provided to the Central Government, State Government or Union territory or local authority or a Governmental authority or a Government Entity by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution”

Clarification: It has been clarified that -

- (i) Public Distribution specifically figures at entry 28 of the 11th Schedule to the Constitution, which lists the activities that may be entrusted to a Panchayat under Article 243G of the Constitution. Hence, said entry No. 3A would apply to composite supply of milling of wheat and fortification thereof by miller, or of paddy into rice, provided that value of goods supplied in such composite supply (goods used for fortification, packing material etc.) does not exceed 25% of the value of composite supply. It is a matter of fact as to whether the value of goods in such composite supply is up to 25% and requires ascertainment on case-to-case basis.
- (ii) In case the supply of service by way of milling of wheat into flour or of paddy into rice, is not eligible for exemption under Sl. No. 3 A for the reason that value of goods supply in such a composite supply exceeds

25%, then the applicable GST rate would be 5% if such composite supply is provided to a registered person, being a job work service (entry No. 26 of Notification No. 11/2017- Central Tax (Rate) dated 28.06.2017).

Combined reading of the definition of job-work [section 2(68), 2(94), 22, 24, 25 and section 51] makes it clear that a person registered only for the purpose of deduction of tax under section 51 of the CGST Act is also a registered person for the purposes of the said entry No. 26, and thus said supply to such person is also entitled for 5% rate.

[Circular No. 153/09/2021 dated 17th June, 2021]

6. Clarification regarding GST on service supplied by State Government to their undertakings or PSUs by way of guaranteeing loans taken by them

It has been re-iterated that guaranteeing of loans by Central or State Government for their undertaking or PSUs specifically exempt under entry No. 34A of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017.

[Circular No. 154/10/2021 dated 17th June, 2021]

7. Clarification regarding GST rate on laterals/parts of Sprinklers or Drip Irrigation System

It has been clarified that that laterals/parts to be used solely or principally with sprinklers or drip irrigation system, which are classifiable under heading 8424, would attract a GST of 12%, even if supplied separately. However, any part of general use, which gets classified in a heading other than 8424, in terms of Section Note and Chapter Notes to HSN, shall attract GST as applicable to the respective heading.

[Circular No. 155/11/2021 dated 17th June, 2021]

8. Clarification in respect of applicability of Dynamic Quick Response (QR) Code on B2C invoices and compliance of Notification No. 14/2020- CT dated 21.03.2020

The CBIC has issued Circular No. 156/12/2021-GST to clarify various issues relating to applicability of Dynamic Quick Response (QR) Code on B2C (Registered person to Customer) invoices and compliance of Notification No. 14/2020-Central Tax, dated 21st March, 2020 as under:

Sl. No.	Issue	Clarification
1.	Whether Dynamic QR Code is to be provided on an invoice, issued to a person, who has obtained a Unique Identity Number as per the provisions of Sub-Section 9 of Section 25 of CGST Act 2017?	Any person, who has obtained a Unique Identity Number (UIN) as per the provisions of Sub-Section 9 of Section 25 of CGST Act 2017, is not a “registered person” as per the definition of registered person provided in section 2(94) of the CGST Act 2017. Therefore, any invoice, issued to such person having a UIN, shall be considered as invoice issued for a B2C supply and shall be required to comply with the requirement of Dynamic QR Code.

2.	UPI ID is linked to the bank account of the payee/ person collecting money. Whether bank account and IFSC details also need to be provided separately in the Dynamic QR Code along with UPI ID?	Given that UPI ID is linked to a specific bank account of the payee/ person collecting money, separate details of bank account and IFSC may not be provided in the Dynamic QR Code.
3.	In cases where the payment is collected by some person other than the supplier (ECO or any other person authorized by the supplier on his/ her behalf), whether in such cases, in place of UPI ID of the supplier, the UPI ID of such person, who is authorized to collect the payment on behalf of the supplier, may be provided?	Yes. In such cases where the payment is collected by some person, authorized by the supplier on his/ her behalf, the UPI ID of such person may be provided in the Dynamic QR Code, instead of UPI ID of the supplier.
4.	In cases, where receiver of services is located outside India, and payment is being received by the supplier of services in foreign exchange, through RBI approved modes of payment, but as per provisions of the IGST Act 2017, the place of supply of such services is in India, then such supply of services is not considered as export of services as per the IGST Act 2017; whether in such cases, the Dynamic QR Code is required on the invoice issued, for such supply of services, to such recipient located outside India?	No. Wherever an invoice is issued to a recipient located outside India, for supply of services, for which the place of supply is in India, as per the provisions of IGST Act 2017, and the payment is received by the supplier in foreign currency, through RBI approved mediums, such invoice may be issued without having a Dynamic QR Code, as such dynamic QR code cannot be used by the recipient located outside India for making payment to the supplier.
5.	In some instances of retail sales over the counter, the payment from the customer is received on the payment counter by displaying dynamic QR code on digital display, whereas the invoice, along with invoice number, is generated on the processing system being used by supplier/ merchant after receiving the payment. In such cases, it may not be possible for the merchant/ supplier to provide details of invoice number in the dynamic QR code displayed to the customer on payment counter. However, each transaction i.e., receipt of payment from a customer is having a unique Order ID/ sales reference number, which is linked with the invoice for the said transaction. Whether in such cases, the order ID/ reference number of such transaction can be provided in the dynamic QR code displayed digitally, instead of invoice number.	In such cases, where the invoice number is not available at the time of digital display of dynamic QR code in case of over the counter sales and the invoice number and invoices are generated after receipt of payment, the unique order ID/ unique sales reference number, which is uniquely linked to the invoice issued for the said transaction, may be provided in the Dynamic QR Code for digital display, as long as the details of such unique order ID/ sales reference number linkage with the invoice are available on the processing system of the merchant/ supplier and the cross reference of such payment along with unique order ID/ sales reference number are also provided on the invoice.
6.	When part-payment has already been received by the merchant/ supplier either in advance or by adjustment (e.g., using a voucher, discount coupon etc), before the dynamic QR Code is generated, what amount should be provided in the Dynamic QR Code for "invoice value"?	The purpose of dynamic QR Code is to enable the recipient/ customer to scan and pay the amount to be paid to the merchant/ supplier in respect of the said supply. When the part-payment for any supply has already been received from the customer/ recipient, in form of either advance or adjustment through voucher/ discount coupon etc., then the dynamic QR code may provide only the remaining amount payable by the customer/ recipient against "invoice value". The details of total invoice value, along with details/ cross reference of the part payment/ advance/ adjustment done, and the remaining amount to be paid, should be provided on the invoice.

Circular No. 146/2/2021-GST, dated 23.02.2021 which has been issued earlier to clarify various issues relating to applicability of Dynamic Quick Response (QR) Code on B2C invoices and compliance of Notification No. 14/2020-Central Tax, dated 21st March 2020 shall stand modified to this extent.

Penalty for non-compliance with the provisions of Dynamic QR Code to be waived off till 30th September

The penalty payable by a registered person under section 125 of the CGST Act, 2017 for not complying with the requirement of Dynamic QR Code as notified vide Notification No. 14/2020-CT dated 21st March 2020 has been waived off till 30th September 2021.

[Notification No. 28/2021 CT dated 30th June, 2021]

9. Amendments in sections 35(5) and 44 of the CGST Act, 2017 have come into force from 1st August, 2021

- Section 110 seeks to omit section 35(5) of CGST Act, 2017 thereby doing away with the requirement of getting accounts audited by a CA or CMA and submission of copy of audited annual accounts, the reconciliation statement under section 44(2) and such other documents as may have been prescribed.
- Section 111 seeks to substitute section 44 of CGST Act, 2017 implying that now the taxpayers, other than an ISD, a person paying tax under section 51 or section 52, CTP and NRTP can furnish an annual return which may include a self-certified reconciliation statement.

Additionally, the Commissioner may on the recommendations of Council exempt any class of registered persons from filing annual return under this section.

Further more, the due date for filing annual return which was earlier prescribed as December 31 of every year in section 44 has now been amended in a manner that the same will be specified in the prescribed manner under rules.

Notification No. 29/2021 – Central Tax dated 30th July, 2021

10. Amendments in CGST Rules, 2017

Pursuant to the amendments made in section 35(5) and 44 of the CGST Act, 2017 getting notified from 1st August, 2021, consequential amendments have been made in rule 80 of the CGST Rules, 2017 and Forms GSTR-9 and GSTR-9C.

With effect from 1st August, 2021, rule 80 has been substituted to provide that-

- Every registered person, other than an input service distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person shall furnish an annual return for every financial year as specified under section 44 electronically in FORM GSTR-9 on or before 31st December following the end of such financial year through the common portal either directly or through a Facilitation Centre notified by the Commissioner
- A person paying tax under section 10 shall furnish the annual return in FORM GSTR-9A.
- Every electronic commerce operator required to collect tax at source under section 52 shall furnish annual statement referred to in sub-section (5) of the said section in FORM GSTR - 9B.
- Every registered person, other than those referred to in the second proviso to section 44, an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person, whose aggregate turnover during a financial year exceeds five crore rupees, shall also furnish a self-certified reconciliation statement as specified under section 44 in FORM GSTR-9C along with the annual return referred to in sub-rule (1), on or before 31st December following the end of such financial year, electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner.

The detailed notification providing the amendments in Forms GSTR-9 & GSTR-9C can be accessed at Notification No. 30/2021 – Central Tax dated 30th July, 2021

11. Taxpayers having AATO upto Rs. 2 crores exempt from the requirement of furnishing annual return for FY 2020-21

The first proviso to amended section 44 of the CGST Act, 2017 empowers the Commissioner to exempt, on the recommendations of the Council, any class of registered persons from filing annual return.

Accordingly, the Commissioner, on the recommendations of the Council, has exempted the registered person whose aggregate turnover in the financial year 2020-21 is upto two crore rupees, from filing annual return for the said financial year.

Notification No. 31/2021 – Central Tax dated 30th July, 2021

12. Clarification regarding extension of limitation under GST Law in terms of Hon'ble Supreme Court's Order dated 27.04.2021

The CBIC has clarified vide Circular No. 157/13/2021 dated 20th July, 2021 that the extension of timelines granted by Hon'ble Supreme Court vide its Order dated 27.04.2021 is applicable in respect of any appeal which is required to be filed before Joint/Additional Commissioner (Appeals), Commissioner (Appeals), Appellate Authority for Advance Ruling, Tribunal and various courts against any quasi-judicial order or where proceeding for revision or rectification of any order is required to be undertaken, and is not applicable to any other proceedings under GST Laws.

13. Updating the Annual Aggregate Turnover (AATO) by taxpayers.

The Annual Aggregate Turnover (AATO) has been calculated based on the returns filed by the taxpayers. The detailed advisory on calculation methodology of AATO has been specified under the 'Advisory' hosted at Taxpayers' Dashboard. A functionality has been provided at the Common Portal to modify the AATO where taxpayers have reason to believe that the AATO has been calculated wrongly. In such cases, taxpayers may modify the Annual Aggregate Turnover (AATO). In case such modification is made beyond a certain limit (as specified in the 'Advisory'), the same shall be sent to the jurisdictional officer's Dashboard for appropriate action, if required.

14. Advisory for Taxpayers regarding Blocking of E-Way Bill (EWB) generation facility to resume after 15th August, 2021.

E-way bill generation facility had been blocked temporarily due to the pandemic, in terms of Rule 138E(a) and (b) of the CGST Rules, 2017.

The government has now decided to resume the blocking of e-way bill generation facility on the e-way bill portal, for all the taxpayers in terms of Rule 138E(a) and (b) of the CGST Rules, 2017, from 15th August onwards.

15. New functionality on Annual Aggregate Turnover (AATO) deployed on GST Portal for taxpayers.

GSTN has implemented a new functionality on taxpayers' dashboards with the following features:

- The taxpayers can now see the exact Annual Aggregate Turnover (AATO) for the previous FY, instead of just the two slabs of Above or Upto Rs. 5 Cr.
- The taxpayers can also see the Aggregate Turnover of the current FY based on the returns filed till date.
- The taxpayers have also now been provided with the facility of turnover update in case taxpayers feel that

the system calculated turnover displayed on their dashboard varies from the turnover as per their records.

- This facility of turnover update shall be provided to all the GSTINs registered on a common PAN. All the changes by any of the GSTINs in their turnover shall be summed up for computation of Annual Aggregate Turnover for each of the GSTINs
- The taxpayer can amend the turnover twice within a period of one month from the date of roll out of this functionality. Thereafter, the figures will be sent for review of the Jurisdictional Tax Officer who then can amend the values furnished by the taxpayer.

16. Filing of Annual returns by composition taxpayers. - Negative Liability in GSTR-4

Instances have come to notice where taxpayers have reporting negative liability appearing in their GSTR-4.

Background: Since FY 2019-20, composition taxpayer has to pay the liability through Form GST CMP-08 on quarterly basis while GSTR-4 Return is required to be filed on annual basis after end of a financial year.

Reason of Negative Liability in GSTR-4: The liability of the complete year is required to be declared in GSTR-4 under applicable tax rates. Taxpayers should fill up table 6 of GSTR-4 mandatorily. In case, there is no liability, the said table may be filled up with '0' value. If no liability is declared in table 6, it is presumed that no liability is required to be paid, even though, taxpayer may have paid the liability through Form GST CMP-08. In such cases, liability paid through GST CMP-08 becomes excess tax paid and moves to Negative Liability Statement for utilization of same for subsequent tax period's liability.

What the taxpayer did wrongly: Liability paid through Form GST CMP-08 is auto-populated in table 5 of the GSTR-4 for convenience of the taxpayers. Taxpayers who do not fill up table 6 of GSTR-4 i.e., no liability is declared, even though, taxpayer may have paid the liability through Form GST CMP-08; since the 'Tax payable' in GSTR-4 is computed after reducing the liability declared in GST CMP-08 and then auto-populated in table 5. Thus, if nothing is declared in table 6, then the negative liability entry appears in GSTR-4.

How to proceed in case of negative liability: If table 6 of GSTR-4 has not been filled due to oversight, a ticket may be raised to nullify the amount available in negative liability statement. If there is no liability to be paid during the year, the liability paid through Form GST CMP-08 shall move to negative liability statement and the same excess amount can be utilised to pay the liability of future tax periods.

GST KNOWLEDGE DISSEMINATION BY ICAI

The GST & IDT Committee of ICAI has taken the following initiatives during the current council year to support the Government's objective of 'GST Knowledge Dissemination':

Virtual CPE Meetings

The Committee has organised 10 Virtual CPE Meetings (VCM) on the following topics in GST with a view to educate the members with the finer nuances of the GST law as also to keep them abreast with the recent developments in the GST law:

S. No.	Topic	Faculty
1	Composition Levy under GST	CA. J. Murali
2	Books of Accounts and Records in GST	CA. Shubham Khaitan
3	Audit by GST Department	CA. Sushil Kumar Goyal, Vice-Chairman
4	Input Tax Credit	CA. Atul Gupta, Past President, ICAI
5	Supply & Taxability: Questions & Answers	CA. Rajendra Kumar P, Chairman
6	Recent Developments & Issues in Refunds	CA. Shankara Narayanan V

7	Finalisation of Accounts from GST Perspective	CA. Ramesh S
8	GST Litigation: What the future beholds?	Adv. Lakshmikumaran
9	GST Audit by Department – Are You Ready?	CA. Shaikh Abdul Samad Ahmad
10	VCM on Interest and Penalties in GST	CA. Saradha H

The VCMs are addressed by eminent speakers having expert knowledge of the subject. The queries raised by the participants are also resolved by the speakers during these VCMs.

Other programmes

The Committee also organised a Faculty Development Programme, 8 Refresher Courses on GST, Live Webcast on GST and a National Conference on GST during this Council year.

Publications

The Committee released a useful publication titled, "Practical FAQs on Input Tax Credit" on 1st July 2021. It is a compilation of the practical queries solicited from various stakeholders on several pertinent issues in input tax credit. Such queries have been answered by eminent subject experts.

ANNOUNCEMENT

ONLINE ASSESSMENT TEST OF CERTIFICATE COURSE ON GST

The next Assessment Test of Certificate Course on GST has been scheduled online on 5th Sept, 2021 from 11.30 am to 12.30 pm. To appear in the aforesaid Assessment Test, please follow the steps given hereunder:

- Register for the Assessment Test at <https://idtc.icai.org/cc/apps/exam-registration-GST?CTYPE=GST> by using your 6 digit membership no. till 5:30 pm on 20th August, 2021 and pay the applicable fees, if any. After successful registration and payment of fees, if any, you will receive a license code through email.
- Activate "Assessment Certificate Course on GST Sep 2021" using the license code.
- Complete your face registration after activating "Assessment Certificate Course on GST Sep 2021" which would be available in your "My Products" at <https://learning.icai.org> on any date but not later than 22nd August till 5:30 pm. It can be done by expanding the node "Assessment Certificate Course on GST Sep 2021", by clicking it and pressing "Launch".

- Complete your face authentication by visiting "Assessment Certificate Course on GST Sep 2021" which would be available in your "My Products" at <https://learning.icai.org> after 24 hours of face registration but not later than 24th August, 2021 till 5:30 pm.
- Participate in the Mock Test scheduled on 27th August, 2021 for 30 minutes at any time between 11:30 am to 2:30 pm.
- On 5th Sept, 2021 i.e., on the day of Assessment Test, log-in by 11:00 am to avoid any difficulties.

Please go through the aforesaid instructions carefully to avoid any last-minute issues.

In case of any difficulty, you may write to us at gst@icai.in or call at 0120-3045954 or message us on WhatsApp at 8881004341/9818240634.

Noida
30th July, 2021

GST & Indirect Taxes Committee
The Institute of Chartered
Accountants of India

GST QUIZ

- 1 Which Article of the Constitution of India grants power to Centre and State Governments to make laws with respect to GST to be imposed by the Centre or such State?
 - a) 264
 - b) 246
 - c) 246A
 - d) 254
- 2 With effect from 1.4.2021, the number of digits of HSN code to be mentioned mandatorily on tax invoices issued by a registered person having annual turnover exceeding Rs. 5 crore in the preceding financial year is-
 - a) 8
 - b) 6
 - c) 5
 - d) 4
- 3 For the transportation of which of the following items, e-way bill is not required to be generated?
 - a) Kerosene oil sold under PDS
 - b) Used Personal & Household Effects
 - c) Only B
 - d) Both of the above
- 4 Class of persons who do not require Aadhaar authentication or furnishing of proof of Aadhaar number at the time of grant of registration-
 - a) Foreign citizen
 - b) Department or establishment of the Central Government or State Government
 - c) Public Sector Undertaking
 - d) All of the above
- 5 In case of a natural calamity, a transporter can extend the validity period of an e-way bill within -----from the time of its expiry.
 - a) 8 hours
 - b) 6 hours
 - c) 12 hours
 - d) 24 hours
- 6 Tax deducted or collected is credited to which electronic ledger of the registered taxable person from whom the said tax amount was deducted or collected?
 - a) Electronic Credit Ledger
 - b) Electronic Cash Ledger
 - c) Electronic Liability Ledger
 - d) None of the above
- 7 In case of assessment under section 62 of the CGST Act, 2017, if the registered person furnishes a valid return for the default period within -----days of the service of assessment order, the said assessment order is deemed to have been withdrawn.
 - a) 15 days
 - b) 25 days
 - c) 30 days
 - d) 45 days
- 8 The National Anti- Profiteering Authority consists of _____members.
 - a) 5
 - b) 6
 - c) 9
 - d) 10
- 9 Whether refund of excess tax deducted under section 51 of the CGST Act, 2017 can be claimed by the deductor of tax?
 - a) Yes
 - b) No
 - c) May Be
 - d) Yes, but only if the amount is not credited to electronic cash ledger of the deductee
- 10 What is the revised time limit for grant of GST registration to a person who has successfully authenticated his Aadhaar number?
 - a) 2 working days
 - b) 3 working days
 - c) 7 working days
 - d) 10 working days

The names of the first 5 members who provided all the correct answers of the last Quiz (December, 2020) within 48 hours are as under:-

Name	Membership No.
CA. Natwarlal Tawani	151499
CA. Madhusudan Mishra	451226
CA. Himani Khurana	445925
CA. Sravanthi Durga Naga Velagaleti	218350
CA. Jaydeep Mehta	44081

Please provide reply of the above MCQs in the link given below. The name of the first 5 members who provide all the correct answers within 48 hours of receipt of this Newsletter, would be published in the next edition.

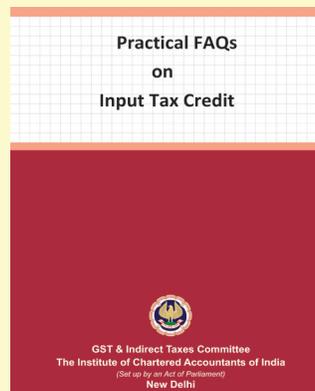
Link to reply: https://docs.google.com/forms/d/e/1FAIpQLSe7QGcZ0k93cKv5N-GEEdGHmq5kXxglE002aRntZqDWXKucng/viewform?usp=sf_link

PUBLICATIONS

NEW

Practical FAQs on Input Tax Credit

GST and Indirect Taxes Committee has been supporting the Government with its intellectual resources, expertise and efforts to make GST a real good and simple tax. This publication is yet another initiative of the Committee in this direction. "Practical FAQs on Input Tax Credit" was released on CA Day i.e., on July 1, 2021. It is a compilation of practical questions on input tax credit and their best possible answers. The questions included in the publication were solicited from the members at large and cover the entire gamut of input tax credit namely, eligibility and conditions for taking credit, apportionment and blocked credits, credit in special circumstances, input service distributor and job work. The answers to such questions have been drafted by the best of minds in the field and then reviewed by eminent subject experts.



Certificate Course on GST

It is the flagship programme of the GST & Indirect Taxes Committee of ICAI. Currently, the course is being organised virtually through the Digital Learning Hub (DLH) of ICAI to ensure safety and well-being of our members in view of the COVID-19 outbreak. The course aims to build the capacities of the members in the area of GST and equips them to take up new opportunities in the field of GST. This course runs for 10 days with sessions in both morning and evening to avoid disruption in the daily working of the members attending the course. Over the years, the course has earned due recognition amongst the various stakeholders. We request you to keep checking the website of the GST and IDT Committee www.idtc.icai.org to know about the details of the forthcoming batches of the Course.



GST & INDIRECT TAXES COMMITTEE OF ICAI

A ONE STOP DESTINATION FOR ALL INDIRECT TAXES

website: www.idtc.icai.org



The website of GST and Indirect Taxes Committee of ICAI viz. www.idtc.icai.org provides the users a well-set platform for sharing and gaining knowledge on GST and other indirect taxes and easy accessibility to the committee. The committee works relentlessly towards keeping the members abreast with the latest changes in all the indirect taxes laws vide various mediums like organising programmes, updating publications, sending regular updates, etc.

Main features:

- ❖ Regular GST / Indirect Taxes Updates
- ❖ Knowledge Bank of Indirect Taxes/ GST– Articles, Legal Updates etc.
- ❖ Publications on GST and others IDT Law including UAE VAT Law etc.- (Available for free download and online ordering)
- ❖ Recordings of Live Webcasts / E-lectures on GST
- ❖ E-learning on GST
- ❖ Upcoming events
- ❖ Details of Certificate Courses, Programme, Seminars etc. on GST/ Indirect Taxes
- ❖ Links of related important website
- ❖ Connect with GST & Indirect Taxes as a faculty / author of the publication etc.
- ❖ GST Tab on website to Provide consolidated GST information.

Your suggestions on the website are welcome at gst@icai.in

Secretary
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