

Simplified GST Guide for Manufacturer



The Institute of Chartered Accountants of India
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New Delhi

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Foreword

A growing economy like India needs adequate resources to finance developmental activities that are inclusive and reaches all strata of society. Our Country is continuously evolving its tax system to streamline its administration and generate more revenue for infrastructure, social welfare and several other activities. The motive of the Government to implement/move toward GST by July 2017 is an indicator of our evolved tax system.

It is imperative for professionals to keep abreast with latest developments and be prepared for future beforehand. To enable manufacturer to ingeniously and tactfully engross into a single unified tax system which will integrate the present gamut of various indirect taxes, Indirect Taxes Committee of ICAI has come up with "*Simplified GST Guide for Manufacturer*".

This simplified GST Guide aptly covers aspects of transaction related to manufacture like levy and exemption, registration, time and place of supply, valuation, input tax credit, job work and much more under foreseen GST in very simple and easy to comprehend language. This is a unique guide wherein all the provision of upcoming GST related to manufacture has been dealt with, which would help the reader in analyzing each and every aspect of manufacturing transaction with respect to GST. We are sure this guide will be a useful resource material to manufacturers to adapt to this transition.

At this juncture, we heartily appreciate CA. Madhukar N. Hiregange, Chairman, CA. Sushil Kumar Goyal, Vice-Chairman and other members of the Indirect Taxes Committee for developing this simplified '*GST Guide for Manufacturer*'. We are sure that the readers will be benefited by this in-depth study being made available to them before the Goods and Services Tax is actually implemented in the Country. We are sure that it will help our members and others in their endeavors to acquire specialized knowledge and cope-up with the challenges and complexities envisaged by manufacturers in forthcoming GST Law.

We welcome the members to a fruitful and enriching experience.

CA. M Devaraja Reddy

President
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Vice-President
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Date: 06.02.2017

Place: New Delhi

Preface

Goods and Services Tax (GST) is a major taxation reform to be levied on supply of goods and/or services. This uniform taxation law across States and different sectors in respect to indirect taxes would make supply of goods and services hassle free throughout the Country. One more reason to go for GST is the facilitation of seamless credit across the entire supply chain and across all States under a common tax base which is not available in the current scenario. This will also help in removing economic distortions, promote exports and bring about development of a common national market which in turn would definitely give a boost to India's tax-to-gross domestic product ratio and thus help in promoting economic efficiency and sustainable long term economic growth. Further, elimination of dual taxation will enable efficient operational model for manufacturers which will enhance business productivity.

Taking these facts into account, the Indirect Taxes Committee of ICAI has developed "*Simplified GST Guide for Manufacturer*" with an aim to provide a detailed and thorough study of the provisions of Revised Model GST Law pertaining to manufacturing sector. The Guide is designed to provide a practical and theoretical knowledge of upcoming GST provisions about levy and exemption, composite levy, registration, time and supply of goods and or services, valuation, registration, job work, returns, payment of tax, input tax credit etc. pertaining to manufacture. This is targeted to the manufacturers and as per the request of the Revenue to understand this new law. It would facilitate members to combat the challenges, to do a SWOT Analysis and be prepared before actual implementation of GST.

We would like to express our sincere gratitude and thank to CA M. Devaraja Reddy, President and CA. Nilesh Vikamsey, Vice-President, ICAI, for their guidance and encouragement to the initiatives of the Committee. Further, we must also thank CA. Kapil Vaish for drafting this guide and other members of the Committee for their suggestions on the same.

We encourage reader to make full use of this learning opportunity. Interested members may visit website of the Committee www.idtc.icai.org and join the IDT update facility. We request you to share your feedback at idtc@icai.in to enable us to make this guide more value additive and useful.

Welcome to a professionalized learning experience in Indirect Taxation.

CA. Madhukar Narayan Hiregange
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Indirect Taxes Committee

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Date: 06.02.2017

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Chapter-1

Introduction

1. Levy of duty on manufacture of goods has been administered through Central Excise Act, 1944. The authority for levy of excise duty under Constitution has been through Entry 84 in Schedule VII of the Union List of the Constitution of India. The concept of 'deemed manufacture' was held to be a valid levy under residuary Entry 97 in Schedule VII. There have been various other enactments like Central Excise Tariff Act 1985; Cenvat Credit Rules 2004; Central Excise Valuation Rules, 2000; Central Excise (Removal of Goods at Concessional Rate of Duty for manufacture of Excisable and other goods) Rules 2016 etc, which were being used for administering the levy of duty on manufacture of goods in India.
2. There have been landmark decisions like Wazir Sultan Tobacco (1996) 83 ELT 3 and Wallace Flour Mill (1989) 44 ELT 589 by the Supreme Court declaring law on levy of excise duty and its collection.
3. The term "manufacture" has been widely construed and interpreted in various landmark decisions of the Apex Court as well as by lower appellate forums. The test of emergence of a new commercial commodity, having distinct name, character and use, to term a process as manufacture has been consistently upheld by the Supreme Court in cases such as Ujagar Prints v. UOI – (1988) 38 ELT 535 (SC) and Empire Industries Ltd v. UOI – (1985) 20 ELT 179 (SC).
4. Until now, besides payment of Central Excise duty on manufacture of goods; manufacturers have also been liable for payment of VAT on sale of goods.
5. With the 101st constitutional amendment, Central Excise Act as well as provisions of VAT shall have their scope limited to the products like Petroleum & Tobacco. All other products, from the notified date would be liable for payment of GST.
6. The Revised model GST law (as amended in November 2016) has been placed in the public domain. Various issues like tax rates, exemptions, jurisdiction etc are being considered by GST Council. Thereafter GST Bill will be introduced in the Parliament.
7. Under the GST regime, the concept of manufacture and levy of excise duty would be given a go bye. Tax would be levied on supply of goods/services whether by a manufacturer or by any other person.
8. The taxable events under the existing indirect tax laws such as manufacture, sale or provision of services shall stand subsumed in the taxable event known as "supply" of goods or services.

The Concept of GST Law

9. The proposed GST law shall be a simple 'ACT' replacing all Acts relating to levy of indirect taxes.
10. Section 164 of the Revised Model GST Law provides that following taxes shall be subsumed under the new law:-
 - (a) Entry tax
 - (b) Entertainment tax
 - (c) Luxury tax
 - (d) Duty of excise on Medicinal and Toilet Preparations Act
 - (e) Service tax levied under Chapter V of Finance Act, 1994.
 - (f) General sales tax/value added tax(except the items which will still be liable to VAT namely petroleum, potable liquor & tobacco)
11. There would be following three Acts to administer and levy GST in India:-
 - (i) The Central Goods and Services Tax Act.
 - (ii) The State Goods and Services Tax Act.
 - (iii) The Integrated Goods and Services Tax Act.
12. On all supplies of goods/services within the State, CGST and SGST shall simultaneously be payable.
13. IGST would be payable on supply of goods or services between the two States. It would basically be the sum total of CGST & SGST. Tax collected under CGST shall go to the credit of Central Government and tax collected under SGST shall go to the credit of State Government.
14. GST would basically be a destination based consumption tax.

Taxable Event

15. The Taxable event for manufacturers has all along been manufacture of goods. However Central Excise duty used to be collected at the time of removal of goods.
16. The Taxable event under VAT Laws has been sale of goods. Tax is leviable at the point when sale takes place.
17. The Taxable event under service tax has been provision of service.
18. Under Revised Model GST law, instead of the above the taxable event shall be the supply of goods/services. For levy of tax under GST, one will have to see the time when the goods/services are supplied.

Manufacturer under GST law

19. The Revised Model GST law does not define the word 'manufacture' or 'manufacturer' per se. However section 2(66) defines manufacturer as under:
"manufacturer" shall have the meaning assigned to it by the Central Excise Act, 1944 (1 of 1944).
20. Section 2(f) of Central Excise Act, 1944 defines manufacture and the said definition also includes the definition of manufacturer. It reads as under:
"manufacture" includes any process, -
 - (i) incidental or ancillary to the completion of a manufactured product;
 - (ii) which is specified in relation to any goods in the Section or Chapter notes of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986) as amounting to manufacture; or
 - (iii) which, in relation to the goods specified in the Third Schedule, involves packing or repacking of such goods in a unit container or labelling or re-labelling of containers including the declaration or alteration of retail sale price on it or adoption of any other treatment on the goods to render the product marketable to the consumer,and the word "manufacturer" shall be construed accordingly and shall include not only a person who employs hired labour in the production or manufacture of excisable goods, but also any person who engages in their production or manufacture on his own account
21. "Manufacturer" shall include not only a person who employs hired labour in the production or manufacture of excisable goods, but also any person who engages in their production or manufacture on his own account.
22. Accordingly it may be construed that a person shall be deemed to be a manufacturer if he is engaged in production or manufacture of goods either through hired labour or through himself.
23. Under GST only the trader and manufacturer are eligible for composition. Further, the composition rate of 2.5% is applicable to manufacturer as against 1% for Trader. This means that understanding the concepts of 'manufacture' and manufacturer would continue to be important.

Chapter - 2

Levy and exemption under GST

1. In the Revised Model GST law, tax will be levied and collected under Section 8 of the Goods and Services tax Law.
2. Sub-section (1) of Section 8 provides for levy of tax called Central/State Goods and Services tax on all intra-State supplies of goods and services. This sub-section would be applicable to all manufacturers supplying goods within the same State.
3. Provisions relating to levy of tax on supply of goods or services on making inter State supplies are contained in Section 3 of IGST Act, 2016. For this purpose, “supply of goods or services in the course of inter State trade or commerce” means any supply where the location of the supplier and the place of supply are in different States. Even supply of goods or services in the course of import into the territory of India is also deemed to be supply in the course of inter State trade or commerce.
4. Sub-section 7 of Section 3 of IGST Act, 2016 provides that any supply of goods or services in the taxable territory shall be deemed to be a supply in the course of inter State trade or commerce if it is not a intra State supply and is not covered else where in Section 3 of IGST Act, 2016.
5. In the case of supply of goods or services where the supplier is located in India and the place of supply is outside India/SEZ developer/SEZ unit, it shall be deemed to be the supply of goods/services in the course of inter- State trade or commerce.
6. The Government may specify categories of supply of goods/services on which tax is payable on reverse charge basis and the tax thereon shall be paid by the recipient of goods.
7. Under the central excise law, the rates of duties are given in the Schedule to Central Excise Tariff Act, which is based on HSN Classification of goods.
8. Under the revised Model Goods and Services Tax Act, section 8(1) provides that the Central/State Government shall levy tax at such rates as may be notified by the government in this behalf. The said rates for levy of tax cannot exceed 14% by each government (State Government & Central Government).
9. The rates of taxes are to be recommended by the GST Council. In one of the meetings of GST Council, it has been agreed that broadly the combined rate structure shall be as under.
 - Food Grains etc. - NIL
 - Essential Commodities - 5%
 - General Rate - 12%/ 18%

- Luxury Goods - 28%
- Cess - Additional - may be 12% on Tobacco etc.

Exemption from payment of GST

10. The Central Excise Act, 1944 and notifications issued there under granted various exemptions to the manufacturers of finished goods. A mega exemption notification no 12/12 dated 17-03-2012 has also been issued granting various exemptions to manufactures.
11. Section 11 of Revised Model GST Law empowers Central Government/State Government to exempt goods and/or services of any specified description from the whole or part of the tax leviable thereon.
12. Where any exemption notification is issued granting total exemption from payment of tax on any goods and/or services, the taxable person providing such goods and/or services need not pay the tax on such goods and/or services.

Chapter - 3

Composition Levy

1. Scheme

Section 9 of the CGST Act provides for the system of payment of taxes under a composition scheme i.e. payment of tax by a taxable person at a lower rate of tax on the value of taxable supplies without the benefit of credit and with restriction on inter-State supplies.

2. Permission to be obtained from Proper Officer

For availing the benefit of Composition Scheme, a registered taxable person shall have to obtain permission from the Proper Officer. This scheme is available when the aggregate turnover in preceding financial year does not exceed Rs. 50 Lacs. The facility of composition levy is available upto supply of Rs. 50 lacs only. The benefit will stand withdrawn from the day on which aggregate turnover in a Financial Year exceeds Rs. 50 lacs.

3. Scheme is qua tax payer and not qua goods or services

The benefit of Composition Scheme is available to the registered taxable persons having aggregate turnover not exceeding Rs. 50 Lacs. This benefit is available on the goods falling within the said limit of Rs. 50 Lacs. A registered taxable person opting for this scheme has to opt for the same simultaneously for supply of all goods/services and from all registrations under the same PAN.

4. A manufacturer opting for the benefit of composition levy shall be liable for minimum payment of tax of 2.5% under CGST and 2.5% under SGST.

5. Restrictions on availing benefit of Composition Scheme

- Taxable Person should not be making inter State supplies of goods.
- Benefit is not available to supply of services.
- Taxable person is not eligible to take Input Tax Credit (ITC).
- Registered taxable person is not eligible to collect tax from the recipient of goods/services.
- Taxable person shall not be supplying goods through an electronic commerce operator who is required to collect tax at source.
- Taxable person shall not be engaged in the manufacture of such goods as may be notified.

6. Key features of composition scheme:

- Rs.50 lacs (Aggregate Turnover) is the value of all taxable, non-taxable, exempt

and export supplies of the person (not merely of the taxable person) for the relevant financial year.

- The threshold limit of Rs. 50 lacs would be applicable to a person having the same PAN. Therefore, turnover in all States would have to be considered.
- Registration is required before seeking permission for payment of tax under the composition scheme.
- Taxable person opting to pay tax under the composition scheme is prohibited from collecting tax.
- Input tax credits are not available to a composition person;
- However, if the taxable person becomes ineligible to remain under composition scheme, the taxable person will become entitled to take input tax credit in respect of inputs held in stock (as inputs, contained in semi-finished or finished goods) held on the day immediately preceding the date from which he becomes liable to pay tax under Section 8.
- Inter-State supplies 'made' is a disqualification for opting composition scheme.

Chapter - 4

Person and Taxable Person

1. 'Person' has been defined under section 2(74) of the CGST Act to include:
 - (a) an individual;
 - (b) a Hindu undivided family;
 - (c) a company;
 - (d) a firm;
 - (e) a Limited Liability Partnership;
 - (f) an association of persons or a body of individuals, whether incorporated or not, in India or outside India;
 - (g) any corporation established by or under any Central, State or Provincial Act or a Government company as defined in section 2(45) of the Companies Act, 2013 (18 of 2013);
 - (h) any body corporate incorporated by or under the laws of a country outside India;
 - (i) a co-operative society registered under any law relating to cooperative societies;
 - (j) a local authority;
 - (k) government;
 - (l) society as defined under the Societies Registration Act, 1860 (21 of 1860);
 - (m) trust; and
 - (n) every artificial juridical person, not falling within any of the preceding sub-clauses;
2. Section 10 of Revised Model GST Law defines the taxable person to mean a person who is registered or is liable to be registered under Schedule V of the Act. Where a person has obtained more than one registration in one State or more; in respect of each such registration, he would be treated as distinct person for the purpose of levy of GST.
3. A single natural or juridical entity can obtain more than one registration in one State for its different business verticals.
4. Under section 9, even the Central Government, State Government or any local authority shall be regarded as taxable person in respect of their taxable supplies, other than those specified in Schedule IV of the Act.
5. Following persons shall not be considered as taxable person ;
 - (a) Any person who provides services as an employee to his employer in the course of, or in relation to his employment.

- (b) Any person engaged in the business of exclusive supply of goods/services that are not liable to tax.
 - (c) Any person liable to pay tax under section 8(3) [Reverse charge], receiving services not exceeding the specified limit in a year for personal use.
6. An analysis of the aforesaid provisions reveals that:
- A taxable person is always a natural or juridical entity first.
 - A natural or juridical entity becomes a taxable person when two conditions exist namely – carrying on business and requiring registration;
 - A natural or juridical entity constituting a taxable person is to be administered separately in each State; and
 - A single natural or juridical entity can constitute more than one taxable person in India.

Chapter-5

Supply of Goods

1. The revised Model GST law makes provisions for levy of tax on supply of goods or services. A manufacturer would essentially be involved in supply of goods.
2. Under GST law, the taxable event is 'supply of goods'. Section 2(49) defines goods as under:
“Goods” means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply.
3. This definition has the following parts:
 - Means
 - Excludes
 - Includes.
4. Therefore, according to the Model GST Law, goods are of following kinds:
 - (a) Every kind of movable property
 - (b) Excluding money and Securities
 - (c) Including actionable claims
 - (d) Growing crops grass and things attached to or forming part of the land.
 - (e) Which are agreed to be severed before supply.
5. Section 2(95) of the Revised Model GST law states that supply shall have the meaning assigned in section 3.
6. Section 3 of the Revised Model GST law defines the word 'supply' as under:
 - “(1) Supply includes
 - (a) all forms of supply of goods and/or services such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business,
 - (b) importation of service, whether or not for a consideration and whether or not in the course or furtherance of business, and
 - (c) a supply specified in Schedule I, made or agreed to be made without a consideration.
 - (2) Schedule II, in respect of matters mentioned therein, shall apply for determining what is, or is to be treated as a supply of goods or a supply of services.

- (3) Notwithstanding anything contained in sub-section (1),
 - (a) activities or transactions specified in Schedule III; or
 - (b) activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities as specified in Schedule IV, shall be treated neither as a supply of goods nor a supply of services.
- (4) Subject to sub-section (2) and sub-section (3), the Central or a State Government may, upon recommendation of the Council, specify, by notification, the transactions that are to be treated as—
 - (a) a supply of goods and not as a supply of services; or
 - (b) a supply of services and not as a supply of goods; or
 - (c) neither a supply of goods nor a supply of services.
- (5) The tax liability on a composite or a mixed supply shall be determined in the following manner —
 - (a) a composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply;
 - (b) a mixed supply comprising two or more supplies shall be treated as supply of that particular supply which attracts the highest rate of tax.
7. From a perusal of the aforesaid section 3, it would be noticed that supply of goods would include sale, transfer, barter, exchange or disposal of goods. These activities should be in the course or furtherance of trade and there should be a consideration.
8. Schedule I, however specifies certain supply of goods, which would be deemed to be “supply” even without consideration. These are:-
 - (i) Permanent transfer/disposal of business assets where input tax credit has been availed.
 - (ii) Supply of goods between related/distinct persons made in the course or furtherance of business.
 - (iii) Supply of goods by a principal to his agent, where the agent undertakes to receive the goods on behalf of the principal.
9. Sub-section (4) empowers the government to specify a particular activity to amount to supply of good or supply of services or none of them.
10. Section 3(5) deals with levy of tax on a composite or a mixed supply. The word composite supply has been defined in Section 2(27) as under:

“composite supply” means a supply made by a taxable person to a recipient comprising two or more supplies of goods or services, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary

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course of business, one of which is a principal supply;

Section 2(66) defines the word 'mixed supply' as under:

“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;

11. Clause (a) of sub section (5) provides that in case of composite supply, where one of which is a principal supply, the supply shall be treated as supply of principal supply.
12. On the other hand, in case of mixed supply, where there are two or more supplies, it shall be treated as supply of those goods which attracts the highest rate of tax.
13. Schedule II specifies the following transactions to be treated as supply of goods:
 - (a) Any transfer of title in goods.
 - (b) Any transfer of title in goods under an agreement which stipulates that property in goods will pass at a future date upon a payment of full consideration as agreed.
 - (c) Where goods forming part of the assets of a business are transferred or disposed of by or under the direction of the person carrying on the business so as no longer to form part of those assets, whether or not for a consideration, such transfer or disposal is a supply of goods by the person.
 - (d) Where any goods, forming part of the business assets of a taxable person, are sold by any other person who has the power to do so to recover any debt owed by the taxable person, the goods shall be deemed to be supplied by the taxable person in the course or furtherance of his business.
 - (e) Where any person ceases to be a taxable person, any goods forming part of the assets of any business carried on by him shall be deemed to be supplied by him in the course or furtherance of his business immediately before he ceases to be a taxable person, unless:-
 - The business is transferred as a going concern to another person; or
 - The business is carried on by a personal representative who is deemed to be taxable person.
 - (f) Supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration.
14. An interesting feature of Schedule II is that the following transactions which are at present treated as supply of goods under the existing laws, would be treated as supply of service.
 - (a) Sale of 'goods' in the execution of works contract.
 - (b) Transfer of right to use goods for cash, deferred payment or other valuable consideration.

- (c) Supply of goods being food or any other article for human consumption or any drink for cash, deferred payment or other valuable consideration.
15. Schedule III of Model GST Law specifies certain transaction which are neither supply of goods nor supply of services. These are:
- (i) Services by an employee to the employer in the course of or in relation to his employment.
 - (ii) Services by any Court or Tribunal established under any law for the time being in force.
 - (iii)
 - (a) The functions performed by the Members of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities;
 - (b) The duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity; or
 - (c) The duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central Government or a State Government or local authority and who is not deemed as an employee before the commencement of this clause.
 - (iv) Services by a foreign diplomatic mission located in India.
 - (v) Services of funeral, burial, crematorium or mortuary including transportation of the dead.
16. Schedule IV specifies certain activities or transactions carried out by Central Government, State government or a local authority in which they are engaged as public authorities which shall neither be treated as supply of goods nor supply of services.

Chapter-6

Time of Supply

1. The time of supply refers to the point when the liability of CGST/SGST/IGST arises. The Revised Model GST law has separate provisions for determining the time of supply for goods and services.
2. In case of supply of goods by the manufacturer, supply is earliest of the following:-
 - (i) The date of issue of invoice by the supplier of goods or the last date when he is required to issue invoice with respect to the said supply.
 - (ii) The date on which the manufacturer receives the payment with respect to the said supply.
3. It would be noticed that under the GST law, the manufacturer would be liable for payment of tax even on receipt of payment in advance as against the earlier provisions of payment of tax on clearance/sale of goods.
4. Under the GST regime, manufacturers may be liable to pay tax on reverse charge basis on receipt of goods. The time of supply shall be the earliest of the following dates:-
 - (i) Date of receipt of goods, or
 - (ii) Date on which payment is made, or
 - (iii) Date immediately following 30 days from the date of issue of invoice by the supplier.

In case it is not possible to determine the time of supply of goods in the aforesaid manner, the time of supply of goods shall be the date of entry in the books of account of the recipient of supply.
5. In case of supply of vouchers, the time of supply shall be:
 - (a) The date of issue of voucher, if the supply is identifiable at that point; or
 - (b) The date of redemption of voucher, in all other cases.
6. Sub-section (5) of section 12 is a residuary provision which provides that in remaining cases the time of supply of goods shall be:
 - (a) in a case where a periodical return has to be filed, be the date on which such return is to be filed, or
 - (b) in any other case, be the date on which the CGST/SGST is paid.
7. The aforesaid provisions contained in section 12 can be summarized in the following tabular form.

Time of Supply

S.No.	Requirement	Time of Supply
A	Supply of goods	Earlier of the following:- (i) The date on which supplier issues an invoice with respect to supply or the last date on which he is required to issue invoice. (ii) The date on which supplier receives the payment with respect to supply.
B	Reverse charge on receipt of goods	Earlier of: <ul style="list-style-type: none"> • Date of receipt of goods or • Date of making payment or • Date immediately following 30 days from the date of issue of invoice
C	Supply of vouchers	Earlier of the following: (a) Date of issue of voucher(where supply is identifiable at that point; or (b) Date of redemption of voucher (other cases).
D	Unable to determine as above	Due date for filing return
		Date of payment of tax

8. Section 13 provides for the time of supply of services. The manufacturer engaged in manufacture/supply of goods may be liable for payment of tax on reverse charge basis on availing various services. These provisions are contained in section 13(3) of Revised model GST law.
9. In case a manufacturer receives certain services on which tax is liable to be paid on reverse charge basis, the time of supply shall be the earlier of the following dates:-
- (i) The date on which payment is made.
 - (ii) The date immediately following 60 days from the date of issue of invoice by the supplier.

In case, it is not possible to determine the time of supply of services in the aforesaid manner the time of supply of services shall be the date of entry in the books of account of the recipient of supply.

Time of supply on change in rate of tax in respect of supply of goods or services

10. Provisions relating to determination of time of supply of goods/services in cases when

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there is a change in rate of tax in respect of goods/supply are contained in section 14 of Revised Model GST law.

11. This section deals with the following two situations namely:-
 - (i) Where the goods/services have been supplied before the change in rate of tax.
 - (ii) Where the goods/services have been supplied after the change in rate of tax.
12. Time of supply of goods/services in respect to the above two situations will be determined as under:-

Goods supplied	Date of issue of invoice	Date of payment	Time of supply
Before the change in rate of tax	After change in rate of tax	After change in rate of tax	Earlier of following:- (a) Date of invoice; (b) Date of payment
	Prior to change in rate of tax	After change in rate of tax	Date of issue of invoice
	After change in rate of tax	Prior to change in rate of tax	Date of payment
After the change in rate of tax	Prior to change in rate of tax	After change in rate of tax	Date of payment
	Before change in rate of tax	Before change in rate of tax	Earlier of following:- (a) Date of invoice; (b) Date of payment
	After change in rate of tax	Prior to change in rate of tax	Date of issue of invoice

For this purpose, the date of receipt of payment shall be the date on which the payment is entered in the books of accounts of the supplier or the date on which the payment is credited in his bank account, whichever is earlier.

Chapter - 7

Place of Supply of Goods

1. Goods and Services Tax law is basically a destination based consumption tax. Credit of SGST paid is to be extended to the State Government within whose jurisdiction the goods have been supplied. It is therefore, necessary to determine the place of supply of goods.

Supplies of goods in the course of inter-State trade or commerce

2. Supply of goods in the course of inter-State trade or commerce means any supply where the location of the supplier and the place of supply are in different States. Eg.- if a manufacturer located in Delhi supplies goods in Lucknow (Uttar Pradesh), it would be an inter-state supply.

Supplies of goods in the course of intra-State trade or commerce

3. Intra-state supply of goods means any supply where the location of the supplier and the place of supply are in the same State. Eg. - A manufacturer located in Jaipur supplies goods in Jodhpur. As the location of manufacturer and place of supply are in the State of Rajasthan, it is an intra-State supply.
4. However, supply of goods in following cases shall not be considered as intra-State supply:-
 - (i) Supply of goods to or by a SEZ developer.
 - (ii) Supply of goods to or by a SEZ unit.
 - (iii) Supply of goods brought into India in the course of import, till they cross the customs frontiers of India.
5. All intra State supplies of goods shall be liable for payment of CGST (Central Goods and Services Tax) and SGST (State Goods and Services Tax). In these cases, both types of taxes would be simultaneously levied. SGST shall go to the credit of State Government and CGST shall go to the credit of the Central Government.
6. All inter-state supplies of goods would be liable to IGST (Integrated Goods and Services Tax). Basically it would be sum total of CGST (Central Goods and Services Tax) and SGST (State Goods and Services Tax).
7. Broadly, where the location of the supplier and the place of supply are in the same State, it will be intra State and where it is in different States, it will be inter-State supply.
8. Section 7(2) of IGST Act provides that where the supply involves movement of goods,

the place of supply of goods shall be the location of goods at the time at which the movement of goods terminates for delivery to the recipient. The said movement can be affected by the suppliers of goods or by the recipients or any other person. The sum and substance of this sub section is that the destination of goods is the place of supply.

9. Section 7(3) of IGST Act provides for delivery of goods to a person on the directions of a third person. In such cases, it is deemed that the said third person has received the goods and place of supply of such goods shall be the principal place of business of such person. The said third person may be acting as an agent and the instructions for delivery may be given even during movement of goods.
10. Where the supply does not involve movement of goods, the place of supply shall be the location of such goods at the time of delivery of such goods.
11. Where the goods are assembled or installed at a particular place, the place of supply shall be the place of such installation or assembly.
12. Where the goods are supplied on board a conveyance such as a vessel, an aircraft, a train or a motor vehicle, the place of supply shall be the location at which such goods are taken on board.

Place of supply of Goods Imported

13. The place of supply of goods imported into India shall be the location of the importer. IGST would be payable on all imports of goods.

Place of supply of Goods Exported

14. The place of supply of goods exported from India shall be the location outside India.
15. A manufacturer would essentially be involved in supply of goods. Therefore, provisions relating to place of supply of services are not being elaborated here.

Chapter - 8

Taxation of Imports and Exports under GST

1. Section 2(10) of IGST Act, defines 'import of goods' as under: -
"Import of goods" with its grammatical variations and cognate expressions, means bringing into India from a place outside India;
2. Section 2(5) of IGST Act defines Export of goods as under:
"Export of goods" with its grammatical variations and cognate expressions, means taking out of India to a place outside India;
3. Import of goods will be treated as inter-State supplies and IGST will be levied on import of goods into country. The incidence of tax will follow the destination principle and tax revenue in case of SGST will accrue to the State where the imported goods and services are consumed.
4. Tax paid (IGST) on imported goods shall be eligible for credit as input tax credit to the importer.
5. Exports physical and supplies to SEZ will be treated as ZERO rated supplies. No tax will be payable on export of goods. However, credit of input tax credit will be available and the same may be utilized by the exporter for other outward supplies. In the alternative, the exporter may claim refund of corresponding input tax credit.
6. The manufactured goods meant for ultimate exports to 100 % EOU, Free Trade Zone, Exporters under various excise notification would no longer be without duty. Manufacturer also used to buy goods in the course of exports like packing material under H Form. GST would be paid for supplies to such manufacturers in future. Exporter would have to go for refund of accumulated credits.

Chapter - 9

Valuation

1. Provisions relating to valuation of goods and services are contained in section 15 of revised model GST Law.
2. Consideration is the *quid pro quo* in a contract and price is the money value of that consideration. But, value is the price at which the transaction would take place under certain specified or controlled circumstances. Valuation in tax laws is the study of those circumstances through which every transaction should pass through to determine whether the declared value is acceptable or not.
3. Section 15(1) provides that the value of supply of goods and/or services shall be the transaction value. It further clarifies that the 'transaction value' is the price actually paid/payable for the same supply of goods and/or services where the supplier and the recipient of the supply are not related and the price is the sole consideration.
4. The definition of 'transaction value' as given in section 15 provides for following elements of transaction value :-
 - (i) Price actually paid or payable.
 - (ii) The price should be towards supply of goods or services.
 - (iii) Recipient of the supply and the supplier should not be related.
 - (iv) The price is the sole consideration of the supply.
5. Wherever the transaction value is not determinable under section 15(1) of Model GST Law (the reasons may be price is not known or the supplier and recipient are related or price is not the sole consideration), the value shall be determined in the manner as may be prescribed. For this purpose valuation Rules would be notified.
6. Sub-section (2) of section 15 further provides that the transaction value referred in sub section (1) shall include :
 - (a) Any taxes, duties, cesses, fees and charges levied under statutes other than GST, if charged separately by the supplier to the recipient.
 - (b) Any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply (Example would be payment of labour charges for manufacture of goods by the recipient to the contractor directly.)
 - (c) Incidental expenses such as commission and packing, charged by supplier to the recipient.
 - (d) Subsidies linked to the price excluding subsidies provided by Central and State

Government. However the amount of subsidies shall be included in the value of supply of the supplier who received the subsidy

- (e) Interest or late fee or penalty for delayed payment of any consideration for any supply.
7. The value of supply would not include any discount which is given before or at the time of supply. Such discount should be duly recorded in the invoice issued in respect of such supply.
 8. Discount given even after the supply has been effected, shall also not be included in the value of supply if :-
 - (i) Such discount is established as per terms of agreement and is specifically linked to the relevant invoice.
 - (ii) Corresponding input tax credit has been reversed by the recipient of the supply.
 9. Section 4A of Central Excise Act 1944, provides for valuation of goods on the basis of Retail Sale Price. Presently there is no corresponding provision under GST Law. The obvious reason appears to be that under the GST law, tax would be levied and collected at each stage of value addition. Therefore, GST law provides for taxation on the basis of transaction value of goods.
 10. The Central Excise Act, 1944 also provides for levy of tax on the basis of specific rate. Eg sugar is liable for payment of duty @ Rs. 74 per qtl. There is no such proposal for levy of GST on specific rate basis. However, under section 15(4) & 15(5), the Government has retained the power for notifying rules in this regard.
 11. The valuation Rules are expected to specify the alternative methods and adjustments to transaction value.

Chapter - 10

Input Tax Credit and Related Transitional Provisions

1. The provisions relating to input tax credit are contained in Chapter V (Section 16 to 22) of the Revised Model GST law.
2. Various definitions relating to the scheme of input tax credit are as under:-
 - (i) Section 2(19) - "capital goods" means goods, the value of which is capitalized in the books of accounts of the person claiming the credit and which are used or intended to be used in the course or furtherance of business.
 - (ii) Section 2(52) - "input" means any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business.
 - (iii) Section 2(53) - "input service" means any service used or intended to be used by a supplier in the course or furtherance of business.
 - (iv) Section 2(55) - "input tax" in relation to a taxable person, means the IGST, including that on import of goods, CGST and SGST charged on any supply of goods or services to him and includes the tax payable under sub-section (3) of section 8, but does not include the tax paid under section 9.
 - (v) Section 2(56) - "input tax credit" means credit of 'input tax' as defined in sub-section (55).
3. The entire scheme of input tax credit is based on the use or the intention to use of inputs/input service/capital goods in the course or furtherance of business. Therefore, in order to claim credit, a manufacturer is required to ensure that goods or service have been used in the course or furtherance of business.
4. Section 16(1) allows credit of tax paid on inputs/ input services as well as capital goods charged on any supply of goods or services which have been used or intended to be used in the course or furtherance of business.
5. The earlier provision of availing the credit of capital goods within 2 years is no more applicable under the new provisions.
6. However in respect of pipelines and telecommunication towers fixed to earth by foundation or structural support including foundation and structural support thereto credit is allowable as under.
 - (i) One third in the financial year in which the goods are received.
 - (ii) Upto two thirds of the total credit in the 2nd year.
 - (iii) The balance amount of credit in any subsequent financial years.

Input Tax Credit and Related Transitional Provisions

7. Two specific features of credit in respect of capital goods are:-
 - (i) Except for credit for pipelines and telecommunication towers, all other credits can be taken in the year of receipt.
 - (ii) Credit for goods used in foundation or support structure in plant and machinery is also allowable.
8. Wherever the goods are received against an invoice in lots or instalments, the credit is allowable only after receipt of the last lot or instalment.
9. The eligibility to take credit is subject to following conditions:-
 - (i) Possession of tax invoice or debit note or any other prescribed tax paying document.
 - (ii) Receipt of goods/services.
 - (iii) Payment of tax by the supplier of goods or services.
 - (iv) Furnishing of return under section 34 by the supplier of goods/services.
 - (v) Credit should not be taken after filing of annual return.
10. It is necessary for the recipient of supply of services to pay the value of services along with tax payable thereon within a period of 3 months from the date of issue of invoice; otherwise the input tax credit availed shall be added to the output tax liability, along with interest thereon.
11. The recipient of capital goods should not have claimed depreciation on the tax component under the provisions of Income Tax Act, 1961.

Restrictions on taking Credit

12. Wherever the manufacturer utilises the goods/services partly for the purpose of business and partly for other purposes, the amount of credit shall be restricted to so much of the input tax as is attributable to the purposes of business. Similarly, wherever the goods or services are used by the manufacturer for the purpose of taxable supplies as well as exempted supplies, only attributable credit is allowable. Taxable supplies will include zero rated supplies and exempt supplies will include supplies on which recipient is liable to pay tax on reverse charge basis.
13. Section 17(4) restricts the eligibility to credit. A manufacturer is not allowed to take credit in respect of the following:-
 - (i) Motor vehicles and other conveyances except when they are used:
 - (a) For further supply of vehicles or such conveyances.
 - (b) For transportation of goods.
 - (ii) Goods and services mainly relating to:-
 - Foods and Beverages

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- Outdoor catering
 - Beauty treatment
 - Health services
 - Membership of a club
 - Health and fitness centre
 - Rent-a-cab
 - Life insurance
 - Health insurance (except where the government notifies the services which are obligatory for an employer to provide to its employees under any law for the time being in force).
 - Travel benefits extended to employees on vacation such as leave or home travel concession.
- (iii) Works contract services when received for construction of immovable property, other than plant and machinery.
- (iv) Goods or services used for construction of immovable property, other than plant and machinery.
- (v) Goods or services on which tax has been paid under composition scheme.
- (vi) Goods or services used for personal consumption.
- (vii) Goods lost, stolen, destroyed, written off or disposed off by way of gift or free samples.
- (viii) Tax paid in terms of sections 67, 89 and 90 of the revised Model Goods and Services tax law.

Availability of Credit in Special Circumstances

14. A manufacturer is required to obtain registration within 30 days from the date when he becomes liable to registration. Once he has obtained registration within 30 days, he is eligible to take credit in respect of inputs lying as such or contained in semi-finished goods or contained in finished goods on the day he becomes liable for payment of tax. Similar provisions are there for the manufacturers who obtain voluntary registration without availing exemption.
15. A manufacturer who opts out of composition scheme is also eligible for the benefit of input tax credit on stock of inputs as well as capital goods on the day from which the manufacturer becomes liable to pay tax. The credit on capital goods however is liable to be reduced by such percentage points as may be prescribed.
16. Manufacturers who are engaged in supply of exempted goods are not eligible for input tax credit. If these manufacturers become liable for payment of tax for the reason that

the goods have become taxable, they would be entitled for credit of input tax in respect of inputs held in stock (lying as such, contained in semi-finished goods or finished goods) as well as capital goods used for the exempt supply, lying on the day immediately preceding the date from which such supply becomes taxable. The credit on capital goods however is liable to be reduced by such percentage points as may be prescribed.

17. The credit in respect of inputs referred in paras 14, 15 & 16 is allowable in respect of those goods/services which are supported by tax invoice issued within 1 year preceding the date of credit.
18. Where there is a change in the constitution of a registered taxable person on account of sale, merger, demerger, amalgamation, lease or transfer of the business with the specific provision for transfer of liabilities, the said registered taxable person shall be allowed to transfer the input tax credit that remains unutilized in its books of accounts to such sold, merged, demerged, amalgamated, leased or transferred business in the manner prescribed.

Reversal of Credit

19. In the following circumstances a manufacturer who has been paying tax on supply of goods, shall be liable to reverse the credit on the inputs lying in stock (lying as such, contained in semi-finished goods or finished goods) and on capital goods (reduced by such percentage points as may be prescribed) on the day preceding the date of switchover/exemption:
 - (i) Switching over to payment of tax under composition scheme.
 - (ii) When the goods/services become exempt absolutely.

The credit shall be reversed by making payment by way of debit in electronic credit or cash ledger. After making payment of such amount, the balance of input tax credit lying in electronic credit ledger shall lapse.

20. In case of supply of capital goods or plant and machinery, on which input tax credit has been taken, the manufacturer shall pay an amount equal to the input tax credit taken on the said capital goods or plant and machinery reduced by such percentage points as may be prescribed.

Distribution of Credit by Input Service Distributor

21. "Input Service Distributor" means an office of the supplier of goods and / or services which receives tax invoices issued under section 28 towards receipt of input services and issues a prescribed document for the purposes of distributing the credit of CGST (SGST in State Acts) and / or IGST paid on the said services to a supplier of taxable goods and / or services having same PAN as that of the office referred to above.
22. A manufacturer may be having head offices or branch offices where invoices are

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received towards supply of input services. The invoices received for supplies received where one incurs expenses in States where one is not registered. These could be expenses such as accommodation or food in furtherance of business. Such office of manufacturer may obtain registration as input service distributor and may distribute the credit in the following manner:-

- (i) It may distribute credit of CGST as CGST or IGST and IGST as IGST or CGST by way of issue of a prescribed document.
 - (ii) It may distribute credit of SGST as SGST or IGST by way of issue of a prescribed document.
 - (iii) It may distribute credit of CGST and IGST as CGST by way of issue of a prescribed document.
 - (iv) It may distribute credit of SGST and IGST as SGST by way of issue of a prescribed document.
23. The prescribed conditions for distributing the credit are as under:-
- (i) The amount of credit distributed shall not exceed the amount of credit available for distribution.
 - (ii) The credit of tax paid on input services attributable to a recipient shall be distributed to that recipient only.
 - (iii) The credit of tax paid on input services attributable to more than one recipient of credit shall be distributed only amongst such recipients to whom the input service is attributable. Such distribution shall be pro-rata on the basis of turnover of such recipients.

Chapter - 11

Transfer of Input Tax Credit

1. On utilization of input tax credit availed under the CGST Act for payment of tax dues under the IGST Act, the amount collected as CGST shall stand reduced by an amount equal to the credit so utilized.
2. The Central Government shall transfer an amount equal to the amount so reduced from the CGST account to the IGST account in the manner and within the time as may be prescribed.
3. On utilization of input tax credit availed under the SGST Act for payment of tax dues under the IGST Act, the amount collected as SGST shall stand reduced by an amount equal to the credit so utilized.
4. The State Government shall transfer an amount equal to the amount so apportioned to the IGST account in the manner and within the time as may be prescribed.

Chapter-12

Job Work

Introduction

1. Under Central Excise Law, Job Work used to mean processing or carrying out manufacturing operations on the goods provided by others. When a job workers activity results in the manufacture of a new product, it is a manufacture under Central Excise and accordingly job workers are liable for payment of Central Excise Duty. Certain exemptions have been granted under the Central Excise Law *vide* Notification no. 214/86 dated 25.03.1986.
2. The activities of a Job worker relating to processing of goods which do not result in the manufacture of goods, shall constitute services under Finance Act, 1994. Such activities are liable for payment of Service Tax. However certain exemptions have been granted *vide* notification no. 25/2012 dated 20.06.2012.
3. Section 2 (61) of the Revised Model GST Law defines job work as under –
“job work” means undertaking any treatment or process by a person on goods belonging to another registered taxable person and the expression “job worker” shall be construed accordingly;

Provisions relating to job work

4. Provisions relating to Job work under Revised Model GST Law are contained in section 20 and 55 of the Act.
5. Section 55 provides that a manufacturer may send any inputs/ capital goods without payment of tax to a job worker for job work. After job work, goods may be sent to another job worker or may be brought back to any of the place of business of the manufacturer. The manufacturer is not required to reverse the credit or pay tax on supply of said inputs/ capital goods.
6. Goods sent to job worker may be supplied from job workers premises on payment of tax within India or may be exported.
7. For the purpose of direct supply from the premises of job worker, either the job worker should be registered under GST Law or the Job worker’s premise should be declared as an additional place of the business of the manufacturer.
8. Section 20 of the Revised Model GST Law provides that a manufacturer may send inputs/ capital goods to a job worker for job work. Such goods may be sent even directly to the job worker without their being brought to the place of business of manufacturer. A manufacturer is allowed to take credit immediately after inputs/ capital goods are received at the premises of job worker.

9. These provisions would be applicable even when the inputs are sent to a job worker who is located in a different State.

Conditions

10. The condition is that the inputs sent by the manufacturer should be received back within 1 year of sending the inputs by the job worker. In case inputs are sent directly to the job worker, the period of one year shall be counted from the date of receipt of input by the job worker. This period shall be 3 years in case of supply of capital goods to job worker.
11. The aforesaid time limit of 1 year or 3 years shall not apply to moulds and dies, jigs and fixtures or tools sent out to job worker for job work.

Non receipt of Inputs/ Capital Goods within the prescribed period

12. If inputs/ capital goods are not received back by the manufacturer within the prescribed period of 1 year or 3 years, it is presumed that such inputs had been supplied by the principal to the job worker on the day when the said inputs are sent to job worker.
13. The consequences of the aforesaid presumption and non-receipt of inputs/ capital goods within the prescribed period is that the principal/ manufacturer shall have to pay tax/ reverse credit along with interest.

Waste and Scrap

14. In every job work, some waste or scrap is likely to arise. Such waste and scrap should be returned to the principal/ manufacturer. However Section 55 (5) provides that job worker may supply such waste and scrap after payment of tax.

Nature of activity of job worker and his GST liability

15. Schedule II clarifies as to which activity will amount to supply of goods and which other activity will amount to supply of services. With regard to job work, it clarifies that any treatment or process which has been applied to another person's goods or supply of services, shall amount to supply of services.
16. Schedule V of Revised Model GST Law provides for persons liable to be registered. Clause 1 provides that every supplier is liable to be registered in the State from where he makes a taxable supply of goods/ services if his aggregate turnover in a financial year exceeds Rs. 20 Lakhs.
17. Explanation 2 say that the supply of goods by the job worker after completion of job work shall be treated as supply of goods by the principal (manufacturer herein) and the value of such goods shall not be included in the aggregate turnover of the job worker. Therefore, for the purpose of obtaining registration as well as basic exemption, only job charges received by the job worker are to be considered. However, if job worker is

doing job work for a manufacturer which is located in different State, his services would be taxable from the very beginning, it being an inter State supply of service. The Job worker will have to obtain registration if he is making inter-State supply of services.

18. The Job worker would be liable for payment of tax as may be applicable to the services.

Transitional Provisions

19. Transitional provisions relating to job work are contained in Section 175 to 177 of Revised Model GST Law. They are simultaneously applicable to inputs, semi finished goods and finished goods.
20. These provisions relate to inputs, semi finished goods and finished goods cleared to a job worker for further processing, testing, repair or any other purpose before the appointed day as per the provisions of earlier law and not received back until the appointed day.
21. Sections 175 to 177 provide that if such inputs, semi finished goods and finished goods are returned to the said factory after completion of job work after the appointed day, no tax shall be payable. The condition is that the goods should be received within 6 months from the appointed day. However the competent authority may extend the period on sufficient cause being shown for a further period of 2 months.
22. The condition is that the manufacturer and job worker should declare (in the prescribed manner) the details of inputs, semi finished goods and finished goods held in stock by the job worker on behalf of the manufacturer on the appointed day.
23. Similar provisions are there for CGST and IGST.
24. In case of semi finished goods and finished goods, the manufacturer may transfer the goods to the premises of any registered taxable person for the purpose of supplying them from thereat by payment of tax in India or without payment of tax for export.

Chapter - 13

Provisional and Final Registration

Migration of existing manufacturer to GST

1. On the day when GST comes into operation, every manufacturer registered under any of the earlier laws and having a valid PAN shall be issued a provisional registration certificate in the prescribed manner. The said certificate shall be valid for a period of 6 months. The Government may extend the validity period.
2. Every manufacturer to whom a provisional registration certificate has been issued shall, within the specified period furnish the required information. Thereafter the manufacturer shall be granted final registration. However if the manufacturer fails to furnish the prescribed information within the given time, the provisional registration may be cancelled.

New Manufacturers

3. Every manufacturer who becomes liable to be registered under Schedule-V should apply for registration within 30 days from the date on which he becomes liable for registration.

Schedule-V

4. Schedule-V of the Model GST Law prescribes the persons who are required to be registered under the Act.
5. A manufacturer is required to obtain registration in the State from where he makes a taxable supply of goods if his aggregate turnover in a financial year exceeds Rs 20 Lacs. In case of North Eastern States or three Hill States the limit of Rs. 20 lacs shall stand reduced to Rs. 10 lacs.
6. The aggregate turnover shall include all supplies made by a manufacturer whether on his own account or account of other person. This would, however, not include the goods manufactured on job work basis.
7. A manufacturer exclusively engaged in the business of supply of goods that are not liable to tax or are wholly exempt from tax is not required to obtain registration.
8. If the business of a manufacturer is transferred on account of succession or otherwise, as a going concern; the transferee or the successor shall be liable to be registered.
9. Following types of manufacturers are essentially required to be registered irrespective of their aggregate turnover-
 - (a) Manufacturers making inter-State taxable supply.
 - (b) Manufacturers who are required to pay tax under reverse charge.

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- (c) Non-Resident manufacturers.
 - (d) Manufacturers who are required to deduct tax under Section 46.
 - (e) Manufacturers who are also supplying goods on behalf of other taxable person as an agent or otherwise.
 - (f) Input service distributor.
 - (g) Manufacturers supplying goods through electronic commerce operator.
10. A manufacturer is required to obtain registration in every State from where he is making taxable supplies. The Application for registration in Form GSTREG-01 is to be filed within 30 days from the date when the manufacturer becomes liable for registration.
 11. The general principle is that there would be one registration for each State. However, a manufacturer having multiple business verticals in a State may obtain a separate registration for each business vertical.
 12. Even though a manufacturer is not required to obtain registration until its value of supplies crosses the basic exemption limit, it may obtain registration voluntarily even before it crosses the exemption limit and pay tax.
 13. All registrations are to be granted on the basis of permanent account number issued under Income Tax Act, 1961.
 14. If a manufacturer fails to obtain registration, the proper officer may register him on its own.
 15. The Certificate of registration is issued in the prescribed format. However, it shall be deemed to have been granted if no deficiency is communicated within the prescribed period.

Amendment of Registration

16. In case of any change in the information furnished for the purpose of registration, the manufacturer shall inform the same to the proper officer and accordingly the registration certificate is to be got amended. The proper officer may however reject the request for amendment by following the prescribed procedure.

Cancellation of Registration

17. In the following circumstances, the manufacturer or its legal heir should get its registration cancelled :
 - (i) Discontinuation of business.
 - (ii) Transfer of business for any reason.
 - (iii) Death of the proprietor.
 - (iv) Amalgamation with any other legal entity.

- (v) Demerger/ change in constitution.
18. A proper officer may also cancel the registration in the following circumstances.
- (i) Manufacturer has contravened the provisions of the Act.
 - (ii) Manufacturer opting for composition scheme has not furnished return for 3 consecutive tax periods.
 - (iii) Manufacturer has not filed its returns for a continuous period of six months.
 - (iv) Manufacturer has obtained voluntary registration by means of fraud, wilful mis-statement or suppression of facts.

Revocation of cancellation of registration:-

- 19. Any manufacturer whose registration has been cancelled by the proper officer on his own motion, may apply to such officer for revocation of cancellation of registration, within 30 days from the date of service of cancellation order
- 20. The proper officer shall follow the process of natural justice while dealing with the application for revocation of cancellation of registration.
- 21. There are various other formats named as registration formats which may be seen in the draft Goods and Service Tax Rules.

Chapter - 14

Payment of Tax

1. Provisions relating to payment of tax are contained in Sections 44 to 46 of the revised model GST Law. The Government has also issued draft GST Payment Rules prescribing the forms and procedure for payment of taxes.
2. Every registered manufacturer is eligible to take input tax credit in respect of inputs, input services and capital goods. Tax payable on outward supply of goods can be paid out of the said credit, to the extent credit is available therein. Remaining amount of tax has to be paid through banking system by way of challan in **Form GST PMT-4** (Given in **Annexure-1** to this Chapter.)
3. The Manufacturer may make deposits towards tax, interest, penalty, fee or any other amount through internet banking or by using credit/ debit cards or through NEFT or RTGS or by any other mode. The Government may prescribe the conditions and restrictions as may be considered necessary. The amount so paid shall be credited to the electronic cash ledger of the registered manufacturer, which shall be maintained in **Form GST PMT-3** (Given in **Annexure-2** to this Chapter.)
4. The date of deposit in the electronic cash ledger shall be deemed to be the date when it is credited to the account of the appropriate government.
5. The amount of input tax credit allowable to the manufacturer shall be credited to his electronic credit ledger, to be maintained in **Form GST PMT-2** (Given in **Annexure-3** to this Chapter.)
6. The manner of utilization of the input tax credit (ITC) shall be as under–
 - ITC of IGST shall be first utilized towards payment of IGST and the remaining amount may be utilized for the payment of CGST and SGST.
 - ITC of CGST shall be first utilised towards payment of CGST and the remaining amount may be utilised for the payment of IGST.
 - ITC of SGST shall be first utilised towards payment of SGST and the remaining amount may be utilised for the payment of IGST.
 - ITC of SGST cannot be used for the payment of CGST and vice versa.
7. The amount available in the electronic cash ledger may be utilized for making any payment towards tax, interest, penalty, fee or any other amount payable under the Act. The amount available in electronic credit ledger may be utilized for payment towards output tax only. It cannot be utilized for payment of penalty, interest, fee etc.
8. All liabilities towards tax, interest, penalty etc of a registered manufacturer shall be recorded and maintained in an electronic liability register, which is to be maintained in **Form GST PMT-1** (Given in **Annexure-4** to this Chapter). The Credit available in

electronic cash ledger and electronic credit ledger is to be utilised for payment of taxes and other dues in the following order-

- Self assessed tax, and other dues related to the returns of previous tax periods,
 - Self assessed tax, and other dues related to the return of current tax period.
 - Any other amount payable under the Act or the Rules made thereunder including the demand determined under section 66 or 67.
9. The burden of tax paid by a registered manufacturer is deemed to have been passed on to the recipient of goods, unless otherwise proved.
 10. The balance in the cash or credit ledger (after payment of tax, interest etc.) may be refunded to the registered manufacturer as per provisions of section 48 of the Act.
 11. Every registered manufacturer is liable for the payment of interest for delay in payment of tax as per prescribed rate. Similarly, in case of excess claim of input tax credit or short declaration of output tax liability, the manufacturer is liable to pay interest for the period during which the credit has been excessively utilised or liability has been short declared.
 12. The Central Government or the State Government may notify that a manufacturer shall deduct tax @ 1% from the payment made or credited to the supplier of taxable goods or services, where the total value of such supplies under one contract exceeds Rs. 5,00,000/-. For this purpose the value of supply shall not include the amount of tax indicated in the invoice.
 13. The tax so deducted is to be paid within 10 days after end of the month in which it has been deducted. The manufacturer is required to furnish a certificate to the supplier, mentioning therein the contract value, rate of deduction, amount deducted and amount paid to the government. In case of failure to furnish the said certificate or delay in furnishing of certificate, the manufacturer is liable to pay late fees of Rs. 100 per day, subject to a maximum amount of Rs. 5,000/-.
 14. In case of non-payment or delayed payment of tax so deducted, the registered manufacturer is liable to pay interest at the prescribed rates.
 15. The supplier from whose account, the aforesaid tax of 1% has been deducted is eligible to claim credit of the tax so deducted in his electronic cash ledger. The amount of tax deducted should however be reflected in the return of the registered manufacturer.

Simplified GST Guide for Manufacturer

ANNEXURE - 1

Government of India /State

Department of -----

Form GST PMT -4

(See Rule ----)

Challan For Deposit of Goods and Services Tax

CPIN	<<Auto Generated after submission of information>>	Date <<Current date>>	Challan Expiry Date -				
GSTIN	<<Filled in/Auto populated>>	Email address	<<Auto Populated>>				
Name	<<Auto Populated>>	Mobile No.	<<Auto Populated>>				
Address	<<Auto Populated>>						
Details of Deposit							
Government	Major Head	Minor Head					
		Tax	Interest	Penalty	Fee	Others	Total
Government of India	CGST						
	IGST						
	Sub-Total						
State (Name)	SGST						
Total Challan Amount							
Total Amount in words							

Simplified GST Guide for Manufacturer

Note:

1. Reference No. includes BRN (Bank Reference Number), debit entry no., order no., if any, Ack No. of return in case of TDS & TCS credit.
2. Tax period, if applicable, for any debit will be recorded, otherwise it will be left blank.
3. GSTIN of deductor or collector (e-com), Challan Identification Number (CIN) of the challan against which deposit has been made. Cash balance transferred from cash ledger of transferor of business, Type of liability for which any debit has been made will also be recorded under description.
4. Application no., if any, Show Cause Notice Number (SCN), Demand ID, pre-deposit for appeal or any other liability for which payment is being made will also be recorded under description.
5. Refund claimed from the ledger or any other debits made will be recorded accordingly.

I hereby solemnly affirm and declare that the information given herein above is true and correct to the best of my knowledge and belief.

Place

Name of Authorized Signatory

Date

Designation /Status.....

Note:

1. The application is meant for the taxpayer where the amount intended to be paid is debited from the account but CIN has not been conveyed by bank to Common Portal. Payment may have been made through any mode.
2. The application may be filed if CIN is not conveyed within 24 hours of debit.
3. Common Portal shall forward the complaint to Bank concerned and intimate the aggrieved taxpayer.

ANNEXURE – 3

Government of India /State Department of -----

Form GST PMT –2

(See Rule ----)

Electronic Credit Ledger of Taxpayer

(To be maintained at the Common Portal)

GSTIN –

Name –

Period - From ----- To ----- (dd/mm/yyyy)

Act - /All

Sr No	Date (dd/mm/yyyy)	Reference No.	Tax Period, if applicable	Description	Type of Transaction [Debit (DR) / Credit (CR)]	SGST/CGST/IGST				Balance			
						Matched	Mismatched	Provisional	Total	Matched	Mismatched	Provisional	Total
1	2	3	4	5	6	7	8	9	10	11	12	13	14

Simplified GST Guide for Manufacturer

Note:

1. Credit of inputs, capital goods, reverse charge claimed in return; Credit received through ISD; credit on account of merger, pre-registration etc. will be recorded separately in the ledger.
2. Utilisation of credit from the same major head or from other major head (cross utilization) will be recorded accordingly.
3. Utilisation of credit for return and other than return related liabilities will be recorded separately.
4. Refund claimed from ITC ledger will be reduced and if rejected or withdrawn will be credited back.

ANNEXURE – 4

Government of India /State Department of -----

Form GST PMT –1

(See Rule ----)

Electronic Tax Liability Register of Taxpayer

(Part–I: Return related liabilities)

(To be maintained at the Common Portal)

GSTIN –

Name –

Tax Period –

Act - /All

Sr No	Date (dd/mm/yyyy)	Reference No.	Description	Type of Transaction [Debit (DR) (Payable) / Credit (CR) (Paid)]	SGST/CGST/IGST						Balance (Payable)					
					Tax	Interest	Penalty	Fee	Others	Total	Tax	Interest	Penalty	Fee	Others	Total
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17

Simplified GST Guide for Manufacturer

Note :

1. All liabilities accruing due to return and payments made against the liabilities will be recorded in this ledger.
2. Liabilities for opting composition, cancellation of registration will also be covered in this part. Such liabilities shall be populated in the liability register of the tax period in which the date of application or order falls as the case may be.
3. Return would be treated as invalid if closing balance is positive.

Chapter- 15

Returns

1. The provisions relating to filing of returns are contained in Sections 32 to 40 of the Revised Model GST Law. Draft GST Return Rules prescribing the forms and procedures have also been issued.
2. Every registered manufacturer shall be liable to file return of its outward supplies of goods effected during a tax period by 10th of the next month succeeding the said tax period.
3. Every registered manufacturer shall be liable to file return of its inward supplies of goods effected during a tax period by 15th of the next month succeeding the said tax period.
4. Every registered manufacturer shall be liable to file return of its outward supplies, inward supplies, ITC availed, tax payable, tax paid and other particulars by 20th of the next month succeeding the calendar month.
5. Every registered manufacturer shall furnish an annual return for every Financial Year electronically by 31st December following the end of the Financial Year. In case registered manufacturer's accounts are required to be audited under section 53(4) of GST Law, he shall also file audited copy of annual accounts and a reconciliation statement along with the annual return. Currently, there is a limit of Turnover of Rs 1 Cr exceeding which a registered manufacturer shall get his accounts audited.
6. The Draft Rules have prescribed following forms for filing return:

GSTR Forms	Applicability
GSTR-1	Details of outward supply
GSTR-2	Details of Inward Supply
GSTR-3	All registered taxable person
GSTR-4	Composition tax payers
GSTR-9	Annual Return
GSTR-9B	Audited Return

7. GSTR-1

Every registered manufacturers shall furnish the details of outward supplies in GSTR-1. The details of inward supplies added, corrected or deleted by the recipients in GSTR-2 and GSTR-4 to be auto populated in GSTR-1A and the details furnished by the manufacturer in GSTR-1 shall be auto populated in GSTR 2A.

8. GSTR-2

Every registered manufacturer shall furnish the details of inward supplies in GSTR-2. He shall specify the inward supplies for which he is not eligible, either fully or partially, for the input tax credit. The details furnished by the supplier in GSTR-1 will be auto populated in 2.

9. GSTR-3

Every registered manufacturer shall furnish the monthly details of all inward and outward supplies in GSTR-3. Part A to be auto populated from GSTR-1 and GSTR-2. The refund can be claimed in part-B of GSTR-3 which shall be deemed to be an application filed under Section 38 of GST Law.

10. GSTR-9

Every registered manufacturer shall furnish an Annual Return in GSTR-9. In case, the annual turnover of the registered manufacturer is more than 1 Crore, he shall also file a copy of audited balance sheet & reconciliation statement alongwith the Annual Return in GSTR-9B.

11. Matching, reversal and reclaim of ITC to avoid duplication of claims.

- (i) The details furnished by a registered manufacturer of every inward supply, for a tax period should be matched with the corresponding details of outward supplies and additional duty of customs paid under section 3 of Customs Tariff Act, 1975
- (ii) The claim of Input Tax Credit which is in excess to the tax declared by the supplier or the outward supply not declared by the supplier in his valid return, shall be added to the output tax liability of the recipient and interest on the same is to be paid by him
- (iii) The output tax liability can be reduced if the supplier declares the details of the invoice/debit note in his valid returns, on or before the due date for furnishing the return for the month of September or the annual return whichever is earlier.
- (iv) If the reduction in output tax liability is accepted, the interest paid will be refunded to the recipient.

Chapter-16

Tax Invoice, Credit & Debit Notes

1. The provisions relating to issuance of tax invoice, credit and debit note are contained in sections 28 to 31 of revised Model Goods and Services Tax law.

Tax Invoice

2. The word tax invoice has not been defined under Revised Model Goods and Services Tax Act. However the Explanation to section 28 says that:

the expression "tax invoice" shall be deemed to include a document issued by an Input Service Distributor under section 21, and shall also include any revised invoice issued by the supplier in respect of a supply made earlier.

The above definition is an inclusive definition and does not clearly specify the meaning of the term Tax Invoice. This term "tax invoice" has therefore to be understood in common trade parlance.

3. A manufacturer supplying taxable goods is required to issue tax invoice before or at the time of:-
 - (i) removal of goods, where the supply involves movement of goods.
 - (ii) delivery of goods or making available to the recipient, in any other case
4. A tax invoice is required to contain following particulars:-
 - (a) name, address and GSTIN of the supplier;
 - (b) consecutive serial number containing only alphabets and/or numerals, unique for a financial year;
 - (c) date of its issue;
 - (d) name, address and GSTIN/ Unique ID Number, if registered, of the recipient;
 - (e) name and address of the recipient and the address of delivery, along with the name of State and its code, if such recipient is unregistered and where the taxable value of supply is fifty thousand rupees or more;
 - (f) HSN code of goods or Accounting Code of services;
 - (g) description of goods or services;
 - (h) quantity in case of goods and unit or Unique Quantity Code thereof;
 - (i) total value of goods or services;
 - (j) taxable value of goods or services taking into account discount or abatement, if any;

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- (k) rate of tax (CGST, SGST or IGST);
 - (l) amount of tax charged in respect of taxable goods or services (CGST, SGST or IGST);
 - (m) place of supply along with the name of State, in case of a supply in the course of inter-State trade or commerce;
 - (n) place of delivery where the same is different from the place of supply;
 - (o) whether the tax is payable on reverse charge;
 - (p) the word “Revised Invoice” or “Supplementary Invoice”, as the case may be, should be indicated prominently, where applicable along with the date and invoice number of the original invoice; and
 - (q) signature or digital signature of the supplier or his authorized representative.
5. In case of export, the invoice shall carry an endorsement “SUPPLY MEANT FOR EXPORT ON PAYMENT OF IGST” OR “SUPPLY MEANT FOR EXPORT UNDER BOND WITHOUT PAYMENT OF IGST”. It shall contain the following details:
- (i) name and address of the recipient;
 - (ii) address of delivery;
 - (iii) name of the country of destination; and
 - (iv) number and date of application for removal of goods for export [ARE-1].
6. A manufacturer, who has obtained registration may within one month from the date of obtaining certificate of registration, issue a revised invoice against the invoice already issued during the period starting from the effective date of registration till the date of issuance of the certificate of registration to him.
7. A manufacture who is supplying exempted goods, instead of issuing a tax invoice, shall issue a bill of supply. The bill shall contain the following particulars:
- (a) name, address and GSTIN of the supplier;
 - (b) a consecutive serial number containing only alphabets and/or numerals, unique for a financial year;
 - (c) date of its issue;
 - (d) name, address and GSTIN/ Unique ID Number, if registered, of the recipient;
 - (e) HSN Code of goods or Accounting Code for services;
 - (f) description of goods or services;
 - (g) value of goods or services taking into account discount or abatement, if any; and
 - (h) signature or digital signature of the supplier or his authorized representative:
8. Under the GST law, tax is payable on supply of goods or receipt of payment whichever is earlier. In case of receipt of payment in advance, the manufacturer shall issue a

receipt voucher or any other document giving the prescribed particulars, evidencing receipt of payment.

9. According to section 8(3) of Revised Model Goods and Services Tax Act, a manufacturer may have to pay tax on reverse charge basis on receiving goods/services. In such cases, the manufacturer is required to issue an invoice in respect of goods/services received by him from a person who is not registered under the Act.
10. In case of continuous supply of goods where successive statements of accounts or successive payments are involved, the tax invoice shall be issued at the time of such settlement or receipt of payment.

Amount of tax to be indicated in the Tax Invoice

11. A manufacturer who is making supply for consideration and is liable to pay tax for such supply, is required to indicate in tax invoice and other like documents, the amount of tax which he has charged.

Credit Note

12. In the following situations, the manufacturer may issue a credit note containing such particulars as may be prescribed:
 - (i) The taxable value or the tax payable is found to have been charged in the tax invoice.
 - (ii) The goods supplied are returned by the recipient.
 - (iii) The goods/services are found to be deficient.
13. The details of credit note are required to be declared in the month during which such credit note has been issued but not later than September, following the end of year in which such supply was made or the date of filing of relevant annual return, whichever is earlier.
14. Reduction of output tax liability of the supplier shall be permitted, if the incidence of tax and interest on such supply has not been passed on to any other person.

Debit Note or Supplementary invoice

15. When a manufacturer finds that the taxable value and/or the tax charged in the invoice is found to be less than the taxable value and/or tax payable in respect of such supply, he may issue a debit note/supplementary invoice containing such particulars as may be prescribed.
16. A manufacturer who issues a debit note /supplementary invoice shall declare details of such debit note in the return for the month during which such debit note has been issued. He shall accordingly be liable for payment of tax.

17. A supplementary invoice/debit note/credit note shall contain following particulars:-
- (a) name, address and GSTIN of the supplier;
 - (b) nature of the document;
 - (c) a consecutive serial number containing only alphabets and/or numerals, unique for a financial year;
 - (d) date of issue of the document;
 - (e) name, address and GSTIN/ Unique ID Number, if registered, of the recipient;
 - (f) name and address of the recipient and the address of delivery, along with the name of State and its code, if such recipient is unregistered;
 - (g) serial number and date of the corresponding tax invoice or, as the case may be, bill of supply;
 - (h) taxable value of goods or services, rate of tax and the amount of the tax credited or, as the case may be, debited to the recipient; and
 - (i) the signature or digital signature of the supplier or his authorized representative.

Chapter- 17

Accounts and Other Records

1. A Registered manufacturer has to maintain the following records at its each place of business–
 - (i) Records of production of goods.
 - (ii) Records of inward supply of goods/ services
 - (iii) Records of outward supply of goods.
 - (iv) Stock of goods.
 - (v) Input tax credit availed.
 - (vi) Output tax payable and paid.
2. The Government may prescribe any other record which may have to be maintained by a registered manufacturer. Similarly, the Commissioner/ Chief Commissioner may notify a class of taxable persons to maintain additional accounts or documents for such purpose as may be specified.
3. Records may be maintained in electronic form in the prescribed manner.
4. Every manufacturer is required to get his accounts audited by a Chartered Accountant or Cost Accountant if his turnover during a financial year exceeds the prescribed limit. Copy of audited annual accounts and reconciliation statement should be submitted to the proper officer. The limit of turnover is to be examined w r t each registration.
5. If the manufacturer fails to account for the goods as per law, the proper officer shall determine the amount of tax payable on the goods that are not accounted for.
6. The records maintained as indicated above are required to be retained for a period of 60 months from the due date of filing of annual return.
7. In case of pending appeal/ revision etc, the records are to be retained for a period of one year after final disposal of such appeal/revision etc.

Chapter-18

Assessment

1. Every registered manufacturer shall himself assess the taxes payable under GST law and furnish a return for each tax period specified in Section 34.
2. The provisions relating to provisional assessment are contained in Section 58 of Model GST Law.
 - (i) When the registered manufacturer is not able to determine the value of goods and the rate of tax applicable, then the proper officer may allow the payment of tax on provisional basis.
 - (ii) He may have to execute a bond with surety or security which will bind the manufacturer for the payment of difference between the amount finally assessed and the amount of tax provisionally assessed.
 - (iii) The proper officer has to finalise the assessment within 6 months from the date of communication of order of the provisional assessment.
 - (iv) The manufacturer has to pay the interest if the amount of provisional tax is not paid within the prescribed time.
3. Section 59 of Model GST Law contains the provision relating to scrutiny of returns:
 - (i) The returns and related particulars furnished by the manufacturer can be scrutinized by the proper officer to verify their correctness.
 - (ii) All the discrepancies are to be informed to the manufacturer and proper officer can ask for the explanation.
 - (iii) The manufacturer has to rectify the discrepancies in his returns within 30 days of being informed, failing which the proper officer may initiate appropriate action.
4. Assessment of non-filers of returns.
 - (i) The best judgment assessment will be applied to the taxable manufacturers in case they fail to furnish the returns under Section 34 or Section 40, even after the service of a notice.
 - (ii) If the valid return is furnished within 30 days of the assessment order, the said order shall be deemed to have been withdrawn.
5. Assessment of unregistered manufacturers
The proper officer can assess the tax liability to the best of his judgment and can issue an assessment order within five years from due date of filing of annual return, after giving a notice to show cause and a reasonable opportunity of being heard, if the manufacturer fails to obtain the registration even though liable to do so.

Chapter-19

Offences & Penalties

Introduction

1. Offences and penalties are indispensable part of any taxation statute. CGST Act is no exception. The demand raised by the department can be bifurcated into three broad categories:

- Tax
- Interest
- Penalty

2. The above terms have been aptly explained by Supreme Court vide its order dated 11.10.1996 in the case of *Pratibha Processors v. Union of India* 1996 (88) E.L.T 12(S.C.). The Apex Court has, inter alia, held as under:

Tax is the amount payable as a result of the charging provision. It is a compulsory exaction of money by a public authority for public purposes, the payment of which is enforced by law.

Interest is compensatory in character and is imposed on an assessee who has withheld payment of any tax as and when it is due and payable. The levy of interest is geared to actual amount of tax withheld and the extent of the delay in paying the tax on the due date. Essentially, it is compensatory and different from penalty which is penal in character.

Penalty is ordinarily levied on an assessee for some contumacious conduct or for a deliberate violation of the provisions of the particular statute.

Offence:-

3. Section 85 specifies the following offences for which penalty up to Rs. 10000/- or an amount equivalent to the tax evaded, whichever is higher shall be leviable.
 - (i) Supply any goods and/or services without issue of any invoice or issuance of an incorrect or false invoice with regard to any such supply;
 - (ii) Issuance of any invoice or bill without supply of goods and/or services.
 - (iii) Collection of any amount as tax but failure to pay the same to the credit of the appropriate Government beyond a period of three months from the date on which such payment becomes due;
 - (iv) Collection of any tax in contravention of the provisions of Act but failure to pay the same to the credit of the appropriate Government beyond a period of three months from the date on which such payment becomes due;

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- (v) Failure to deduct the tax in terms of section 46 (1) , or deducting an amount which is less than the amount required to be deducted under the said sub-section, or where he fails to pay to the credit of the appropriate Government the amount deducted as tax;
 - (vi) Failure to collect tax in terms of section 56 , or collecting an amount which is less than the amount required to be collected under the said sub-section, or where failure to pay to the credit of the appropriate Government the amount collected as tax;
 - (vii) Taking and/or utilizing input tax credit without actual receipt of goods and/or services either fully or partially.
 - (viii) Fraudulently obtaining refund of any CGST/SGST under the Act;
 - (ix) Taking or distributing input tax credit in violation of section 21, or the rules made there under;
 - (x) Falsifying or substituting financial records or producing fake accounts and/or documents or furnishing any false information or return with an intention to evade payment of tax due under the Act;
 - (xi) Failure of obtain registration, if he is liable to be registered.
 - (xii) Furnishing any false information with regard to registration, either at the time of applying for registration, or subsequently;
 - (xiii) Obstructing or preventing any officer in discharge of his duties under the Act;
 - (xiv) Transporting any taxable goods without the cover of specified documents. Suppressing turnover leading to evasion of tax.
 - (xv) Failure to keep, maintain or retain books of account and other documents.
 - (xvi) Failure to furnish information and/or documents called for by a CGST/SGST officer in accordance with the provisions of the Act.
 - (xvii) Supplying, transporting or storing any goods which are liable to confiscation
 - (xviii) Issuance any invoice or document by using the identification number of another taxable person.
 - (xix) Tampering or destroying any material evidence.
 - (xx) Disposing off or tampering any goods that have been detained, seized, or attached under the Act;
4. In case the offences enumerated above are not on account of fraud or willful mis-statement or suppression of facts to evade tax, the manufacturer shall be liable to a penalty of Rs. 10000/- or 10% of the tax due from such person whichever is higher.
5. Section 85 provides for imposition of penalty up to Rs. 25000/- on any person in the following circumstances –

- (a) Aiding or abetting of any of the offences specified in clauses (i) to (xxi) of Section 85 (1).
 - (b) Acquiring possession of, or in any way concerns oneself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner dealing with any goods which one knows or has reason to believe are liable to confiscation under this Act or the rules made there under;
 - (c) Receipt or is in any way concerning oneself with the supply of, or in any other manner dealing with any supply of services which one knows or has reason to believe are in contravention of any provisions of this Act or the rules made there under;
 - (d) Failure to appear before the CGST officer, when issued with a summon for appearance to give evidence or produce a document in an enquiry;
 - (e) Failure to issue invoice in accordance with the provisions of this Act or Rules made there under, or failure to account for an invoice in one's books of account;
6. The aforesaid penalty under section 85(3) is leviable on any person other than he manufacturer himself. No minimum penalty has been prescribed for offences falling under section 85(3). The actual amount of penalty shall depend upon the discretion of the GST Officer.
7. Section 86 provides for imposition of general penalty upto Rs. 25000/- on any person who contravenes any of the provisions of GST law for which penalties is not separately provided.

General discipline for imposition of penalty

8. Section 87(1) provides that no penalty shall be imposed for minor breaches of tax regulation or procedure requirement. For this purpose a minor breach would be if the amount of tax involved is less than Rs. 5000/-. Similarly no penalty shall be imposed in respect of any omission or mistake in documentation which is easily rectifiable and made without fraudulent intend or cross negligence.
9. While imposing penalty the facts and circumstances of each case shall be taken into consideration. Moreover, the penalty shall be appropriate to the degree and severity of the breach.
10. It shall be the duty of the tax authority to ensure that when a penalty is imposed on any manufacture vide an order for breach of the laws, regulations or procedural requirements, then an explanation containing the following must be provided:
- (i) The nature of the breach;
 - (ii) The applicable law, regulation or procedure under which the amount or range of penalty for the breach has been prescribed.
11. When a manufacturer voluntarily discloses to a tax authority the circumstances of a

breach of the tax law, regulation or procedural requirement before the same is discovered by the tax authority, the tax authority may consider the aforesaid fact of voluntary disclosure as a potential mitigating factor when he proposes to impose a penalty on that person. In simple words, in case of voluntary disclosure of breach, the tax authority may reduce the penalty.

12. The provisions of Section 68 shall not apply in the following cases:

- (a) Where the penalty prescribed under the Act is a *fixed sum*; or
- (b) Where the penalty prescribed under the Act is expressed as a *fixed percentage*

Resultantly, in either of the above cases, penalty shall be mandatorily imposed. Further, penalty shall not be reduced even if breach is disclosed voluntarily to the tax authority.

Detention, seizure and release of goods and conveyances in transit

13. Section 89(1) provides for detention/seizure of goods and conveyances in transit if any person transports them in contravention of the GST Act/Rules. The said goods/conveyance shall be released –

- (a) on payment of the *applicable tax and penalty equal to one hundred percent of the tax payable* on such goods, where the owner of the goods comes forward for payment of such tax and penalty;
- (b) On payment of the *applicable tax and penalty equal to the fifty percent of the value of the goods reduced by the tax amount paid thereon*, where the owner of the goods does not come forward for payment of such tax and penalty.

14. The proper officer shall issue a notice specifying the tax payable and thereafter pass an order for payment of tax and penalty.

15. After payment of amount referred above the liabilities shall stand discharged in respect of such goods/conveyance.

16. Where the person transporting any goods or the owner of goods fails to pay the aforesaid tax and penalty within 7 days of such detention, further proceedings are liable to be initiated for confiscation of the goods/conveyance. The confiscated goods/conveyance may be released provisionally after submission of bond and security.

Confiscation of goods/conveyances

17. If a manufacturer commits any of the following offences than all such goods and/or conveyance shall be liable to confiscation. The manufacturer shall also be liable to penalty under section 85 :-

- (i) Supplies or receives any goods in contravention of any of the provisions of the Act or rules made there under with intent to evade payment of tax; or

- (ii) Does not account for any goods on which he is liable to pay tax under the Act; or
 - (iii) Supplies any goods liable to tax under the Act without having applied for registration; or
 - (iv) Contravenes any of the provisions of the Act or rules made there under with intent to evade payment of tax; or
 - (v) Uses any conveyance as a means of transport for carriage of taxable goods in contravention of the provisions of the Act or rules made there-under unless the owner of the conveyance proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the conveyance.,
18. In case of confiscation of goods or conveyance the competent officer shall give an option to pay redemption fine in lieu of confiscation to:-
- (i) the owner of the goods or
 - (ii) where such owner is not known, the person whose possession goods have been seized or
 - (iii) the owner or person in charge of the conveyance.
19. The redemption fine shall not exceed the market value of goods confiscated, less the tax chargeable thereon.
20. The owner of the goods shall in addition to payment of redemption fine, be liable for payment of tax payable on goods.
21. The adjudicating authority shall not pass an order for confiscation of goods and/or conveyance and/or imposition of penalty without serving a notice and without giving reasonable opportunity of being heard.
22. In case the due amount of tax and fine are not paid within 3 months, the proper officer may dispose of such goods and/or conveyances and deposit the same proceeds with the government.

Chapter-20

Transitional Provisions

1. To ensure smooth transition of current indirect tax regime to the goods and services tax regime, government has made transitional provisions which are applicable to all types of tax payers. These provisions are contained in sections 165 to 197 of the Revised Model Goods and Service Tax Act.
2. Transitional provisions relating to registration, input tax credit and job work have been explained in the respective Chapters. Remaining provisions so far as they relate to manufacturers, are briefed hereunder.

Exempted goods returned to the place of business after the appointed day

3. There may be certain goods which had been removed by the manufacturer under the earlier law and were exempt from payment of central excise duty. These goods may be returned to any place of business on or after the appointed day.
4. No tax shall be payable, if the goods are returned to the said place of business within a period of 6 months from the appointed day. However, if the goods are liable to tax under the GST Act and are returned after the period of six months, the tax shall be payable by the person returning the goods.
5. Similar provisions are there under SGST law.

Return of duty paid goods

6. Manufacturers normally clear the goods after payment of duty. In cases where these duty paid goods are returned to the manufacturer within a period of 6 months from the appointed day, the manufacturer shall be eligible for refund of duty paid under the earlier law.
7. The said goods should have been cleared not earlier than 6 months prior to the appointed day.
8. However, if the goods are returned by the registered taxable person, the return of goods shall be deemed to be a supply.
9. Similar provisions are contained under SGST law.

Issue of supplementary invoices, debit or credit notes on revision in prices

10. Pursuant to a contract, prices of any goods may move upwards after the appointed day. A manufacturer who has cleared the goods earlier to the appointed day may issue to

the recipient a supplementary invoice/debit note within 30 days of such price revision and such invoice/debit note is deemed to have been issued in respect of an outward supply under Goods and Services Tax Act.

11. If the price is revised downward, the manufacturer may issue a credit note within 30 days of such revision and the said credit note shall be deemed to have been issued in respect of an outward supply under Goods and Services Tax Act. The manufacturer is allowed to reduce its tax liability only if the recipient of credit note has reduced its corresponding input tax credit.
12. Similar provisions are there under SGST law.

Refund Claims

13. Any claim filed under the earlier law for refund of the amount of CENVAT credit, duty, tax or interest shall be disposed off under the provisions of earlier law and any amount accruing for refund shall be paid in cash. Any refund claim filed after the appointed day for the goods cleared before the appointed day shall also be dealt with in accordance with the provision of earlier law.

One would have option of withdrawing refund claims under VAT, Central Excise or Service Tax relating to credits.

Pending Appeals, Revision etc.

14. All proceedings of appeal, review or reference relating to a claim for CENVAT credit initiated whether before or after the appointed day are to be dealt with in accordance with the provisions of earlier law. If any amount of credit is found to be admissible, it shall be refundable in cash. However, the claim shall have to be tested on the touchstone of unjust enrichment.
15. All proceedings of appeals, revision etc. relating to recovery of CENVAT credit, initiated before or after the appointed day is to be disposed off as per the provisions of earlier law. If any amount of credit becomes recoverable, the same shall be recovered as an arrear of tax under Goods and Services Tax Act. The amount so recoverable will not be admissible as input tax credit.
16. Similar provisions are there under SGST law also.

Finalization of proceedings relating to output duty or tax liability

17. All proceedings of appeal, revision etc. relating to any output duty or tax liability initiated before or after the appointed day, are to be disposed off in accordance with the provisions of earlier law.
18. If any amount becomes recoverable consequent to the aforesaid proceedings, the same

shall be recovered as an arrear of tax under GST Act. The amount so recoverable shall not be admissible as input tax credit.

19. If any amount is found to be admissible, consequent to aforesaid proceedings, it shall be refundable in cash. However, the claim shall have to be tested on the touchstone of unjust enrichment.
20. Similar provisions are there under SGST law also.

Amount recoverable or refundable in pursuance of assessment or adjudication proceedings

21. In case of any amount of tax, interest, fine or penalty becomes recoverable consequent to an assessment or adjudication proceedings, whether before or after the appointed day; the same shall be recovered as arrear of tax under GST Act.
22. On the other hand, if consequent to aforesaid proceedings if any tax, interest, fine or penalty becomes refundable, the same shall be refunded to him in cash under the earlier law. However, the claim shall have to be tested on the touchstone of unjust enrichment.
23. Similar provisions are there under SGST law also.

Credit distribution of service tax by Input Service Distributor

24. The input tax credit on account of any services received by an input service distributor may be distributed as credit under GST Act even if the invoices relating to such services are received after the appointed day.

Centralized registration under the earlier law

25. Manufacturers having multiple manufacturing units were eligible for registration as LTU. Under the GST Act, these manufacturers shall have to obtain separate registration in each State. Section 191 provides that the manufacturer shall be allowed to take credit of the amount of CENVAT credit carried forward in the return so furnished under the earlier law. Such return should be related to the period ending with the day immediately preceding the appointed day.
26. The procedure for allowing the credit shall be as prescribed.

Tax paid on goods lying with agents

27. Where any goods (including capital goods) belonging to the principal are lying at the premises of agent on the appointed day, the agent shall be entitled to take credit of the tax paid on such goods.
28. The conditions for taking the credit are as under:-
 - (i) The agent has obtained registration under GST Act.

- (ii) The Principal and agent have declared the details of stock of goods/capital goods lying with the agent on the day immediately preceding the appointed day.
 - (iii) The corresponding invoices are not older than 12 months.
 - (iv) The Principal has either reversed or not availed the input tax credit in respect of such goods.
29. These provisions are under SGST law only.

Goods sent on approval

30. Where, any goods, sent on approval basis before the appointed day, are returned to the seller after the appointed day, no tax shall be payable on said goods. The goods should have been sent within 6 months prior to the appointed day and it should have been received within 6 months from the appointed day.
31. The tax shall be payable by the person who has sent the goods on approval basis, if such goods are not returned within a period of 6 months.
32. The aforesaid period of six months may be extended by the competent authority.
33. These provisions are applicable under SGST law only.

Cenvat Credit on Input Services

34. Cenvat Credit Rules provide for reversal of credit availed on input service, if the amount of services including tax has not been paid within a period of 3 months.
35. Under the CGST Act such credit can be reclaimed if the manufacturer makes payment of the value of services including service tax within a period of 3 months from the appointed day.